

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

FILED-CLERK
U.S. DISTRICT COURT
03 SEP 30 PM 1:51
TEXAS EASTERN
BY *[Signature]*

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,

Plaintiff,

v.

NEXION HEALTH, INC. D/B/A
MOUNT PLEASANT HEALTHCARE
CENTER

Defendant.

CIVIL ACTION NO.

2:03cv343
TJW

COMPLAINT

JURY TRIAL DEMAND

NATURE OF THE ACTION

This is an action under Title VII of the Civil Rights Act of 1964, as amended, and Title I of the Civil Rights Act of 1991 to correct unlawful employment practices on the basis of sex and to provide appropriate relief to Chentosha Q. Nixon who was adversely transferred by Defendant based on her sex, female, because of 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 the Civil Rights Act of 1964, as amended, ("Title VII"), 42 U.S.C § 2000e-5(f)(1), (3) and Section 102 of the Civil Rights Act of 1991, 42 U.S.C. Sec. 1981a.

2. The employment practice alleged to be unlawful was committed within the jurisdiction of the United States District Court for the Eastern District of Texas.

PARTIES

3. Plaintiff, Equal Employment Opportunity Commission (the "Commission"), is an agency of the United States of America charged with the administration, interpretation and enforcement of Title VII of the Civil Rights Act of 1964, as amended and is expressly authorized to bring this action by Section 706(a) of Title VII, 42 U.S.C. § 2000e-5(a).

4. At all relevant times, Defendant Nexion Health, Inc. d/b/a Mount Pleasant Healthcare Center has continuously been and is now doing business in the State of Texas and has continuously had at least fifteen employees.

5. At all relevant times, Defendant Nexion Health, Inc. d/b/a Mount Pleasant Healthcare Center has continuously been an employer engaged in an industry affecting commerce under Section 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, Chentosha Q. Nixon filed a charge with the Commission alleging a violation of Title VII of the Civil Rights Act of 1964, as amended, by the Defendant. All conditions precedent to the institution of this lawsuit have been fulfilled.

7. During the employment of Chentosha Q. Nixon, the Defendant engaged in unlawful employment practices in violation of §703(a)(1) and §701(k) of Title VII, 42 U.S.C. § 2000e-2(a)(1) and §2000e(k), by adversely transferring her from a full-time position to a part-time position because of her pregnancy.

9. The result of the foregoing practice has been to deprive Chentosha Q. Nixon of equal employment opportunities because of her sex under Title VII.

10. The unlawful employment practice complained of in paragraph 7 above was intentional.

11. The unlawful employment practice complained of in paragraph 7 above was done with malice or with reckless indifference to the federally protected rights of Chentosha Q. Nixon.

PRAYER FOR RELIEF

Wherefore, the Commission respectfully requests that this Court:

A. Grant a permanent injunction enjoining the Defendant, Nexion Health, Inc. d/b/a Mount Pleasant Healthcare Center, its officers, successors, assigns, and all persons in active concert or participation with them, from engaging in any employment practice which discriminates on the basis of pregnancy.

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

C. Order the Defendant to make whole Chentosha Q. Nixon, by providing appropriate back pay with prejudgment interest in amounts to be determined at trial, front pay, pecuniary damages, compensatory damages, including out-of-pocket expenses, and other affirmative relief necessary to eradicate the effects of its unlawful employment practices.

D. Order the Defendant to make Chentosha Q. Nixon whole by providing compensation for past and future non-pecuniary losses resulting from the unlawful employment practices described

in paragraph 7 above, including but not limited to, pain and suffering, humiliation, embarrassment, emotional distress, anxiety, and loss of enjoyment of life, in amounts to be determined at trial.

E. Order the Defendant to pay Chentosha Q. Nixon punitive damages for its malicious conduct or reckless indifference described and referenced in paragraph 7 above, in an amount to be determined at trial.

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

G. Award the Commission its costs in this action.

JURY TRIAL DEMAND


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

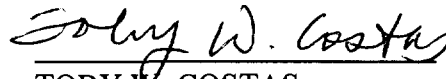
Respectfully submitted,


ERIC S. DREIBAND
General Counsel

JAMES LEE
Deputy General Counsel

GWENDOLYN YOUNG REAMS
Associate General Counsel


ROBERT A. CANINO
Regional Attorney
Oklahoma State Bar No. 011782


TOBY W. COSTAS
Supervisory Trial Attorney
Texas State Bar No. 04855720


DEVIKA S. DUBEY
Senior Trial Attorney
Hawaii State Bar No. 5599

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION
Dallas District Office
207 South Houston, 3rd Floor
Dallas, Texas 75202
(214) 655-3330
(214) 655-3441 FAX