

Monday, March 6, 2023

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Diego Rosales
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Equal Employment Opportunity Commission

255 East Temple St., 4th Floor
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Via EEOC Portal Upload

Geary Johnson v. Roth Staffing Companies, L.P.
EEOC Case No. 480-2022-05516

Claimant 2nd Supplemental Response to Position Statement of
Respondent Roth Staffing Companies, L.P. dba Adams & Martin Group
("AMG" or the "Company")

1. If Cortez Mathews—-or someone he knew—-did write the Incident Report Activision (undated but attached to a July 12 2022 email), he indicates that he may have engaged in audiotaping or videotaping workers without their permission. This apparently is the type of conduct and employee that AMG ("Roth Staffing") claims thru their attorney that they would have hired in the workplace.
2. I call it a a draft since it is unsigned and undated. The document is attached to the Mathews email and called "Incident Report Activision". Activision had its own internal security as well as two contracted security firm(s) so it is highly likely a security personnel assisted Mathews in writing the document.

3. I witnessed that security personnel at Activision did videotape certain portions of the locations and were sometimes asked to play back the videotapes. Such security tapes could be used to verify the allegations in the Incident Report Activision.
4. Contrary to what AMG alleges in its Position Statement (“AMG PS”) of January 11, 2023, the Incident Report Activision submitted by Mathews that is evidence that tends to prove that there was a conversation of a sexual nature around June 9, 2022 as JOHNSON has alleged in his complaint.
5. This 2nd Supplemental Response is submitted in a timely manner as the EEOC wrote that JOHNSON has until March 6, 2023 to submit his Response to the AMG PS.
6. AMG PS says on page 5 “Ms. Tyrrell immediately responded to Complainant’s various emails assuring him he was looking into the expense reimbursement issues.” FALSE. JOHNSON’s communication to Tyrrell in April 2022 was acknowledged by Tyrrell but she did not respond to the various issues thus JOHNSON had to write her again in June 17, 2022. The initial email was written 4/29/22 at 11:10 pm.
7. AMG PS also is misleading in this regard because they omit the June 12, 2022 communication with Tyrrell. See the attachment below as evidence. That email chain concerned not being paid for COVID-19 sick pay. In that email chain, on June 16, 2022, In inform Brooke that I am using my cell phone and car to conduct company business. Note that I never received a company cell phone from the employer or contractor. AMG knows that the law requires the employer to provide the tools to do the job. This is proof of the **hostile work environment** JOHNSON was experiencing since February 2022. Brooke writes on June 16 at 8:38 pm “Geary - You have to let me know these things.” JOHNSON reminds Brooke “Please see the April 29 email to you. I quote part of it: "WORK SUPPLIES "I understand some companies provide a small compensation when the company asks the employee to use their personal items for work duties. I have to use my personal cell phone during the day to conduct Williams Lea business. Also, once I get to work, I have to use my personal vehicle to run errands from the Penn Factory site to the Water Garden site. I would like to see if there is compensation for this."

8. JOHNSON takes offense to the AMG PS that (page 6) it was a sole allegation of harassment and that the allegation was not “severe”. AMG PS neglects to mention that the Activision had been sued at the time and investigated by the EEOC for sexual harassment and that this was the totality of the circumstances that JOHNSON faced. JOHNSON believes that a reasonable person, even faced with said companies who did not conduct an adequate and fair investigation, would find the situation JOHNSON faced as “hostile or abusive”. The Cortez Incident Report Activision was made before the JOHNSON assignment ended. AMG PS sadly takes the Cortez Incident Report Activision on face value and doesn’t question its falsity pertinently even though it admits JOHNSON still has an employment relationship with that AMG calls JOHNSON on possible job offers (not actual offers). AMG admits that it never gave JOHNSON a fair opportunity to dispute the allegations of Mathews email attachment.
9. AMG PS states page 6: “Mr. Cortez’s complaint about Complainant, which AMG obtained subsequent to the ending of his assignment, indicates that Complainant initiated the disclosure of his own sexual orientation and made other inappropriate statements to Mr. Cortez.” AMG PS in taking the complaint on face value, is evidence that AMG did not investigate in a fair, timely, and thorough manner by an impartial person (The AMG attorney is not an impartial person); the AMG PS does not afford JOHNSON due process and the AMG position, AMG admits, is not based on the evidence collected.
10. Hate crimes come to mind where a single act against Jews is actionable. Writing “KKK” on a person’s door is considered an actionable hate crime. These are all single but sever acts recognized under law. “In 2014, the [Federal Bureau of Investigation](#) (FBI) reported that 20.8% of hate crimes reported to police in 2013 were founded on perceived [sexual orientation](#). Sixty-one percent of those attacks were against gay men.^[7] Additionally, 0.5% of all hate crimes were based on perceived [gender identity](#). In 2004, the FBI reported that 14% of hate crimes due to perceived sexual orientation were against lesbians, 2% against heterosexuals and 1% against bisexuals.^[8] In 2011, the FBI reported 1,572 hate crime victims targeted based on a sexual orientation bias, making up 20.4% of the total hate crimes for that year. Of the total victims. 56.7% were targeted based on anti-male homosexual bias, 29.6% were targeted based on anti-homosexual bias, and 11.1% were targeted

based on anti-female homosexual bias.^[12] In recent years LGBT violence has been on the rise in the United States. The biggest act of violence occurred in Orlando when [Omar Mateen](#) attacked the [Pulse nightclub](#) in the city killing 49 and wounding 53 others.^[13] This was not only the biggest attack on LGBT people but one of the biggest mass shootings in the United States history.”

11. AMG has a legal obligation to indemnify JOHNSON. But when JOHNSON asks by email for attorney representation against RHI attorney Jonathan Aldridge, Brooke refuses.

12. June 20 March the date from which AMG had a legal obligation to provide fair and impartial and due process. Unless contractors RHI, Williams Lea, and Activation provide earlier date such as June 9 according to Cortez. AMG establishes without offering any verifiable prove that Williams Lea had knowledge of Cortez presumed complaints on her before July 12 because the July 12 incident report says it was not reported as a complaint. So the AMG PS supports a alleged complaint from Mathews, which the complaint clearly says it was not reported as a complaint. This amounts to falsification of the record by AMG attorney. JOHNSON is never supplied with a company, cell phone or car before being terminated from employment. AMG appears to indicate that Cortez may now be an an AMG employee and worker who clearly fabricated and lied and they are presented an alleged incident at Activision and threatening to illegally record other employees in the performance of their duties. The AMG PS is neither moral, nor honest, and cannot be trusted to obey the laws. At one point Brooke Terrell, instead of handling the matter through human resources, threatened that she would have to contact the legal department in order to give assistance to Johnson. Such fair and impartial assistance was never received. JOHNSON herein states that from the timeframe of June 20 AMG says nothing to Johnson about the alleged complaints of their own contractor RHI and employee Cortez Matthews. It is not believable that AMG has no knowledge of the Cortez complaint prior to July 12, 2022. Nonetheless, AMG is liable because they should have known about the complaints from Cortez. And if they had and conducted a thorough and fair investigation around June 20, 2022, and within the sixteen days, they would have an interviewed Cortez and possibly received his side of the story but they did not do so.

13. AMG is liable for not investigating the alleged Cortez Matthews complaint because AMG is liable due to the contracts with RHI Williams, Lee and activation. This is recognized by the EEOC as joint employers and their liability. There are 16 days between June 20 and July 12, 2022 and that is ample enough time AMG to have conducted a fair thorough and impartial investigation and afforded Johnson due process; AMG is liable for not doing so. This is undisputed. Further, if AMG had acted properly in the 16 day period and talked with Matthews, they would've also had a liability to relate that information back to Johnson and Johnson would've been given a fair opportunity to respond to the Cortez allegations, but AMG did not do so. This makes AMG liable for the hostile work environment, age, discrimination, and retaliation that is alleged by Johnson. That AMG PS did not conduct a fair and thorough and impartial investigation, and uses the unverified Cortez attachment incident report activation as their evidence indicates that their conduct was pretextual, and that the real reason for the actions of AMG with their contractors were for purposes of age discrimination, retaliation, and harassment of Johnson.

14. Should it be a hate crime to ask a person their sexual orientation? Adams and Martin Group contracted with RHI, Activision, and Williams Lea say it should not be a crime. Others say it is a reasonable person standard that is inappropriate in the workplace.

15. "The essential elements of due process of law are the right to receive fair notice, the right to security assistance of counsel, the right to cross, examine witnesses, a written decision with reasons, and an opportunity to appeal the decision." (Source Google maine.gov)

16. "Roth staffing said the reason for my discharge was because Williams Lee Tag and contractor Activision Brian Smith ended my assignment." (Source: Charge of Discrimination)

17. AMG has not presented any evidence of a complaint made by Cortez Mathews against GEARY JOHNSON.

18. AMG has not presented any evidence that their contractor Williams Lea investigated any oral or written complaint against JOHNSON

19. AMG has not presented any evidence that anyone claimed JOHNSON committed sexual harassment or made inappropriate comments.

20. AMG has not presented any evidence that JOHNSON made inappropriate comments in the workplace against anyone.

21. The hostile work environment, age discrimination, retaliation, prima facie case has been raised and evidence provided for the charges and/or inference of. JOHNSON requests the EEOC continue with the investigation of this charge.

Sincerely,

Geary J. Johnson

Attached email chain that starts June 12, 2022 at 4:35 p.m. to June 17, 2022.

Basic Incident Information

The incident report must be factual and complete. It should include:

- the **names** and **positions** of the people involved
- the names of any **witnesses**
- the **exact location** and/or address of the incident
- the exact time and date of the **occurrence**
- a **detailed** and **clear** description of what exactly happened
- a description of the **injuries**

Supervisor Signature

The completed report must be signed by the supervisor or manager in charge at the time of the incident. As the authorized signatory, he or she must read the report and ensure that it is clear, legible, and accurate and that the company guidelines for incident reporting have been strictly followed. (Source Google)

“Every reported complaint of violation(s) of this Policy will be fairly, timely, and thoroughly investigated by an impartial qualified person(s). The Company will document and track the complaint’s progress. All parties will be accorded appropriate due process and conclusions will be based on the evidence collected. Complaints and investigations will be kept confidential to the extent possible. If the Company determines that this policy has been violated or other inappropriate conduct has occurred, the Company will take appropriate remedial action. No employee will suffer any retaliation because he or she has brought such concerns to the attention of the Company”. (SOURCE: AMG)

Re: Labor claim filed

From: G Johnson (tainmount@sbcglobal.net)

To: btyrrell@adamsmartingroup.com

Date: Friday, June 17, 2022, 10:19 PM PDT

Brooke:

I appreciate that.

Regarding the vehicle, I think they should reimburse for mileage as well as a portion of the value of the vehicle which my payments are about \$230 per month. It is not just the mileage but the wear and tear on the vehicle and insurance costs. Right now there are basically three temps responsible for six kitchen areas and ten coffee machines and each of us might be required to use our car at some point. Maybe should have a Williams Lea/ Activision employee do that job, I do not know.

Yes, it would be good to use their company cell phone instead of mine.

Every company is different but I have seen companies reimburse \$50-100 each per month if the employee has to use their own car, internet, or cell phone. I don't think this should be any different.

If I chose not to use my car, or not to use my phone (to locate personnel, order stock, ask questions, coordinate efforts, stock the copy machines, etc.) then the job cannot be done. I could imagine a person going to unemployment, and the EDD asking why they are not at the job, and the person says they are not there because they were not given the tools to do their job.

Geary J. Johnson

Phone 323-807-3099

On Friday, June 17, 2022, 02:36:22 PM PDT, Brooke Tyrrell <btyrrell@adamsmartingroup.com> wrote:

Regarding the vehicle, you should be reimbursed for mileage or they should provide a car for you to use. Honestly, they should have someone else doing that job that actually works for the company.

Cell phone can get a bit more difficult to reimburse for so they should have a phone for you to use.

Brooke Tyrrell | Market Director
Adams & Martin Group
213.459.5554

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From: G Johnson <tainmount@sbcglobal.net>
Sent: Friday, June 17, 2022 1:42 PM
To: Brooke Tyrrell <btyrrell@adamsmartingroup.com>
Subject: Re: Labor claim filed

In the interview with Chris, original interview, he said I might have to do tasks in the buildings called the Water Garden which is across the street from the Pen Factory. I asked if I could use my car and he said yes. On a daily basis since around April I service the coffee machines and snacks in the Water Garden suites 300 and 100. I do this trip twice a day. Sometimes I may need to take mail across the street from the Penn Factory location to Water Garden and use my car to do so, as some supplies are heavy or bulky.

As regards the phone, when I started the position, I was told to use my cell phone if I needed to communicate with department employees, as I have done so on a daily basis. Prior to about two weeks ago, when more workers were hired, I was walking about 5.5 miles per day thru the Penn Factory location and the Water Garden locations. As I am at different locations thru the day, and at different parts of the company site, there is no PA system or way to contact team members other than the my cell phone or try to find the employee in person. It is true some employees use company email and notifications or have a company supplied cell phone, but that is not available to me. I am on my feet most of the day and rarely sitting at a desk.

If an auto is one of the tools to do my job, I believe the employee should supply that tool or either compensate me if I am using my car. The same goes for the cell phone.

What is your opinion?

Geary Juan Johnson
Phone 323-807-3099

On Thursday, June 16, 2022, 09:46:28 PM PDT, Brooke Tyrrell <btyrrell@adamsmartingroup.com> wrote:

I am a bit confused. Why are you driving around for them or using a cell phone? Those were not the parameters of the position they indicated to us.

Sent from my iPhone

On Jun 16, 2022, at 8:44 PM, G Johnson <tainmount@sbcglobal.net> wrote:

Please see the April 29 email to you. I quote part of it:

"WORK SUPPLIES

"I understand some companies provide a small compensation when the company asks the employee to use their personal items for work duties. I have to use my personal cell phone during the day to conduct Williams Lea business. Also, once I get to work, I have to use my personal vehicle to run errands from the Penn Factory site to the Water Garden site. I would like to see if there is compensation for this."

Geary J. Johnson

Phone 323-807-3099

On Thursday, June 16, 2022, 08:38:04 PM PDT, Brooke Tyrrell <btyrrell@adamsmartingroup.com> wrote:

Geary - You have to let me know these things.

Sent from my iPhone

On Jun 16, 2022, at 8:34 PM, G Johnson <tainmount@sbcglobal.net> wrote:

Your email received.

1. I am using my personal phone for company business (Williams Lea and Activision) but not compensated for that.
2. I am using my personal car for company business and not compensated for it.
3. I am using my personal car for company business but my insurance does not cover my car for business use.
4. Did you pay me for going to the pharmacy to get tested for COVID 19?

Labor code notes:

I was not reimbursed for business expenses

I was denied payment for mileage when traveling for business

Geary J. Johnson
Phone 323-807-3099

On Tuesday, June 14, 2022, 01:12:29 PM PDT, Brooke Tyrrell <btyrrell@adamsmartingroup.com> wrote:

I followed up with our COVID sick pay team and they said you will be paid 8 hours for that on your next paycheck 6/17. Thus, you were paid the sick pay for your sick pay request you put in and an additional 8 hours of COVID sick pay.

Sorry for the delay – I was out of the office end of last week and yesterday.

Brooke Tyrrell | Market Director
Adams & Martin Group
213.459.5554

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From: G Johnson <tainmount@sbcglobal.net>
Sent: Tuesday, June 14, 2022 1:03 PM
To: Brooke Tyrrell <btyrrell@adamsmartingroup.com>
Subject: Re: Labor claim filed

I was not paid for "2022 COVID-19 Supplemental Paid Sick Leave". I should not have had to use my regular sick pay.

I also got a Covid 19 Test. I am supposed to be paid for time it took me to get the test. I was not paid.

Geary Juan Johnson
Phone 323-807-3099

On Tuesday, June 14, 2022, 09:06:21 AM PDT, Brooke Tyrrell <btyrrell@adamsmartingroup.com> wrote:

Hello Geary,

You weren't paid on 6/3? I approved the request. Your timesheet for last week is missing – can you please enter?

Brooke Tyrrell | Market Director
Adams & Martin Group
213.459.5554

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From: G Johnson <tainmount@sbcglobal.net>
Sent: Sunday, June 12, 2022 4:35 PM

To: Brooke Tyrrell <btyrrell@adamsmartingroup.com>
Subject: Labor claim filed

I have submitted a wage claim because I was not allowed to get paid for the **2022 COVID-19 Supplemental Paid Sick Leave** for the 4 hours I was out on June 3, 2022.

Here is an except from the claim:

"Still working for this employer at site location. I asked about using 2022 COVID-19 Supplemental Paid Sick Leave. I communicated to Brooke after I had been quarantined by Chris. I was forced to take my regular sick leave because Brooke never explained the procedure to apply for the Supplemental Paid Sick Leave. I was denied such pay for supplemental paid sick leave. I would also like waiting time penalties." Labor case WC-CM-888835.

Geary J. Johnson
Phone 323-807-3099