

Fill in this information to identify the case:Debtor Air Pros West LLCUnited States Bankruptcy Court for the: Northern District of Georgia
(State)Case number 25-10367**Modified Official Form 410
Proof of Claim****12/24**

Read the instructions before filling out this form. This form is for making a claim for payment in a bankruptcy case. Do not use this form to make a request for payment of an administrative expense. Make such a request according to 11 U.S.C. § 503.

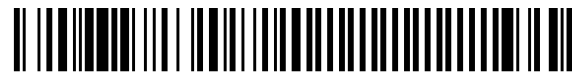
Filers must leave out or redact information that is entitled to privacy on this form or on any attached documents. Attach redacted copies or any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. **Do not send original documents;** they may be destroyed after scanning. If the documents are not available, explain in an attachment.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Fill in all the information about the claim as of the date the case was filed. That date is on the notice of bankruptcy (Form 309) that you received.

Part 1: Identify the Claim

1. Who is the current creditor?	<u>Dwayne Linton</u> Name of the current creditor (the person or entity to be paid for this claim) Other names the creditor used with the debtor _____	
2. Has this claim been acquired from someone else?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. From whom? _____	
3. Where should notices and payments to the creditor be sent? Federal Rule of Bankruptcy Procedure (FRBP) 2002(g)	Where should notices to the creditor be sent? <u>Dwayne Linton</u> <u>Kristie A. Scott, Esq.</u> <u>2069 First Street, Ste 100</u> <u>Fort Myers, Florida 33901, USA</u> Contact phone <u>239-689-8481</u> Contact email <u>kscott@lightpathlaw.com</u> Uniform claim identifier (if you use one): _____	Where should payments to the creditor be sent? (if different) <u>Dwayne Linton</u> <u>15442 Summit Place Cir</u> <u>Naples, Florida 34119</u> Contact phone <u>239-920-6131</u> Contact email <u>greenbackdr@hotmail.com</u>
4. Does this claim amend one already filed?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Claim number on court claims registry (if known) _____ Filed on _____ MM / DD / YYYY	
5. Do you know if anyone else has filed a proof of claim for this claim?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Who made the earlier filing? _____	



Part 2: Give Information About the Claim as of the Date the Case Was Filed

6. Do you have any number you use to identify the debtor?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Last 4 digits of the debtor's account or any number you use to identify the debtor: __ __ __ __
7. How much is the claim? \$ <u>250,000.00</u>	Does this amount include interest or other charges? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Attach statement itemizing interest, fees, expenses, or other charges required by Bankruptcy Rule 3001(c)(2)(A).
8. What is the basis of the claim?	<p>Examples: Goods sold, money loaned, lease, services performed, personal injury or wrongful death, or credit card. Attach redacted copies of any documents supporting the claim required by Bankruptcy Rule 3001(c). Limit disclosing information that is entitled to privacy, such as health care information.</p> <p><u>Employment Discrimination Claim</u></p>
9. Is all or part of the claim secured?	<div><input checked="" type="checkbox"/> No</div> <div><input type="checkbox"/> Yes. The claim is secured by a lien on property. Nature or property: <div><input type="checkbox"/> Real estate: If the claim is secured by the debtor's principle residence, file a <i>Mortgage Proof of Claim Attachment</i> (Official Form 410-A) with this <i>Proof of Claim</i>. <input type="checkbox"/> Motor vehicle <input type="checkbox"/> Other. Describe: _____</div> Basis for perfection: _____ <small>Attach redacted copies of documents, if any, that show evidence of perfection of a security interest (for example, a mortgage, lien, certificate of title, financing statement, or other document that shows the lien has been filed or recorded.)</small> Value of property: \$ _____ Amount of the claim that is secured: \$ _____ Amount of the claim that is unsecured: \$ _____ (The sum of the secured and unsecured amount should match the amount in line 7.) Amount necessary to cure any default as of the date of the petition: \$ _____ Annual Interest Rate (when case was filed) _____ % <div><input type="checkbox"/> Fixed <input type="checkbox"/> Variable</div></div>
10. Is this claim based on a lease?	<div><input checked="" type="checkbox"/> No</div> <div><input type="checkbox"/> Yes. Amount necessary to cure any default as of the date of the petition. \$ _____</div>
11. Is this claim subject to a right of setoff?	<div><input checked="" type="checkbox"/> No</div> <div><input type="checkbox"/> Yes. Identify the property: _____</div>



12. Is all or part of the claim entitled to priority under 11 U.S.C. § 507(a)?

A claim may be partly priority and partly nonpriority. For example, in some categories, the law limits the amount entitled to priority.

☐ No

☒ Yes. Check all that apply:

☐ Domestic support obligations (including alimony and child support) under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B).

Amount entitled to priority

\$ _____

☐ Up to \$3,350* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use. 11 U.S.C. § 507(a)(7).

\$ _____

☒ Wages, salaries, or commissions (up to \$15,150* earned within 180 days before the bankruptcy petition is filed or the debtor's business ends, whichever is earlier. 11 U.S.C. § 507(a)(4).

\$ 250,000.00

☐ Taxes or penalties owed to governmental units. 11 U.S.C. § 507(a)(8).

\$ _____

☐ Contributions to an employee benefit plan. 11 U.S.C. § 507(a)(5).

\$ _____

☐ Other. Specify subsection of 11 U.S.C. § 507(a)() that applies.

\$ _____

* Amounts are subject to adjustment on 4/01/25 and every 3 years after that for cases begun on or after the date of adjustment.

13. Is all or part of the claim entitled to administrative priority pursuant to 11 U.S.C. § 503(b)(9)?

☒ No

☐ Yes. Indicate the amount of your claim arising from the value of any goods received by the debtor within 20 days before the date of commencement of the above case, in which the goods have been sold to the Debtor in the ordinary course of such Debtor's business. Attach documentation supporting such claim.

\$ _____

Part 3: Sign Below

The person completing this proof of claim must sign and date it. FRBP 9011(b).

If you file this claim electronically, FRBP 5005(a)(3) authorizes courts to establish local rules specifying what a signature is.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Check the appropriate box:

☐ I am the creditor.

☒ I am the creditor's attorney or authorized agent.

☐ I am the trustee, or the debtor, or their authorized agent. Bankruptcy Rule 3004.

☐ I am a guarantor, surety, endorser, or other codebtor. Bankruptcy Rule 3005.

I understand that an authorized signature on this *Proof of Claim* serves as an acknowledgement that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

I have examined the information in this *Proof of Claim* and have reasonable belief that the information is true and correct.

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

Executed on date 05/12/2025
MM / DD / YYYY

/s/Kristie A. Scott
Signature

Print the name of the person who is completing and signing this claim:

Name Kristie A. Scott
First name Middle name Last name

Title Attorney of Record for Dwayne Linton

Company Light Path Law, PA
Identify the corporate servicer as the company if the authorized agent is a servicer.

Address

Contact phone _____ Email _____



Verita (KCC) ePOC Electronic Claim Filing Summary

For phone assistance: Domestic (866) 927-7076 | International (310) 751-2650

Debtor: 25-10367 - Air Pros West LLC		
District: Northern District of Georgia, Newnan Division		
Creditor: Dwayne Linton Kristie A. Scott, Esq. 2069 First Street, Ste 100 Fort Myers, Florida, 33901 USA Phone: 239-689-8481 Phone 2: Fax: Email: kscott@lightpathlaw.com	Has Supporting Documentation: Yes, supporting documentation successfully uploaded Related Document Statement:	
	Has Related Claim: No Related Claim Filed By:	
	Filing Party: Authorized agent	
Disbursement/Notice Parties: Dwayne Linton 15442 Summit Place Cir Naples, Florida, 34119 Phone: 239-920-6131 Phone 2: 239-689-8481 Fax: E-mail: greenbackdr@hotmail.com DISBURSEMENT ADDRESS		
Other Names Used with Debtor:	Amends Claim: No Acquired Claim: No	
Basis of Claim: Employment Discrimination Claim	Last 4 Digits: No	Uniform Claim Identifier:
Total Amount of Claim: 250,000.00	Includes Interest or Charges: No	
Has Priority Claim: Yes	Priority Under: 11 U.S.C. §507(a)(4): 250,000.00	
Has Secured Claim: No Amount of 503(b)(9): No Based on Lease: No Subject to Right of Setoff: No	Nature of Secured Amount: Value of Property: Annual Interest Rate: Arrearage Amount: Basis for Perfection: Amount Unsecured:	
Submitted By: Kristie A. Scott on 12-May-2025 9:26:06 a.m. Pacific Time Title: Attorney of Record for Dwayne Linton Company: Light Path Law, PA		

IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

DWAYNE LINTON,

Plaintiff,

v.

CASE NO.

AIR PROS WEST, LLC,
a Florida Limited Liability Company.

Defendant,

**COMPLAINT AND DEMAND FOR INJUNCTIVE
RELIEF AND JURY TRIAL**

DWAYNE LINTON (hereinafter referred to as “Plaintiff” or “Linton”), by and through the undersigned attorney, sues AIR PROS WEST, LLC (hereinafter referred to as “Air Pros”, “Company”, or “Defendant”) and alleges and states as follows:

JURISDICTION

This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1331, because this is a civil action arising under Title VII, 29 U.S.C. § 621 (Title VII), and the Fair Labor Standards Act, 29 U.S.C. § 201-219 (FLSA). This court has supplemental jurisdiction over Plaintiff's related claims arising under state law pursuant to 28 U.S.C. § 1367(a).

VENUE

1. Venue is proper in this district under 42 U.S.C. § 2000e-5(f)(3), because the unlawful employment practice was committed in this district, the Plaintiff would have worked in this district but for the alleged unlawful employment practice, and because the employment records relevant to unlawful employment practice committed by Defendant are maintained and administered in this district. Further, Venue is proper in this district pursuant to U.S.C. § 1391 because the Defendant may be found in this district and a substantial portion of events giving rise to this action occurred in this district.

2. Plaintiff further brings this cause pursuant to the Age Discrimination in Employment Act of 1967 (ADEA), 29 U.S.C.A. §§ 621 et seq. with jurisdiction arising pursuant to 28 U.S.C.A. § 1343(4).

CONDITIONS PRECEDENT

3. Linton timely filed a Complaint of discrimination based on color, race, and age discrimination, and retaliation with the Equal Employment Opportunity Commission (EEOC). See **Exhibit “A”** attached hereto.

4. On or about January 19, 2024, the EEOC issued Plaintiff a Dismissal of Charge and Notice of Right to Sue. See **Exhibit “B”** attached hereto. This

Complaint has been filed within 90 days of receipt of that notice. Plaintiff has fully complied with all prerequisites to jurisdiction in this Court.

PARTIES

5. Plaintiff resides in Naples, Florida and is a citizen of Florida.

6. Plaintiff was an employee, as defined by Title VII, ADEA, Fair Labor Standards Act, and State law. Plaintiff worked for Air Pros from approximately January 1, 2020, to April 13, 2022. Plaintiff's prior work experience made him an ideal candidate for the job, bringing experience and quality workmanship to the position.

7. Upon information and belief, Air Pros West, LLC, is a Florida limited liability company, with its registered agent being Robert Burandt, Esq., of Burandt Adamski, Feichthaler & Sanchez, PLLC in Lee County, Cape Coral, Florida. Air Pros maintains offices and does business in Florida. Air Pros is an employer as defined by Title VII, ADEA, and State Law. Air Pros is a Floridian company founded under the name Air Pros West, LLC since approximately November 2019 and dozens, if not hundreds of employees. Its principal address is located at 17161 Alico Center Road, Fort Myers, Florida 33967. The company provides service including but not limited to HVAC repair, installation, and maintenance.

FACTS

8. Plaintiff brings this action against Air Pros, for violations of Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e *et. Seq.* (“Title VII”); the Age Discrimination in Employment Act of 1967 (“ADEA”) 29 U.S.C. § 621 to 29 U.S.C. 634, and the Florida Civil Rights Act, Fla. Stat §§ 760.01-760.11.

9. Plaintiff is a Black African American male who was 51 years of age at the end of his employment with Air Pros.

10. Air Pros hired Linton in 2020, as an Installation Technician because he was extremely well qualified for the position having approximately 31 plus years of experience in the HVAC industry. His duties included installing, maintaining, repairing, and servicing HVAC units as directed by supervisor or manager. He worked for Air Pros for approximately two years with an ending date of Wednesday, April 13, 2022.

11. Linton was the only Black person at the company, was the oldest person working in his department, and was the only person classified as salary with substantially similar job responsibilities and duties as his co-workers.

12. Linton was treated differently based on his age, race and color.

13. Linton had more experience than anyone at the Company. The Company took unfair advantage of him.

14. On many occasions Plaintiff's General Manager, who was also his immediate supervisor, would openly demean and degrade Plaintiff during meetings in front of his peers/co-workers by making Plaintiff say "yes sir", criticize him for wearing his uniform, talk about and making fun of his shoes, ridicule his work, embarrass and belittle him while on the job to the point that others noticed and commented to Plaintiff about the mistreatment. Non-minorities and younger employees were not treated in the same way.

15. Air Pros also discriminated against Linton based on his color, race, and age by not paying him properly. For example, Air Pros misclassified Linton as exempt from overtime requirements and failed to pay him for all hours worked, even though it was a "blue collar" position.

16. Upon information and belief, non-minorities were paid properly.

17. Linton often worked a twelve (12) plus hour shift from 7:00 a.m. to 7:00 p.m., or later, many days, and was scheduled every other weekend to include Saturdays and was not paid properly based on his actual work hours and it is believed to be as a result of discrimination.

18. Air Pros discriminated against Linton based on his age. For example, Plaintiff requested to be moved from an installer position to a service tech position and explained that he requested this move because he believed that the service

technician position was more appropriate than the installation work based on Plaintiff's age. When Air Pros switched his position, they erroneously made him a salaried worker rather than non-exempt. He should have been non-exempt because he was still doing manual labor service work (blue collar work).

19. The misclassification caused Linton to make less than younger non-minorities.

20. When Plaintiff addressed the disparagement in pay and properly pay him as a W-2 wage worker, his General Manager responded "No" and refused to make the correction.

21. Management at Air Pros proceeded to act in a demeaning and threatening manner to the point that Linton was humiliated to tears and had to beg to keep his job.

22. Linton, a black African-American and person over the age of forty, was discriminated against, treated poorly, and paid less than white younger employees based solely on his race, color, and age.

23. Linton did not receive equal pay for performing similar work and at times, worked longer hours with no overtime compensation and/or benefit of compensation for selling HVAC Units.

24. Further, Air Pros retaliated against Plaintiff when he requested the proper pay class as their treatment towards him forced Linton to resign from his job.

25. Air Pros open and active humiliation and ridicule of Linton was based on unlawful discrimination.

26. Air Pros failure to properly compensate Linton, continued harassment and ridicule of him cause constructive discharge by forcing him to look for work elsewhere.

27. Linton suffered a great deal of damages including but not limited to financial and emotion to the point where he had to seek mental health treatment due to the trauma imposed upon him by Air Pros.

28. Air Pros violated Title VII, Florida Law, and the Age Discrimination in Employment Act by subjecting Linton to disparate treatment while failing to take sufficient remedial actions when Plaintiff complained about the disparate treatment to his supervisors and ultimately retaliated against him by constructively discharging him after he engaged in lawful, protected activity.

29. Plaintiff has retained the services of undersigned counsel in the vindication of his rights and has agreed to pay reasonable fees and costs for such representation.

[Remainder of page intentionally blank]

COUNT I

Racial Discrimination in Violation of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e-2(a)

30. Plaintiff repeats and realleges paragraphs 1 through 29 as if fully set forth herein.

31. Plaintiff was qualified for his position at Air Pros when he was constructively discharged.

32. During the course of his employment with Air Pros, Linton was subjected to disparate treatment while Defendant failed to take sufficient remedial actions when Plaintiff complained about the disparate treatment to his supervisors who ultimately retaliated against him by forcing him to quit after he engaged in lawful, protected activity.

33. In addition, Air Pros treated similarly situated white employees with more favor.

34. Linton suffered damages as a result of Defendant's unlawful discriminatory actions, including emotional distress, past and future lost wages and benefits, attorney's fees, and the costs of bringing this action.

35. Defendant intentionally violated Linton's rights under Title VII, with malice or reckless indifference, and, as a result, Air Pros is liable for damages.

WHEREFORE, Plaintiff, Dwayne Linton, respectfully requests judgment as follows:

- A. Accept jurisdiction over this matter;
- B. Enter an order declaring that Defendant violated Plaintiff's civil rights under Title VII and enjoining Defendant from such conduct in the future;
- C. Award Plaintiff compensatory damages for emotional pain, suffering, mental anguish, humiliation, loss of enjoyment of life, and other nonpecuniary losses;
- D. Award Plaintiff damages which include but are not limited to past and future loss of wages and benefits, retirement benefits, plus interest;
- E. In lieu of reinstatement, award Plaintiff front pay (including benefits);
- F. Award to Plaintiff liquidated damages incurred in connection with this action, equal to the sum amount of backpay and interest;
- G. Award to Plaintiff prejudgment interest on all monetary recovery obtained;
- H. Award to Plaintiff all costs and reasonable attorneys' fees incurred in connection with this action;
- I. Award to Plaintiff, if applicable, punitive damages; and

J. Grant Plaintiff such additional or alternative relief as the Court deems just and proper.

COUNT II

Retaliation in Violation of Title VII of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000e et al.)

36. Plaintiff repeats and realleges paragraphs 1 through 29 as if fully set forth herein.

37. Linton is a member of a protected class under Title VII.

38. After Plaintiff complained regarding the disparagement in pay and classification of pay (which he felt was based on his race), Air Pros retaliated against him by refusing to properly pay him as a W-2 wage worker, by humiliating him to the point of emotional breakdown, and causing his constructive discharge as a result of Air Pros actions based on his race.

39. Plaintiff suffered damages as a result of Air Pro's unlawful retaliatory actions, including emotional distress, past and future lost wages and benefits, and the costs of bringing this action.

40. Defendant intentionally violated Linton's rights under Title VII, with malice or reckless indifference, and, as a result, he was damaged, and Air Pros may be liable for punitive damages.

WHEREFORE, Plaintiff, Dwayne Linton, respectfully requests judgment as follows:

- A. Accept jurisdiction over this matter;
- B. Enter an order declaring that Defendant violated Plaintiff's civil rights under Title VII and enjoining Defendant from such conduct in the future;
- C. Award Plaintiff compensatory damages for emotional pain, suffering, mental anguish, humiliation, loss of enjoyment of life, and other nonpecuniary losses;
- D. Award Plaintiff damages which include but are not limited to past and future loss of wages and benefits, retirement benefits, plus interest;
- E. In lieu of reinstatement, award Plaintiff front pay (including benefits);
- F. Award to Plaintiff liquidated damages incurred in connection with this action, equal to the sum amount of backpay and interest;
- G. Award to Plaintiff prejudgment interest on all monetary recovery obtained;
- H. Award to Plaintiff all costs and reasonable attorneys' fees incurred in connection with this action;
- I. Award to Plaintiff, if applicable, punitive damages; and

J. Grant Plaintiff such additional or alternative relief as the Court deems just and proper.

COUNT III

Racial Discrimination in Violation of Florida Civil Rights Act § 760.10, Fla. Stat.

41. Plaintiff repeats and realleges paragraphs 1 through 29 as if fully set forth herein.

42. Plaintiff is a member of a protected class under Florida Civil Rights Act (hereinafter referred to as the “FCRA”).

43. Plaintiff was subjected to disparate treatment by Air Pros on the basis of his race.

44. The aforementioned intentional discriminatory acts of Defendant, through their employees and/or agents, were performed with malice or with reckless indifference to the Plaintiff's protected civil rights.

45. Plaintiff was injured due to Defendant's violations of the FCRA, for which Linton is entitled to legal and injunctive relief.

46. Pursuant to § 760.11(5), Fla. Stat., Plaintiff seeks punitive damages.

47. Pursuant to § 760.11(5), Fla. Stat., Plaintiff is entitled to recover reasonable attorney's fees as part of his costs.

WHEREFORE, Plaintiff, Dwayne Linton, respectfully requests judgment as follows:

- A. Accept jurisdiction over this matter;
- B. Enter an order declaring that Defendant violated Plaintiff's civil rights under the FCRA and enjoining Defendant from such conduct in the future;
- C. Award Plaintiff compensatory damages for emotional pain, suffering, mental anguish, humiliation, loss of enjoyment of life, and other nonpecuniary losses;
- D. Award Plaintiff damages which include but are not limited to past and future loss of wages and benefits, retirement benefits, plus interest;
- E. In lieu of reinstatement, award Plaintiff front pay (including benefits);
- F. Award to Plaintiff liquidated damages incurred in connection with this action, equal to the sum amount of backpay and interest;
- G. Award to Plaintiff prejudgment interest on all monetary recovery obtained;
- H. Award to Plaintiff all costs and reasonable attorneys' fees incurred in connection with this action;
- I. Award to Plaintiff, if applicable, punitive damages; and

J. Grant Plaintiff such additional or alternative relief as the Court deems just and proper.

COUNT IV

Retaliation in Violation of the Florida Civil Rights Act § 760.10, Fla. Stat.

48. Plaintiff repeats and realleges paragraphs 1 through 29 as if fully set forth herein.

49. Linton is a member of a protected class under the FCRA.

50. At all times material hereto, Defendant was an employer within the meaning of §§ 760.01 et seq., Fla. Stat., the Florida Civil Rights Act.

51. After Plaintiff complained regarding the disparagement in pay and classification of pay which Plaintiff believed was based on race, Air Pros retaliated against him by refusing to properly pay him as a W-2 wage worker, by humiliating him to the point of emotional breakdown, and causing his constructive discharge as a result of Air Pros actions based on his race.

52. At all times material, Air Pros, Plaintiff's employer, was prohibited from retaliating against Plaintiff because he was opposed to unlawful employment practices.

53. Linton's constructive discharge was motivated by Air Pros' racial discrimination and retaliation and would not have occurred otherwise. Any legal

reason articulated by Defendant for Linton's treatment during his employment is merely pretextual.

54. Due to Defendant's unlawful actions, Plaintiff has suffered damages, including but not limited to lost wages, income, and employment benefits; emotional pain, suffering, mental anguish, humiliation, and loss of enjoyment of life; and costs, including attorney's fees and costs, incurred in pursuing redress for the deprivation of his civil rights.

55. The aforementioned intentional discriminatory acts of Air Pros, through their employees and/or agents, were performed with malice or with reckless indifference to the Linton's protected civil rights.

56. Pursuant to § 760.11(5), Fla. Stat., Linton seeks punitive damages.

57. Pursuant to § 760.11(5), Fla. Stat., Linton is entitled to recover reasonable attorney's fees as part of his costs.

WHEREFORE, Plaintiff, Dwayne Linton, respectfully requests judgment as follows:

- A. Accept jurisdiction over this matter;
- B. Enter an order declaring that Defendant violated Plaintiff's civil rights under the FCRA and enjoining Defendant from such conduct in the future;

C. Award Plaintiff compensatory damages for emotional pain, suffering, mental anguish, humiliation, loss of enjoyment of life, and other nonpecuniary losses;

D. Award Plaintiff damages which include but are not limited to past and future loss of wages and benefits, retirement benefits, plus interest;

E. In lieu of reinstatement, award Plaintiff front pay (including benefits);

F. Award to Plaintiff liquidated damages incurred in connection with this action, equal to the sum amount of backpay and interest;

G. Award to Plaintiff prejudgment interest on all monetary recovery obtained;

H. Award to Plaintiff all costs and reasonable attorneys' fees incurred in connection with this action;

I. Award to Plaintiff, if applicable, punitive damages; and

J. Grant Plaintiff such additional or alternative relief as the Court deems just and proper.

[Remainder of page intentionally left blank]

COUNT V

Age Discrimination in Violation of the Age Discrimination in Employment Act of 1967 (“ADEA”), (29 U.S.C.A. §§ 621 et seq. and 28 U.S.C.A. § 1343(4))

58. Plaintiff repeats and realleges paragraphs 1 through 29 as if fully set forth herein.

59. Linton, at all times pertinent to this Complaint, was resident within the venue and jurisdiction of this judicial district and was within the protected age group as provided by the ADEA.

60. At all times material hereto, Defendant was an employer, operated and did business within the venue and jurisdiction of this judicial circuit.

61. Linton was employed by Air Pros from approximately January 2020 until he was wrongfully constructively discharged on or around April 13, 2022.

62. In direct violation of the ADEA, the Defendant engaged in the age discriminatory acts described in herein and in the Charge of Discrimination attached to this complaint and incorporated by reference.

63. As a result of Defendant’s discriminatory conduct, Plaintiff has been damaged in his career and has otherwise suffered monetary damages.

WHEREFORE, Plaintiff, DWAYNE LINTON demands judgment against Defendant, AIR PROS, as follows:

A. For damages in an amount equal to Plaintiff's back pay and benefits from April 13, 2022, through the present pursuant to Section 7(b) of the ADEA, 29 U.S.C.A. § 626(b);

B. For an award of compensatory damages for Plaintiff's injury to his career, emotional pain and suffering, inconvenience, mental anguish, loss of enjoyment of life, and other nonpecuniary damages and fringe benefits;

C. In lieu of reinstatement, award Plaintiff front pay (including benefits), pursuant to Section 7(e) of the ADEA, 29 U.S.C.A. § 626(e);

D. For attorney's fees and costs of this suit, pursuant to Section 7(b) of the ADEA, 29 U.S.C.A. § 626(c); and

E. For such other and further relief as is just and equitable.

COUNT VI

Violation of the Fair Labor Standards Act § 29 U.S.C. 207

64. Plaintiff repeats and realleges paragraphs 1-2, 5-7, 17, 19-21 as if fully set forth herein.

65. The United States District Court for the District of Florida, Fort Myers Division, has subject matter jurisdiction over this suit under 29 U.S.C. § 216(b) of the Federal Fair Labor Standards Act.

66. This is an action for money damages, liquidated damages, costs, and attorney fees and other relief as a result of Defendant's willful failure to pay overtime compensation to Plaintiff, in violation of federal and state wage and hour laws. This action is brought pursuant to the provisions of the Fair Labor Standards Act (hereinafter the "FLSA"), based on an individual claim under the FLSA.

67. At all relevant times, Plaintiff was employed by Defendant performing HVAC work for Defendant which is a manual labor position.

68. During the relevant period, Plaintiff was improperly designated by Defendant as exempt from the overtime requirements of the (FLSA) though Plaintiff should have been designated as nonexempt, or otherwise entitled to overtime.

69. Defendant's decision to improperly classify Plaintiff as exempt was willful and intentional.

70. Defendant set the normal or usual work week for Plaintiff to work more than forty (40) hours per week.

71. Despite his designation as "salary", Plaintiff did not customarily and regularly perform work that would classify such employee as exempt under the exemptions of the FLSA.

72. At all relevant times, Defendant was fully aware that Plaintiff did not customarily and regularly qualify as an employee designated as exempt from overtime pay.

73. During Plaintiff's employment, Plaintiff often worked more than forty (40) hours but, despite his nonexempt job duties, was not properly paid overtime wages for hours actually worked in excess of forty (40) hours per week.

74. Despite Defendant's illegal misclassification of the Plaintiff as a "salary" employee, Defendant failed and continues to fail to retroactively reimburse or compensate Plaintiff for the hours that he worked in excess of forty (40) per week during the years of his misclassification.

75. When Plaintiff complained about the manner in which he was paid to the Company, Defendant retaliated against him in violation of the FLSA.

76. Based on the foregoing, Defendant's conduct was a willful violation of the FLSA and entitles Plaintiff to compensation for all overtime hours worked, liquidated damages, interest, attorney fees and court costs.

WHEREFORE, Plaintiff, DWAYNE LINTON demands judgment against Defendant, AIR PROS, as follows:

A. An award of damages to Plaintiff for Unpaid Overtime Wages under the Fair Labor Standards Act;

- B. An award of damages to Plaintiff for Liquidated Damages under the Fair Labor Standards Act;
- C. An award of damages to Plaintiff for interest and costs;
- D. An award of damages to Plaintiff for attorney fees under the Fair Labor Standards Act; and
- E. Any other such other relief in law or equity as this Court may find just under the circumstances.

DEMAND FOR JURY TRIAL

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Plaintiff demands trial by jury in this action of all issues so triable.

Dated this 18th day of April, 2024.

Light Path Law, P.A.
Counsel for Plaintiff
2069 First Street, First Floor
Fort Myers, FL 33901
Phone: (239) 689-8481
Fax: (239) 294-3930
kscott@lightpathlaw.com
lcompton@lightpathlaw.com
jjordan@lightpathlaw.com
jlooper@lightpathlaw.com

By: 

Kristie A. Scott
Florida Bar No. 10811
Lindsay Compton
Florida Bar No. 1032739

EEOC Form 5 (11/09)

CHARGE OF DISCRIMINATION This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.		Charge Presented To: Agency(ies) Charge No(s): <input type="checkbox"/> FEPA 510-2022-07427 <input checked="" type="checkbox"/> EEOC	
Florida Commission On Human Relations and EEOC <i>State or local Agency, if any</i>			
Name (indicate Mr., Ms., Mrs.) Mr. Dwayne Linton		Home Phone (Incl. Area Code) (239) 359-7618	Date of Birth 07/31/1971
Street Address 15442 Summit Place Cir		City, State and ZIP Code Naples, FL 34119	
Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)			
Name Air Pros West, LLC (Registered Agent Robert Burandt, Esq. robert@capecoralattorney.com)		No. Employees, Members Approx. 201-500	Phone No. (Include Area Code) (239) 260-9203
Street Address 17161 Alico Center Road		City, State and ZIP Code Fort Myers, FL 33967	
Name		No. Employees, Members	Phone No. (Include Area Code)
Street Address		City, State and ZIP Code	
DISCRIMINATION BASED ON (Check appropriate box(es).) <input checked="" type="checkbox"/> RACE <input checked="" type="checkbox"/> COLOR <input type="checkbox"/> SEX <input type="checkbox"/> RELIGION <input type="checkbox"/> NATIONAL ORIGIN <input checked="" type="checkbox"/> RETALIATION <input checked="" type="checkbox"/> AGE <input type="checkbox"/> DISABILITY <input type="checkbox"/> GENETIC INFORMATION <input type="checkbox"/> OTHER (Specify)		DATE(S) DISCRIMINATION TOOK PLACE Earliest Latest 01/01/2020 approx. 04/13/2022 <input checked="" type="checkbox"/> CONTINUING ACTION	
THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)):			
<p>Dwayne Linton is represented by counsel, Kristie Scott, Esq., of Light Path Law, P.A., who can be reached at: 2740 Oak Ridge Court, Suite 303, Fort Myers, FL 33901 Email: kscott@lightpathlaw.com Phone: (239) 689-8481</p> <p>I, Dwayne Linton, am a 51-year-old, African American male who was discriminated against by my former employer Air Pros West, LLC. During my employment at Air Pros West, LLC (herein referred to as "Air Pros" or the "Company"), I was discriminated against based on my race, color, and age. I was hired by Air Pros on or about 2020, as an Installation Technician because I was extremely well qualified for the position having 31 plus years of experience in the HVAC industry. My duties included installing, maintaining, repairing, and servicing HVAC units as directed by supervisor or manager. I worked for Air Pros for approximately two years with an ending date of Wednesday, April 13, 2022.</p> <p>I was the only black person at the company, I was the oldest person working in his department, and I was the only person classified as salary with substantially similar job responsibilities and duties as my co-workers. I believe I was treated differently based on my age, race and color. I had more experience than anyone and I believe that the Company took unfair advantage of me. The General Manager, Nick Corachi (sp?) who was also my immediate supervisor, would openly demean and degrade me during meetings in front of my co-workers by making me say "yes sir", criticize me for wearing my uniform, talk about and making fun of my shoes, ridicule my work, and embarrass and belittle me while on the job to the point that others noticed and would comment to me regarding the mistreatment. Non-minorities were not treated in this way.</p> <p>When I started with Air Pros, I had thirty-one (31) plus years of experience in the HVAC industry. I believe that Air Pros also discriminated against me based on my color and race by not paying me properly. For example, they misclassified me as exempt from overtime requirements and failed to pay me for all hours worked. I believe that non-minorities were paid</p>			

properly. I often worked a twelve (12) plus hour shift from 7:00 a.m. to 7:00 p.m., or later many days and I was scheduled every other weekend to include Saturdays. Yet, I was not paid properly because of my race and color.

I also believe that I was discriminated against based on my age. For example, I requested to be moved from an installer position to a service tech position. I told Air Pros that I requested this move because I believed that the service technician position was more appropriate than the installation work based on my age. When I switched positions, Air Pros erroneously made me a salaried worker rather than non-exempt. I should have been non-exempt because I was still doing manual labor service work. As a result, I made less than non-minorities. As a result of making less money, I asked the General Manager to pay me properly as a W-2 employee, but he responded, "No". The management at Air Pros proceeded to act in a demeaning and threatening manner to the point that I was humiliated to tears and had to beg to keep my job.

For the reasons listed above, I believe that as an African-American and person over the age of forty, I was discriminated because I was treated poorly and paid less than white employees. I did not receive equal pay for performing similar work and at times, worked longer hours with no overtime compensation and/or benefit of compensation for selling HVAC Units.

Air Pros retaliated against me when I requested the proper pay class and their treatment towards me forced me to resign from my job. I was openly and actively humiliated and ridiculed based on unlawful discrimination. Since Air Pros failed to properly compensate me, harassed and ridiculed me, constructively discharged me forcing me to look for work elsewhere, I suffered a great deal damages. Therefore, I believe this is a violation of Title VII and the Age Discrimination in Employment Act for the reasons discussed in this EEOC Charge.

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

NOTARY - When necessary for State and Local Agency Requirements

Ashia Riley

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

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

SIGNATURE OF COMPLAINANT

Dwayne Linton

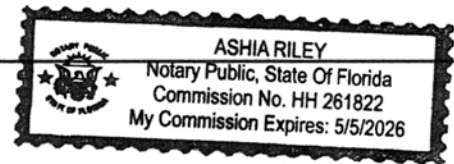
SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE
(month, day, year)

08/22/22

8-22-22 *Dwayne Linton*

Date

Charging Party Signature





U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Miami District Office
100 SE 2nd St, Suite 1500
Miami, FL 33131
(800) 669-4000
Website: www.eeoc.gov

DISMISSAL AND NOTICE OF RIGHTS

(This Notice replaces EEOC FORMS 161, 161-A & 161-B)

Issued On: 01/19/2024

To: Dwayne Linton
15442 Summit Place Cir
Naples, FL 34119
Charge No: 510-2022-07427

EXHIBIT "B"

EEOC Representative and email: JOSE DELAROSA
Investigator
Jose.Delarosa@eeoc.gov

DISMISSAL OF CHARGE

The EEOC has granted your request for a Notice of Right to Sue, and more than 180 days have passed since the filing of this charge.

The EEOC is terminating its processing of this charge.

NOTICE OF YOUR RIGHT TO SUE

This is official notice from the EEOC of the dismissal of your charge and of your right to sue. If you choose to file a lawsuit against the respondent(s) on this charge under federal law in federal or state court, **your lawsuit must be filed WITHIN 90 DAYS of your receipt of this notice.** Receipt generally occurs on the date that you (or your representative) view this document. You should keep a record of the date you received this notice. Your right to sue based on this charge will be lost if you do not file a lawsuit in court within 90 days. (The time limit for filing a lawsuit based on a claim under state law may be different.)

If you file a lawsuit based on this charge, please sign in to the EEOC Public Portal and upload the court complaint to charge 510-2022-07427.

On behalf of the Commission,

Digitally Signed By: Evangeline Hawthorne
01/19/2024

Evangeline Hawthorne
Director

Cc:

Jonathan Beckerman
Lewis Brisbois
110 SE 6TH ST STE 2600
Fort Lauderdale, FL 33301

Nicole Vescova
Lewis Brisbois
2 ALHAMBRA PLZ STE 1110
Coral Gables, FL 33134

Jennifer Cannistraci
Air Pros West, LLC
17161 Alico Center Rd.
Fort Myers, FL 33967

Kristie Scott
LIGHT PATH LAW, P.A.
2740 Oak Ridge Court. #303
Fort Myers, FL 33901

J. Jordan
Light Path Law, P.A.
P.O. Box 1013
Fort Myers, FL 33902

Please retain this notice for your records.

Enclosure with EEOC Notice of Closure and Rights (01/22)

INFORMATION RELATED TO FILING SUIT UNDER THE LAWS ENFORCED BY THE EEOC

*(This information relates to filing suit in Federal or State court **under Federal law**. If you also plan to sue claiming violations of State law, please be aware that time limits may be shorter and other provisions of State law may be different than those described below.)*

IMPORTANT TIME LIMITS – 90 DAYS TO FILE A LAWSUIT

If you choose to file a lawsuit against the respondent(s) named in the charge of discrimination, you must file a complaint in court **within 90 days of the date you receive this Notice**. Receipt generally means the date when you (or your representative) opened this email or mail. You should **keep a record of the date you received this notice**. Once this 90-day period has passed, your right to sue based on the charge referred to in this Notice will be lost. If you intend to consult an attorney, you should do so promptly. Give your attorney a copy of this Notice, and the record of your receiving it (email or envelope).

If your lawsuit includes a claim under the Equal Pay Act (EPA), you must file your complaint in court within 2 years (3 years for willful violations) of the date you did not receive equal pay. This time limit for filing an EPA lawsuit is separate from the 90-day filing period under Title VII, the ADA, GINA, the ADEA, or the PWFA referred to above. Therefore, if you also plan to sue under Title VII, the ADA, GINA, the ADEA or the PWFA, in addition to suing on the EPA claim, your lawsuit must be filed within 90 days of this Notice and within the 2- or 3-year EPA period.

Your lawsuit may be filed in U.S. District Court or a State court of competent jurisdiction. Whether you file in Federal or State court is a matter for you to decide after talking to your attorney. You must file a "complaint" that contains a short statement of the facts of your case which shows that you are entitled to relief. Filing this Notice is not enough. For more information about filing a lawsuit, go to <https://www.eeoc.gov/employees/lawsuit.cfm>.

ATTORNEY REPRESENTATION

For information about locating an attorney to represent you, go to:
<https://www.eeoc.gov/employees/lawsuit.cfm>.

In very limited circumstances, a U.S. District Court may appoint an attorney to represent individuals who demonstrate that they are financially unable to afford an attorney.

HOW TO REQUEST YOUR CHARGE FILE AND 90-DAY TIME LIMIT FOR REQUESTS

There are two ways to request a charge file: 1) a Freedom of Information Act (FOIA) request or 2) a "Section 83" request. You may request your charge file under either or both procedures. EEOC can generally respond to Section 83 requests more promptly than FOIA requests.

Since a lawsuit must be filed within 90 days of this notice, please submit your FOIA and/or Section 83 request for the charge file promptly to allow sufficient time for EEOC to respond and for your review.

To make a FOIA request for your charge file, submit your request online at <https://eeoc.arkcase.com/foia/portal/login> (this is the preferred method). You may also submit a FOIA request for your charge file by U.S. Mail by submitting a signed, written request identifying your request as a "FOIA Request" for Charge Number 510-2022-07427 to the

Enclosure with EEOC Notice of Closure and Rights (01/22)

District Director at Evangeline Hawthorne, 100 SE 2nd St Suite 1500, Miami, FL 33131.

To make a Section 83 request for your charge file, submit a signed written request stating it is a "Section 83 Request" for Charge Number 510-2022-07427 to the District Director at Evangeline Hawthorne, 100 SE 2nd St Suite 1500, Miami, FL 33131.

You may request the charge file up to 90 days after receiving this Notice of Right to Sue. After the 90 days have passed, you may request the charge file only if you have filed a lawsuit in court and provide a copy of the court complaint to EEOC.

For more information on submitting FOIA requests, go to <https://www.eeoc.gov/eeoc/foia/index.cfm>.

For more information on submitted Section 83 requests, go to <https://www.eeoc.gov/foia/section-83-disclosure-information-charge-files>.