

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

FILED  
UNITED STATES DISTRICT COURT  
DISTRICT OF NEW MEXICO

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*R. Puglisi*  
CLERK OF COURT  
COURT HOUSE

EQUAL EMPLOYMENT OPPORTUNITY )  
COMMISSION )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
NEW MEXICO NEWSPAPERS, INC., d/b/a )  
THE DAILY TIMES )  
 )  
Defendant. )

CIV. CIV 00 0469

COMPLAINT  
JURY TRIAL DEMAND

**RICHARD L. PUGLISI**

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 bases of religion and retaliation and to provide appropriate relief to Gary Moes and a class of individuals who were adversely affected by these practices. The Commission alleges that Mr. Moes, as well as other employees and applicants, were discriminated against because they did not hold the same religious beliefs as the defendant's owner-publisher.

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 sections 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 District of New Mexico.

### **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, New Mexico Newspapers, Inc., d/b/a the Daily Times ("Employer" or "Daily Times"), has continuously been a New Mexico corporation doing business in the State of New Mexico and the City of Farmington, and has continuously had at least fifteen employees.

5. At all relevant times, Defendant Employer has continuously been an employer engaged in an industry affecting commerce within the meaning of 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, Gary Moes filed a charge with the Commission alleging violations of Title VII by the Daily Times. All conditions precedent to the institution of this lawsuit have been fulfilled.

7. Since at least October 1995, the Daily Times has engaged in unlawful employment practices at its Farmington, New Mexico facility, in violation of Section 703(a) of Title VII, 42 U.S.C. § 2000e-2(a), including:

- a. disciplining and discharging Gary Moes because of religion;
- b. limiting the applicant pool because of religion;

- c. discriminating against a class of individuals by making hiring, promotion, discipline, and discharge decisions based on religion;
- d. discriminating against a class of individuals by subjecting them to a hostile work environment and harassing them because of religion;
- e. constructively discharging a class of individuals because of religion; and
- f. otherwise discriminating against a class of individuals with respect to their compensation, terms, conditions or privileges of employment on the basis of religion.

8. Since at least October 1995, the Daily Times has engaged in unlawful retaliatory practices at its Farmington facility, in violation of Section 704(a) of Title VII, 42 U.S.C. § 2000e-2(a), including, but not limited to, retaliating against a class of individuals by disciplining and discharging them because they opposed practices made unlawful by Title VII.

9. Since at least September 1995, the Daily Times has engaged in unlawful employment practices in violation of Section 704(b) of Title VII, 42 U.S.C. § 20003-3(b), by causing to be printed advertisements relating to referral for employment that indicate a preference, specification or limitation based on religion.

10. Since at least September 1995, the Daily Times has engaged in a pattern or practice of resistance to the full enjoyment of rights secured by Title VII. The pattern or practice is of such a nature and is intended to deny employees and applicants the full exercise of their Title VII rights because of religion, in violation of Section 707 of Title VII.

11. The effect of the practices complained of in paragraphs 7, 8, 9, and 10 above has been to deprive Gary Moes and a class of individuals of equal employment opportunities and otherwise adversely affect their status as employees because of their religion and in retaliation for opposing practices made unlawful by Title VII.

11. The unlawful employment practices complained of in paragraphs 7, 8, 9, 10, and 11 above were intentional.

**PRAYER FOR RELIEF**

Wherefore, the Commission respectfully requests that this Court:

A. Grant a permanent injunction enjoining Defendant the Daily Times and its officers, successors, assigns and all persons in active concert or participation with it, from engaging in any employment practice which discriminates on the bases of religion or retaliation.

B. Order Defendant the Daily Times to institute and carry out policies, practices and programs which provide equal employment opportunities regardless to employees and applicants regardless of religion and to those who oppose unlawful employment discrimination, and which eradicate the effects of its past and present unlawful employment practices.

C. Order Defendant the Daily Times to make whole Gary Moes and a class of individuals by providing appropriate back pay with prejudgment interest, in amounts to be proved at trial, and other affirmative relief necessary to eradicate the effects of its unlawful employment practices including, but not limited to, their rightful place reinstatement.

D. Order Defendant the Daily Times to make whole Gary Moes and a class of individuals by providing compensation for past and future pecuniary losses resulting from the unlawful employment practices described above, including but not limited to costs incurred for obtaining medical treatment, subsequent employment, and moving expenses in amounts to be determined at trial.

E. Order Defendant to make whole Gary Moes and a class of individuals by providing compensation for past and future non-pecuniary losses resulting from the unlawful practices complained of above, including emotional pain, suffering, loss of enjoyment of life, and humiliation

in amounts to be determined at trial.

- F. Grant such further relief as the Court deems necessary and proper.
- 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.

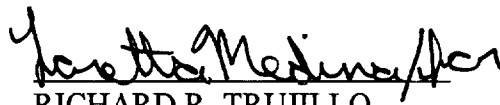
DATED this 31<sup>st</sup> day of March, 2000.

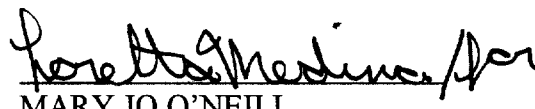
Respectfully submitted,


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