

**CAUSE NO. D-1-GN-09-000069**

<b>David P Griffin</b>	)	<b>IN THE DISTRICT COURT</b>
<b>Plaintiff,</b>	)	
	)	
<b>Vs. '</b>	)	<b>345<sup>th</sup> JUDICAL DISTRICT</b>
	)	
Public Access Community Television '	)	
Also known as Channel Austin, it's Executive)	)	
Directors, Garry Wilkison, Linda Litowsky	)	
And it's Board of Directors, Cathy Beaudoin,)	)	
Jackie Goodman, Celia Hughes, Emanuel	)	<b>TRAVIS COUNTY, TEXAS</b>
Limuel, Oscar Palomo, Daniel Scardino,	)	
and Deborah L. Hill, <a href="#">Trena Denley</a> ,	)	
<a href="#">Helene Caudill PH.D.</a>	)	
<b>Defendants,</b>	)	

**PLAINTIFF'S FIRST AMENDED COMPLAINT**

**Discovery**

Plaintiff intends to conduct discovery under Level 2, as specified in Rule 190.3, Texas Rules of Civil Procedure.

NOW COMES Plaintiff, DAVID P GRIFFIN, in accordance with the Texas Rules of Civil Procedure, files this, his original petition, against Defendants, PUBLIC ACCESS COMMUNITY TELEVISION AKA CHANNEL AUSTIN, GARRY WILKISON LINDA LITOWSKY, CATHY BEAUDOIN, JACKIE GOODMAN, CELIA HUGHES, EMANUEL LIMEL PALOMO, DANIEL SCARDINO and DEBORAH L. HILL, [Trena Denley](#), [Helene Caudill PH.D.](#) singly and collectively, for causes of action as hereinafter set forth, Plaintiff states the following:

**PARTIES**

1. Plaintiff, DAVID P GRIFFIN, is a citizen of the United States and a Texas resident residing at 15406 Ullman Dr Austin Tax 78734.

2. Defendant Public Access Community Television aka Channel Austin, is a 501(c) Non-Profit organization contracted by the City of Austin to manage the resources and assets of Public Access Channels and whose principle place of business is 1143 Northwestern Avenue, City of Austin, TX 78702, hereinafter referred to as "PACT." Defendants GARRY WILKISON ("GARRY") and LINDA LITOWSKY ("LINDA") are executives of PACT. PACT's Board of Directors consists of Cathy Beaudoin, Jackie Goodman, Celia Hughes, Emanuel Limuel Palomo, Daniel Scardino, and Deborah L. Hill and as Board Members, individually and collectively, are representatives of PACT (hereinafter referred to as "BOARD.")

### **JURISDICTION & VENUE**

3. The District Courts of Travis County, State of Texas have jurisdiction over this cause of action because Plaintiff's damages are in excess of the jurisdictional minimum amount in controversy for such.

4. Venue is proper in Travis County, State of Texas, pursuant to Texas Civil Practice and Remedies Code '15.001 because that is where part or all of the cause of action accrued.

### **FACTS**

5. On or about February 3, 2008, PACT instituted a new hiring policy instructing to only hire younger staff (16 to 25 years old) who arrive as interns and eventually are phased-in as full-time employees.

6. On or about April 12, 2008, Director, LINDA instructed Plaintiff to "fire the Old White Guy" (Bob Bartlett) and not to hire any more white men. LINDA then bragged to staff how she got a new "Black" intern.

7. David Fitzpatrick is a 51 year old and was employed by PACT as a

permanent part-time employee. As his supervisor, Mr. Fitzpatrick advised Plaintiff of several incidents of non-payment or late payment of his salary. On or about June 23, 2008, Mr. Fitzpatrick reported an incident of cash money being left in a drawer which appeared to be an entrapment of theft. As his supervisor, Plaintiff brought these concerns to the attention of GARRY without redress.

8. After the new hiring policy was put in place, GARRY began undermining Plaintiff's position as Equipment Director, questioning established practices, using PACT services for personal use, and made derogatory remarks of incompetence about Plaintiff to co-workers and other producers.

9. Plaintiff is a white 53-year old male and employed by PACT as the Equipment Director. Plaintiff's co-workers range in age from 26 to 55 years of age.

10. Prior to this action, Plaintiff received glowing annual performance reviews from PACT regarding his employment.

11. On March 26, 2008, Plaintiff received an extremely negative performance review, which Plaintiff believed to be filled with false allegations.

12. Plaintiff compared his performance review with those of his co-workers and noted a running theme of negative reviews related to age discrimination.

13. Defendant LINDA is the Chief Executive Officer of PACT.

14. Defendant GARRY is the Chief Operating Officer of PACT.

15. As CEO of PACT, LINDA made several public and private statements "to get rid of the old boys."

16. At PACT's monthly staff meeting on or about June 8, 2008, LINDA advised that PACT would be closing at month's end, and re-opening under a set of new business practices. Scheduling of future shifts were suspended. LINDA encouraged that there was a need for younger employees to offset the medical insurance costs of the older, unhealthy staff. A few hours after the meeting adjourned, LINDA made a rude comment both publicly and privately to Plaintiff regarding his personal hygiene.

17. LINDA repeatedly made racial comments about older white men.

18. When interviewing new hirees, Plaintiff was instructed by LINDA not to hire any more white men. Plaintiff assured LINDA that he was not bias, and that he would recommend hiring anyone that showed up and was willing to do the job for the incredibly low pay that was being offered.

19. Bob Bartley, one of the Producers at PACT, is an older white gentleman with several years of experience in television and was PACT's weekend staffer. After new policies were instituted by PACT, Plaintiff was ordered by LINDA to fire "The Old White Guy." Mr. Bartley was deficient in some areas due to having come in under prior management and had been poorly trained. However, Plaintiff was actively working with BOB, changing his schedule, having him work mid week so that Plaintiff could work with him more closely. BOB did improve. But despite these improvements LINDA made it clear to all that she wanted to get rid of him. Plaintiff was then instructed to keep a log of all his mistakes. After a couple of verbal warnings, PACT asked him to leave.

20. LINDA has demonstrated an obvious hate for white people and especially older white men.

21. Several of the producers at PACT are of Latino descent who has

expressed their feeling of persecution by this current management. Isidoro Lopez, Sr. (producer ID 6611) was returning his microphone and cables from his live show. He sat the microphone on the counter and it simply rolled off onto the floor and broke. Plaintiff took the microphone to GARRY explaining the accident. GARRY indicated that the Producer needed to pay for the damage, stating PACT's policy if a producer damaged equipment, regardless of the circumstances, he/she is required to pay for the repair. Several months later another microphone was presented to Plaintiff by staff. A trouble report (which is used to record problems with equipment) was attached to the microphone. In the area of the form explaining the problem, it was written quite simply, "This microphone exploded" with no further explanation. In Plaintiff's 27 years in the television business, and an expert in broadcast equipment, Plaintiff confirms that microphones simply do not explode. It was reported that a white woman simply dropped the microphone, causing the damages. Plaintiff took the microphone and trouble report to GARRY and LINDA, showing them the damage and explained the situation. The producer that damaged the equipment had been very ill and was recovering from chemotherapy, so some leeway was given due to her medical condition. Repair costs to the microphone were approximately \$175.00. Both incidents where accidents. However, only the Latino producer was required to pay for damages and waived for the white woman. Defendants are inconsistent in upholding company policy.

22. Karla Saldana ("KARLA") is Pact's training manager and Susan Sarnz ("SUSAN") is the receptionist at PACT. SUSAN advised Plaintiff that another PACT employee, Aaron Jaques (AARON) had been teasing KARLA when she was in the programming area and that AARON brought KARLA to tears twice by teasing her about where she lives and her relationship with her father. Personal attacks should not be condoned. Stefan Wray, another PACT employee added to this harassment resulting in KARLA being brought to tears and comforted by another employee.

23. Due to the ongoing job-related stress imposed by Defendants, and each of them, on June 24, 2008, Plaintiff sought medical attention from his primary physician (Sunny Kallmer, PA-C, Dewitt Family Care Clinic, 1700-B RR620 South, Austin, Texas 78734, 512-263-9111) with complaints of ill health. Plaintiff's blood pressure was out of control. After being examined by his physician, Plaintiff was advised that the stress of the employment environment was literally killing him and ordered Plaintiff to take time off from his employment. Plaintiff in turn, by email communication on June 24, 2008, informed both GARRY and LINDA of his physicians instructions.

24. On June 17, 2008, Plaintiff caused Board Member Daniel Scardino to be personally served with correspondence informing him of Plaintiff's concerns and advising him of the actions of Defendants and each of them. However, to date, no action or acknowledgement of these concerns were made or addressed. Defendants PACT and its Directors and Board knew, or should have known, that it was providing and continues to provide an unsafe and deplorable working environment.

25. On June 20, 2008, Plaintiff informed Board Member Jackie Goodman by email communication of Plaintiff's concerns and advising him of the actions of Defendants and each of them. However, to date, no action or acknowledgement of these concerns were made or addressed. Defendants PACT, its Directors and Board knew, or should have known, that its age discrimination practices were illegal and would adversely affect Plaintiff.

26. Defendant PACT's restructuring and hiring practices centering on the age of the employees caused severe emotional harm to Plaintiff and presented a hostile work environment where Plaintiff felt harassed and discriminated upon due to his increasing age. On or about June 30, 2008, PACT wrongfully terminated Plaintiff without cause.

27. Defendant PACT, its Directors and Board caused Plaintiff irreparable emotional damages as well as monetary damages by its actions.

28. On July 11, 2008, Plaintiff filed a formal complaint with Austin Equal Employment/Fair Housing Office (FEPA 650-08-349, EEOC 36A-2008-00323). Plaintiff gave his statement to said authorities as required who then referred him to seek retribution from the Federal Office in San Antonio. Plaintiff spoke with Ms. Leticia R. Voneida, Federal Investigator, U.S. Equal Opportunity Commission, and San Antonio Field Office. Case No. 36A-2008-00323 David P. Griffin vs. Public Access Community Television). [The EEOC is unable to conclude that the information obtained establishes violations of the statues.](#)

29. Since Plaintiff's wrongful termination by PACT, Plaintiff has been unable to secure employment despite Plaintiff exhaustive efforts. Each employment possibility seems to end abruptly when the conversation resorts to Plaintiff's former employment with PACT and his working relationship with GARRY and LINDA. The end result is that due to the small market for video production in the Austin area, Plaintiff has been unable to secure employment in his field resulting in great financial and emotional hardship, which has carried over to marital discord resulting in the termination of his marriage of 28 years. The actions of Defendants, and each of them has cause irreparable damage to Plaintiff's reputation.

30. Plaintiff has made repeated demands and attempts to resolve this matter through mediation and negotiation, but the Defendants, and each of them, have refused any attempts at resolution. Plaintiff has filed the necessary complaints regarding age discrimination and unlawful termination with the Federal Government as required, and has exhausted all legal remedies available to him, resulting in the filing of the instant Complaint.

## **PUNITIVE DAMAGES**

1. The Plaintiff hereby adopts the allegations set forth in Paragraphs 1 through 30 as if fully set forth herein in full.

2. The actions of Defendants separately and collectively, as set forth herein were willful, wanton and/or reckless and warrant the imposition of punitive damages.

3. WHEREFORE, by reason of the aforementioned acts and results, Plaintiff prays for punitive damages, permitted by statute and law, against Defendants.

## **PRAYER**

WHEREFORE, THESE PREMISES CONSIDERED, Plaintiff prays that Defendants, and each of them, be cited to appear herein, and that upon final determination hereof, that Plaintiff recover judgment against said Defendants for monetary damages in a sum in excess of the minimal jurisdictional limits of this Court. Plaintiff additionally prays for both compensatory and punitive damages, reasonable attorney's fees, prejudgment and post-judgment interest, court costs, and for such other and further relief, both general and special at law or in equity, to which Plaintiff may be justly entitled.

**Respectfully submitted,**  
**David P Griffin**  
**15406 Ullman RD Austin TX 78734**  
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**DAVID P. GRIFFIN, PLAINTIFF in pro per**