

**FILED**

DEC 31 1998

*AT*

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION

DAVID W. DANIEL, CLERK  
US DISTRICT COURT  
E. DIST. N. CAROLINA

EQUAL EMPLOYMENT OPPORTUNITY )  
COMMISSION, )

Plaintiff, )

v. )

THE ROMAN CATHOLIC DIOCESE OF )  
RALEIGH, NORTH CAROLINA AND )  
SACRED HEART CATHEDRAL )

Defendants. )

CIVIL ACTION NO.

5:98-CV-978-H(3)

COMPLAINT

JURY TRIAL DEMAND

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 and retaliation and to provide appropriate relief to Joyce M. Austin, who was adversely affected by such practices. The Catholic Diocese of Raleigh, North Carolina and Sacred Heart Cathedral reassigned the duties of Joyce M. Austin because of her sex, female, and later demoted and further retaliated against Joyce M. Austin when she opposed discriminatory employment practices.

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 ("Title VII"), as amended, 42 U.S.C. § 2000e-5(f)(1) and (3) and pursuant to 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 Eastern District of North Carolina, Western Division.

#### PARTIES

3. Plaintiff, Equal Employment Opportunity Commission (the "Commission"), 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, Defendant, the Catholic Diocese of Raleigh, North Carolina which controls and operates Sacred Heart Cathedral (collectively referred to hereinafter as the "Employer"), has continuously been an employer within the meaning of the Act in the State of North Carolina and the City of Raleigh, and has continuously had at least 15 employees.

5. At all relevant times, Defendant Employer has continuously been an employer engaged in an industry affecting commerce under 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, Joyce M. Austin filed a series of charges with the Commission alleging violations of Title VII by Defendant Employer. All conditions precedent to the institution of this lawsuit have been fulfilled.

7. Between September 1992 and May 1997, Defendant Employer engaged in unlawful employment practices at its Raleigh, North Carolina institution, in violation of Section 703(a)(1) and 704(a) of Title VII, 42 U.S.C. § 2000e-2(a)(1) and 42 U.S.C. §2000e-3(a), respectively. The unlawful practices included:

- a) reassigning some of Joyce M. Austin's duties as Director of Music Ministries to males because of her sex, female;
- b) demoting Joyce M. Austin from Director of Music Ministries and part-time school teacher to part-time school teacher, not selecting Joyce M. Austin for the position of Director of Music Ministries when it was advertised as vacant and requiring Joyce M. Austin to work additional hours to cover hours previously missed at work, due to her sex, female, and in retaliation for filing previous charges of discrimination; and,
- c) demoting Joyce M. Austin from her position as a regular part-time teacher to a part-time teacher, despite her satisfactory performance, in retaliation for filing previous charges of discrimination.

8. The effect of the practices complained of in paragraph 7 above has been to deprive Joyce M. Austin of equal employment opportunities and otherwise adversely affect her status as an employee, because of her sex and in retaliation for opposing unlawful employment practices.

9. The unlawful employment practices complained of in paragraph 7 above were intentional.

10. The unlawful employment practices complained of in paragraph 7 above were done with malice or with reckless indifference to the federally protected rights of Joyce M. Austin.

PRAYER FOR RELIEF

Wherefore, the Commission respectfully requests that this Court:

A. Grant a permanent injunction enjoining Defendant Employer, its officers, successors, assigns, and all persons in active concert or participation with it, from reassigning the duties of any individual, demoting or failing to rehire any individual due to sex, or any other employment practice which discriminates on the basis of sex, and from retaliating against individuals who oppose discriminatory practices.

B. Order Defendant Employer to institute and carry out policies, practices, and programs which provide equal employment opportunities for women, and which eradicate the effects of its past and present unlawful employment practices.

C. Order Defendant Employer to make whole Joyce M. Austin,

by providing appropriate affirmative relief necessary to eradicate the effects of its unlawful employment practices, including appropriate back pay with prejudgement interest, in amounts to be determined at trial, and rightful place reinstatement.

D. Order Defendant Employer to make whole Joyce M. Austin by providing compensation for past and future pecuniary losses resulting from the unlawful employment practices described in paragraphs 7 through 10 above, including but not limited to medical expenses, in amounts to be determined at trial.

E. Order Defendant Employer to make whole Joyce M. Austin by providing compensation for past and future nonpecuniary losses resulting from the unlawful practices complained of in paragraphs 7 through 10 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 Defendant Employer to pay Joyce M. Austin punitive damages for its malicious and reckless conduct, as described in paragraph 7 above, in amounts 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

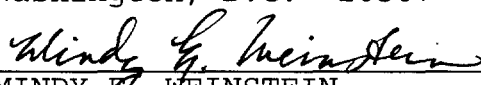
The Commission requests a jury trial on all questions of fact raised by its complaint.

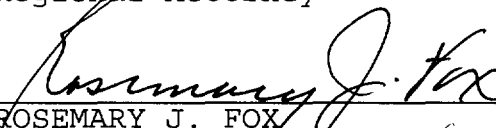
Dated this 30th day of December, 1998.

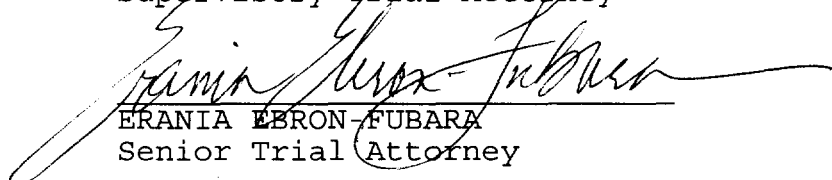
C. GREGORY STEWART  
General Counsel

GWENDOLYN YOUNG REAMS  
Associate General Counsel

EQUAL EMPLOYMENT OPPORTUNITY  
COMMISSION  
1801 "L" Street, N.W.  
Washington, D.C. 20507

  
MINDY E. WEINSTEIN  
Regional Attorney

  
ROSEMARY J. FOX  
Supervisory Trial Attorney

  
ERANIA EBRON-FUBARA  
Senior Trial Attorney

EQUAL EMPLOYMENT OPPORTUNITY  
COMMISSION  
129 West Trade Street  
Suite 400  
Charlotte, NC 28202  
(704) 344-6886