



McFadden's bartender says it discouraged nonwhite customers

By Nathan Gorenstein / November 12, 2010

A part-time bartender at the popular McFadden's Restaurant & Saloon has filed a federal lawsuit alleging the restaurant has deliberately discouraged nonwhite customers.

Court documents quote a text message by the bar's general manager as telling a shift supervisor to cease a weeknight promotion that brought in African American customers. "We don't want black people we are a white bar!" the manager wrote in October, the lawsuit alleges.

McFadden's parent company, East Coast Saloons L.L.C., operates 24 restaurants and bars in the Midwest and Northeast, including one at Citizens Bank Park. The lawsuit says the firm, based in New York City, has a national policy of discouraging nonwhite customers, and asks court permission to turn the suit into a class action. It also seeks a temporary restraining order to halt "discriminatory policies."

In 2009 a similar lawsuit was filed against another company restaurant in Louisville, Ky. A former employee alleged she was told by management to "keep out the darker element" and was demoted after objecting to that policy.

A White Plains, N.Y., lawyer who represents East Coast, Lori A. Sullivan, said she had not seen the "full" suit, but in an e-mail said that "it was factually and as a matter of law incorrect" to claim racial discrimination was a company policy.

The person who answered the telephone at the New York headquarters said the company president, John L. Sullivan, was not available, and hung up when asked if there was another person who could discuss the case.

In 2007, the North Third Street location in Philadelphia hired Michael L. Bolden, at that time a law student at Temple University. He worked his way up to a senior bartender's job that gave him prime shifts on Fridays and Saturdays, the suit says.

The restaurant and nightclub typically attracts large numbers of white college-age students and recent graduates, a customer base that deserts the city for the Shore in the summer, according to the suit.

To increase business this year, the McFadden's Wednesday night manager hired a black disc jockey and a promoter, and successfully attracted large weeknight crowds in June and July that

were "mostly comprised of nonwhite patrons," says the suit, which was filed Tuesday in U.S. District Court.

But in August, as the white clientele was due back, the disc jockey was "terminated," a nighttime parking lot was closed, and on two consecutive Wednesdays the restaurant was shut down, all to discourage nonwhite customers, the lawsuit alleges.

The court documents also include an exchange of text messages and e-mails between the general manager, identified in the suit as Walt Wyrsta - who took over in 2008 - and the Wednesday night manager. In them, Wyrsta allegedly expresses concern this fall that the "demo[graphic]" on Wednesdays was costing the bar white customers on weekends.

"So lets get back to basics and make the necessary changes by fading away that clientele from the bar and behind the bar," he is alleged to have written on Oct. 29. Wyrsta could not be reached for comment. He is not named as a defendant in the suit.

Bolden contends that since August he has been moved from his spot at the main bar to a less visible post, and that his hours were reduced, though he remains an employee.

In a statement, Bolden said he filed suit because he has seen what he called a "culture of exclusion" in bars and restaurants that is often "subtle and behind the scenes, and typically, not written down."

"Therein lies the problem: how do you challenge a system, since it seems one cannot even prove it exists. Well, now I can."

He is represented by Console Law Offices L.L.C., a Philadelphia firm that specializes in workplace law. A firm attorney, Laura C. Mattiacci, declined to comment or discuss how the firm obtained the e-mails and text messages.

Bolden graduated from the James E. Beasley School of Law at Temple in 2009, and is now an attorney at Community Legal Services. That nonprofit firm is not involved in his lawsuit.

The suit says Bolden was raised in Philadelphia, the son of an African American father and Cuban American mother of Spanish descent. He graduated from Stanford University in 2003 before returning East for law school.

He also says in the suit that McFadden's has a dress code that forbids work boots of any color, hooded sweatshirts, "excessively baggy" clothing, and "plain white tees." The lawsuit said that dress code was used to disproportionately "exclude a larger percentage of nonwhite patrons than white patrons.

...

http://www.philly.com/philly/news/local/20101112_McFadden_s_bartender_says_it_discouraged_nonwhite_customers.html