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Inc. and Patricia Stalter

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

JOSEPH M. GIBSON,

Plaintiff,

v.

WYETH PHARMACEUTICALS, INC., and  
PATRICIA STALTER,

Defendants.

07-CV-946 (SCR) (GAY)

**DECLARATION OF PATRICIA  
STALTER IN SUPPORT OF  
DEFENDANTS' MOTION FOR  
SUMMARY JUDGMENT**

I, Patricia Stalter, declare:

1. I was employed by Wyeth Pharmaceuticals, Inc. or its corporate predecessors ("Wyeth"), at Wyeth's manufacturing facility in Pearl River, New York (the "Pearl River facility") for nearly 36 years, from 1971 through April 2008, when I terminated my employment with Wyeth. I submit this declaration in support of Defendants' motion for summary judgment, and I make this declaration based on my own personal knowledge and the business records of Wyeth.

2. I spent my entire career at Wyeth, working my way up from the position of messenger when I began my employment at the Pearl River facility at the age of 19 to the position of Principal Manager II which I held when I left Wyeth earlier this year.

3. In October 2004, I was a senior manager in the Bulk Formulations Department. Plaintiff Joseph Gibson worked as an Operator II, Production in that Department at the time, but did not report directly to me.

4. Also, in or around early October 2004, I watched a movie starring Morgan Freeman called "Lean On Me." In the movie, Freeman played a principal struggling to establish order in a troubled high school. To convey that he had authority over the school, Freeman referred to himself as the "head nigger in charge" or "HNIC" when arguing with the school superintendent and others. I spoke about the movie with an African-American colleague from Wyeth, Francine Townsend. After watching the movie, some of my African-American colleagues, including Townsend, used the "HNIC" phrase to refer to me in jest on numerous occasions due to my position as a manager. I had never heard of the phrase "HNIC" before watching "Lean On Me."

5. On October 26, 2004, I awoke in a state of hypoglycemia. I considered calling in sick or going in late, but I had a lot of work scheduled so I decided not to stay at home. I was running late when my boss, Associate Director Robert Holler, paged me as I was driving to work and directed me to come to his office at 7:45 am. I called him on my cell phone and told him that I would not be in early and could not meet with him until after 8:00 am. When we met that morning, Holler informed me that two outside contractors would be arriving that morning to go on a tour of 60B, the building in which we worked, in connection with a project they were working on. He also told me that he expected me to assign a supervisor to work with them for an extended period of time, by noon that day. Holler and I clashed frequently regarding management and other issues, and I felt blindsided by his directive. I did not appreciate either

the lack of notice Holler provided me with regarding the contractors' impending arrival, nor the lack of information he gave me about their agenda and goals for the day.

6. When I first saw the contractors that morning, shortly after my meeting with Holler, they were talking to supervisors Kevin Karbiner and Donna Kroner in the hallway on the first floor of 60B.

7. Since I had found out about the project the contractors were working on only shortly before their arrival, I told them when we were introduced that I wanted to meet with them before they went on their tour of building 60B so that I could assess the scope of their project and assign the appropriate person to work with them. The two contractors refused my request to meet with them, telling me that they did not have time. Despite their rejection of my initial request, I suggested that if they did not have enough time for both of them to meet with me, perhaps one of them could after the tour. Again, the contractors denied my request and told me that they were both going on a tour of the building. Increasing my frustration, they reiterated that Holler told them that I would identify a supervisor to work with them by noon that day. I felt that my efforts to understand the contractors' project and assign the best employee to work with them on it were being stonewalled by the lack of cooperation and support I received from Holler and the contractors.

8. Due to my ongoing frustrations with my boss and the increasing aggravation I felt when the contractors refused to briefly meet with me before going on a tour of 60B, I blurted out to the contractors that I was the "head nigger in charge" and told the contractors that if they needed to get something done in 60B, they would have to go through me.

9. When I made the statement, I was referring to myself, and I did not intend to direct my comment at anyone but myself, and further never intended to hurt anyone who may

have overheard the comment. Rather, I used the phrase spontaneously and out of frustration, as I was trying to establish my authority and convey to the contractors that I was the person in charge. The phrase was fresh in my mind, after having recently seen the movie "Lean on Me" and having heard it from my colleagues subsequently.

10. I offer this as an explanation, and not as an excuse or justification for using the phrase. I understand that it was inappropriate, and I deeply regret it.

11. Gibson and operators, Bill Omphalius and Henry Quiles, were approximately 20 feet away from me at their desks in the operators' office when I made this statement to the contractors in the hallway. Of the two rows of desks that are located in the operators' office, Gibson's desk did not face the hallway at the time, but rather the wall.

12. I understand that Gibson has claimed that I turned from where I was standing in the hallway with the contractors to look at him in the operators' office where he was sitting, and said, "Excuse me, Joe," before I made the remark to the contractors. However, I did not say "Excuse me, Joe," and I did not look at Gibson before I made the remark.

13. On October 28, 2004, two days after I made that statement to the two outside contractors, Gibson sent me an email, telling me that he was a little uncomfortable with the statement that I made to the two contractors and, although the statement had not been directed at him, he found it to be offensive. Attached hereto as Exhibit 1 is a copy of the November 4, 2004 email that I received from Gibson.

14. After I received Gibson's email, I immediately called him at home and left a message on his answering machine indicating that I would like to discuss this with him. I was extremely upset that I had offended him because that certainly was not my intent. When we met to discuss this the day after I received his email, I became emotional and sincerely and tearfully

apologized to Gibson. I tried to explain to him that I made the comment out of frustration because I thought my authority was being undermined. Based on his response to my apology, I believed that Gibson had accepted my apology and I assumed that we had resolved the issue.

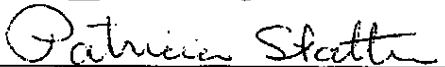
15. On or around November 9, 2004, I spoke to Jim Rowan, Associate Director of Site Labor Relations at the Pearl River facility. Rowan asked me if I had in fact used the offending phrase to refer to myself in the presence of other employees. I acknowledged that I had, and told him about my ongoing frustrations with Holler and the contractors. I also told Rowan that after I received Gibson's email, I called Gibson at home and then apologized to him profusely in person the following day.

16. At a meeting I was asked to attend on December 1, 2004, Perez, Holler and Rowan told me that after an investigation into my comment by Labor Relations, they had decided to issue a written warning to me as discipline for the comment I made. The warning that they gave me stated that I was "hereby placed on notice that [I would] be terminated if [my] behavioral misconduct [was] not immediately corrected and sustained thereafter." In addition, the letter indicated that my conduct in this instance was of "serious concern," that I had used "unacceptable language in the presence of subordinate employees and outside contractors," and that I had violated Wyeth's Code of Conduct and its Values. The warning letter noted, however, that although my comment could be "considered racially derogatory, [it was] not directed at any individual." Finally, I was warned that I was expected to demonstrate "immediate, significant and sustained improvement" in my conduct and that if I failed to do so, my employment would be terminated. Perez, Holler, Rowan and I signed the written warning. Attached hereto as Exhibit 2 is a copy of the written warning I received as discipline for the comment I made on October 26, 2004.

17. At the end of 2004, weeks after my meeting with Perez, Holler and Rowan, I met with Gibson again, this time in his supervisor, Cliff Piesco's, office. In addition to me and Gibson, Piesco and union shop steward, Nanci Perruna, attended the meeting. I requested the meeting to let Gibson know that I had been disciplined for the comment I made in October 2004, and that I wanted to clear the air with him, so that we could both move on. Knowing that Gibson was a religious person as I am, I shared with him that I had prayed about the incident and asked God to help me through it. I do not recall what, if anything, Gibson said during the meeting or how the meeting concluded.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on November 08, 2008 at Rogersville, Tennessee.

  
Patricia Stalter