

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA
FT. LAUDERDALE DIVISION

05-61580

2005 SEP 28 PM 12:25
CLERK OF DISTRICT COURT
S.D. OF FLA. - HIA

UNITED STATES EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION,

CIV-ALTONAGA

CIVIL ACTION NO.

Plaintiff,

MAGISTRATE JUDGE
TURNOFF

COMPLAINT

JURY TRIAL DEMAND

v.

PH FITNESS, INC., a/k/a PBH FITNESS, LLC,
and JRRCC, INC., d/b/a FITNESS FIRST

INJUNCTIVE RELIEF REQUESTED

Defendants.

NATURE OF THE ACTION

This is an action under Title VII of the Civil Rights Act of 1964 and Title I of the Civil Rights Act of 1991, to correct unlawful employment practices on the basis of sex, female and pregnancy, and to provide appropriate relief due to Dawn Grungo who was adversely affected by such practices. As stated with greater particularity in the paragraphs below, the United States Equal Employment Opportunity Commission (hereinafter the "EEOC" or "Commission") alleges that Defendants terminated Ms. Grungo because of her sex, female, and her pregnancy.

JURISDICTION AND VENUE

1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 451, 1331, 1337, 1343 and 1345. This action is authorized and instituted pursuant to Section 706 (f)(1) and (3) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §2000e-5(f)(1) and (3) ("Title VII") and Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981a.

2. The employment practices alleged to be unlawful were committed within the jurisdiction of the United States District Court for the Southern District of Florida, Ft. Lauderdale Division.

PARTIES

3. Plaintiff, the EEOC, is the agency of the United States of America charged with the administration, interpretation and enforcement of Title VII, and is expressly authorized to bring this action by Section 706(f)(1) and (3) of Title VII, 42 U.S.C. §2000e-5(f)(1) and (3).

4. At all relevant times, Defendants PH Fitness, Inc., a/k/a PBH Fitness, LLC and JRRCC, Inc. d/b/a Fitness First (“Defendants”), fitness facility companies, have continuously been foreign corporations, doing business in the State of Florida and the Cities of Deerfield Beach and Plantation, and has continuously had at least 15 employees.

5. At all relevant times, Defendants have continuously been employers engaged in an industry affecting commerce within the meaning of Sections 701(b), (g) and (h) of Title VII, 42 U.S.C. §§ 2000e(b), (g) and (h).

STATEMENT OF CLAIMS

6. More than thirty days prior to the institution of this lawsuit, Dawn Grungo filed a

charge with the Commission alleging violations of Title VII by Defendants. All conditions precedent to the institution of this lawsuit have been fulfilled.

7. Since at least July 2004, Defendants have engaged in unlawful employment practices at, in violation of Section 703(a)(1) of Title VII, 42 U.S.C. § 2000e-2(a).

a. Dawn Grungo began working for Defendants in or about June 2002 at the Fitness First Deerfield Beach facility as a front desk clerk.

- b. In or about December 2003, Defendants announced that Dawn Grungo would be promoted to manager of the new Fitness First Plantation facility.
- c. Ms. Grungo was informed that she would transfer to the Fitness First Plantation facility in or about August 2004.
- d. In or about June/July 2004 Dawn Grungo informed her supervisor that she believed she was pregnant.
- e. On or about July 13, 2004, Dawn Grungo informed her supervisor that she was indeed pregnant.
- f. On or about July 15, 2004, Defendants terminated Dawn Grungo.

8. The effect of the unlawful employment practices complained of above has been to deprive Dawn Grungo of equal employment opportunities, and otherwise adversely affect her status as an employee because of her sex.

9. The unlawful employment practices complained of above were intentional.

10. The unlawful employment practices complained of above were done with malice or with reckless indifference to the federally protected rights of Dawn Grungo.

PRAYER FOR RELIEF

Wherefore, the Commission requests that this Court:

A. Grant a permanent injunction enjoining Defendants, their officers, successors, assigns and all persons in active concert or participation with them, from engaging in sex and pregnancy discrimination in employment practices at their facilities.

B. Order Defendants to institute and carry out policies, practices, and programs which

provide equal employment opportunities for women which eradicate the effects of their past and present unlawful employment practices.

C. Order Defendants to make whole Dawn Grungo by providing appropriate back pay with prejudgment interest, in amounts to be determined at trial, and other affirmative relief necessary to eradicate the effects of its unlawful employment practices, including but not limited to, reinstatement, rightful-place hiring, and front pay.

D. Order Defendants to make whole Dawn Grungo by providing compensation for past and future pecuniary losses resulting from the employment practices described in paragraphs seven through eleven above, including but not limited to, out-of-pocket losses, medical expenses and job search expenses, in amounts to be determined at trial.

E. Order Defendants to make whole Dawn Grungo by providing compensation for past and future nonpecuniary losses resulting from the employment practices described in paragraphs seven through ten above, including but not limited to, emotional pain, suffering, inconvenience, loss of enjoyment of life, and humiliation, in amounts to be determined at trial.

F. Order Defendants to pay punitive damages for their malicious and reckless conduct described in paragraphs seven through ten above, in an amount to be determined at trial.

G. Grant such further relief as the Court deems necessary and proper in the public interest.

H. Award the Commission its costs of this action.

JURY TRIAL DEMAND

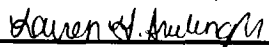
The Commission requests a jury trial on all questions of fact raised by its complaint.

Respectfully Submitted,

JAMES L. LEE
Deputy General Counsel

GWENDOLYN YOUNG REAMS
Associate General Counsel

DELNER FRANKLIN-THOMAS
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CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

U.S. Equal Employment Opportunity Commission

DEFENDANTS

PA Fitness, Inc., f/k/a PBH Fitness LLC, and JRRCC, Inc., d/b/a Fitness First

MAGISTRATE JUDGE
TURNER

CIVIL ALTONAGA

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF (EXCEPT IN U.S. PLAINTIFF CASES)

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT Broward (IN U.S. PLAINTIFF CASES ONLY)
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)
U.S. EEOC, One Biscayne Tower
2 S. Biscayne Blvd, Suite 2700
Miami, FL 33131 Tel: (305) 530-6012

ATTORNEYS (IF KNOWN)

SEP 28 PM 12:22
OFFICE

(d) CIRCLE COUNTY WHERE ACTION AROSE: DADE, MONROE, BROWARD, PALM BEACH, MARTIN, ST. LUCIE, INDIAN RIVER, OKEECHOBEE, HIGHLANDS

II. BASIS OF JURISDICTION (PLACE AN "X" IN ONE BOX ONLY)

(PLACE AN "X" IN ONE BOX ONLY)

- X 1 U.S. Government Plaintiff
3 Federal Question (U.S. Government Not a Party)
2 U.S. Government Defendant
4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN "X" IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

- PTF DEF PTF DEF
Citizen of This State 1 1 Incorporated or Principal Place of Business in This State 4 4
Citizen of Another State 2 2 Incorporated and Principal Place of Business in Another State 5 5
Citizen or Subject of a Foreign Country 3 3 Foreign Nation 6 6

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IV. ORIGIN (PLACE AN "X" IN ONE BOX ONLY)

(PLACE AN "X" IN ONE BOX ONLY)

- X 1 Original Proceeding
2 Removed from State Court
3 Remanded from Appellate Court
4 Reinstated or Reopened
5 Transferred from another district (specify)
6 Multidistrict Litigation
7 Appeal to District Judge from Magistrate Judgment

V. NATURE OF SUIT (PLACE AN "X" IN ONE BOX ONLY)

Table with columns: A CONTRACT, A TORTS, FORFEITURE/PENALTY, A LABOR, A BANKRUPTCY, B SOCIAL SECURITY, A OTHER STATUTES. Includes sub-sections like PERSONAL INJURY, PERSONAL PROPERTY, A REAL PROPERTY, A CIVIL RIGHTS, PRISONER PETITIONS, FEDERAL TAX SUITS.

VI. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY)

This is an action under Title I of the Civil Rights Act of 1991, to correct unlawful employment practices on the basis of sex, female and pregnancy, and to provide appropriate relief to Dawn Grungo who was adversely affected by such practices.

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: X YES NO

VIII. RELATED CASE(S) (See instructions): IF ANY

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

9/28/05

Karen H. Miley

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