

IN THE UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF WEST VIRGINIA

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	CIVIL ACTION NO.
	)	
v.	)	<u>COMPLAINT</u>
	)	
CITY OF CHARLESTON, WEST	)	
VIRGINIA,	)	
	)	
Defendant.	)	
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Plaintiff, United States of America alleges:

JURISDICTION

1. This action is brought on behalf of the United States to enforce the provisions of Title VII of the Civil Rights Act of 1964, as amended by the Equal Employment Opportunity Act of 1972 (Pub.L. 92-261, March 1972) and the Pregnancy Discrimination Act of 1978 (Pub.L. 95-555, October 31, 1978) 42 U.S.C. 2000e, et seq.

2. This Court has jurisdiction of this action under 42 U.S.C. 2000e-5(f), 42 U.S.C. 2000e-6 and 28 U.S.C. 1345. ✓

3. Defendant City of Charleston, West Virginia is a municipal corporation, incorporated under the laws of the state of West Virginia.

4. Defendant is an employer within the meaning of 42 U.S.C. 2000e(b).

COUNT I

5. The Equal Employment Opportunity Commission received a timely charge filed by Cynthia Smith, a female former City of Charleston probationary employee, alleging that the City of Charleston discriminated against her on the basis of her sex. In accordance with Section 706 of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e-5, the Equal Employment Opportunity Commission has investigated Ms. Smith's charge, found reasonable cause to believe that the defendant City of Charleston has engaged in employment discrimination on the basis of sex, attempted unsuccessfully to achieve a voluntary resolution of the charge through conciliation, and subsequently referred the charge to the Department of Justice.

6. Defendant has discriminated against Cynthia Smith, on the basis of her sex in violation of Title VII, by refusing to grant her leave without pay and terminating her for absences due to a pregnancy disability, while granting similarly situated male probationary employees disability leave without pay.

COUNT TWO

7. Defendant has pursued and continues to pursue policies and practices that discriminate against females and that deprive or tend to deprive females of employment opportunities or adversely affect their status as employees because of their sex. Defendant implements these policies and practices, among

other ways, as follows:

- a. By maintaining a written policy of treating pregnant employees differently and less favorably than other employees with respect to when they can work and with respect to sick leave.
- b. By following a stated practice of refusing to grant leave to any probationary employees, including female employees of childbearing age, disabled by virtue of pregnancy or related medical condition.
- c. By failing or refusing to take appropriate action such as revising its written policies to eliminate discrimination against pregnant employees and to correct the present effects of these discriminatory policies and practices.

8. The United States, through the Department of Justice has investigated the employment practices of the defendant and has notified the defendant of the investigation and the allegations described in Paragraph 7, above, and has attempted to eliminate those policies and practices through negotiation and settlement.

9. The policies and practices of the defendant, described in paragraph 7, above, constitute a pattern or practice of resistance to the full enjoyment by females of their right

to equal employment opportunities without discrimination based upon sex. The pattern or practice is of such a nature and is intended to deny the full exercise of the rights secured by Title VII of the Civil Rights Act of 1964, as amended. Unless restrained by order of this Court, the defendant will continue to pursue policies and practices which are the same as or similar to those alleged in this Complaint.

PRAYER

WHEREFORE, plaintiff prays for an order enjoining the defendant, its officers, agents, employees, successors and all persons in active concert or participation with it from engaging in discriminatory employment practices based upon sex and specifically from:

- a. Failing or refusing to provide make whole relief, including an offer of employment with retroactive seniority and back pay, to charging party, Cynthia Smith, and any other females who have suffered loss as a result of the discriminatory policies and practices alleged in this complaint.
- b. Failing or refusing to grant appropriate leave to female probationary employees who are temporarily disabled by pregnancy, childbirth or related conditions.

- c. Terminating or otherwise discriminating against any employee on grounds of pregnancy, childbirth or related conditions.
- d. Failing or refusing to provide female employees with terms and conditions of employment that are as favorable as those provided to male employees.
- e. Failing or refusing to revise its written policies that discriminate against pregnant employees.
- f. Failing or refusing to take other appropriate measures to overcome the present effects of past discriminatory policies and practices.

Plaintiff prays for such other additional relief as justice may require, together with its costs in this action.

EDWIN MEESE III  
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