

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

**EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,**

Plaintiff,

V.

**NEXION HEALTH AT BROADWAY, INC.
D/B/A BROADWAY LODGE,**

Defendant.

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SA04CA0872
Civil Action No. _____

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 race, and to provide appropriate relief to Terrance Johnson who was adversely affected by such practices. The Equal Employment Opportunity Commission (the “Commission”) alleges that Terrance Johnson was subjected to unlawful race-based harassment from a non-employee third party under the control of Defendant Nexion Health at Broadway, Inc. d/b/a Broadway Lodge (“Broadway Lodge”); and that Broadway Lodge knew or should have known of this harassment but took no prompt or remedial action to stop the harassment because of Mr. Johnson’s race, Black.

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.

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2. The employment practices alleged to be unlawful were committed within the jurisdiction of the United States District Court for the Western District of Texas, San Antonio Division.

PARTIES

3. Plaintiff, the Equal Employment Opportunity 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 Broadway Lodge has continuously been a Delaware Corporation doing business in the State of Texas and the City of San Antonio, and has continuously had at least fifteen employees.

5. At all relevant times, Defendant Broadway Lodge has continuously been an employer 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, Terrance Johnson filed a charge with the Commission alleging violations of Title VII by Defendant Broadway Lodge.

7. All conditions precedent to the institution of this lawsuit have been fulfilled.

8. Since at least March 2003, Defendant Broadway Lodge has engaged in unlawful employment practices at its San Antonio, Texas facility, in violation of Section 703 (a) (1) of Title VII, 42 U.S.C. § 2000e-2(a)(1). The unlawful practices carried out against Terrance Johnson because of his race, Black, include:

- (1) Allowing and condoning Terrance Johnson's subjection to race-based harassment from a non-employee third party; and
- (2) Failing to take prompt or remedial action to stop the unlawful harassment.

9. The effect of the practices complained of in paragraph 8 above has been to deprive Terrance Johnson of equal employment opportunities and otherwise adversely affect his status as an employee, because of his race.

10. The unlawful employment practices complained of in paragraph 8 above were intentional.

11. The unlawful employment practices complained of in paragraph 8 above were done with malice or with reckless indifference to the federally protected rights of Terrance Johnson.

PRAYER FOR RELIEF

Wherefore, the Commission respectfully requests that this Court:

A. Grant a permanent injunction enjoining Defendant Broadway Lodge, its officers, successors, assigns, and all persons in active concert or participation with it, from engaging in conduct which creates and/or permits a hostile work environment on the basis of race as well as any other employment practice which discriminates on the basis of race;

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

C. Order Defendant Broadway Lodge to make whole Terrance Johnson, by providing compensation for past and future pecuniary losses resulting from the unlawful employment practices described in paragraph 8 above, including but not limited to, job search expenses, relocation expenses and medical expenses, in the amounts to be determined at trial;

D. Order Defendant Broadway Lodge to make whole Terrance Johnson by providing compensation for past and future nonpecuniary losses resulting from the unlawful employment practices complained of in paragraph 8 above, including but not limited to, emotional pain, suffering, inconvenience, loss of enjoyment of life, and humiliation, in amounts to be determined at trial;

E. Order Defendant Broadway Lodge to pay Terrance Johnson punitive damages for its malicious and reckless conduct described in paragraph 8 above, in amounts to be determined at trial;

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

G. Award the Commission its costs of this action.

JURY TRIAL DEMAND

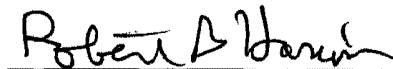
The Commission requests a jury trial on all questions of fact raised by its complaint.


Respectfully submitted,

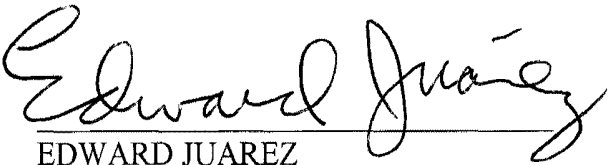
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