WILLIAM R. TAMAYO, #084965 (CA)
JONATHAN T. PECK, #12303 (VA)
SANYA HILL MAXION - #18739(WA)
EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
San Francisco District Office
350 The Embarcadero, Suite 500
San Francisco, California 94105
Telephone: (415) 625-5650
Facsimile : (415) 625-5657

Attorneys for Plaintiff

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,

Plaintiff,

v.

ROBERT G. APTEKAR, M.D., INC., d/b/a ARTHRITIS AND ORTHOPEDIC MEDICAL CLINIC,

Defendant.

CIVIL ACTION NO. C 06 4808 PVT

COMPLAINT
Civil Rights - Employment Discrimination

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 race and retaliation and to provide appropriate relief to Charging Party Tomeika L. Broussard, who was adversely affected by such practices. The Commission alleges that the defendant, Robert G. Aptekar, M.D., Inc., d/b/a Arthritis & Orthopedic Medical Clinic ("AMOC" or "Defendant Employer") discriminated against Ms. Broussard by subjecting her to a racially hostile work environment based on racially discriminatory practices unlawful by Title VII. In addition AMOC retaliated

against Ms. Broussard by ultimately discharging her from employment due to previous harassment complaints.

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)(l) and (3) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §§2000e-5(f)(l) and (3) ("Title VII") and Section 102 of the Civil Rights Act of 1991, 42 U.S.C. 198a.

2. The employment practices alleged to be unlawful were committed in the City of Los Gatos, County of Santa Clara, California, which is within the jurisdiction of the United States District Court for the Northern District of California (San Jose division).

PARTIES

3. Plaintiff, the Equal Employment Opportunity Commission (:EEOC"), 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 Sections 706(f)(l) and (3) of Title VII, 42 U.S.C. §§2000e-5 (1) and (3).

4. At all relevant times, Defendant Employer Clinic has continuously been doing business in the State of California and in the City of Los Gatos, County of Santa Clara, California, and has continuously employed 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, Tomeika L. Broussard filed a Charge of Discrimination with the EEOC alleging violations of Title VII by Defendant Employer. All conditions precedent to the institution of this lawsuit have been fulfilled.

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7. Since at least June 2003, Defendant Employer has engaged in unlawful employment practices at its clinic located in Los Gatos, California, in violation of Section 703(a)(l) and Section 704(a) of Title VII, 42 U.S.C. §§2000e-3(a) and 2000e3(a). These practices include subjecting Ms. Broussard to racial harassment and to an offensive, abusive, intimidating, and hostile work environment. The practices also include retaliating against and discharging Ms. Broussard for complaining about the harassment made unlawful by Title VII.

8. The effect of the practices complained of above has been to deprive Ms. Broussard of equal employment opportunities and to otherwise adversely affect her employment status as an employee because of her race.

9. The unlawful employment practices complained of above were intentional.

10. The unlawful employment practices complained of above were and are done with malice and/or reckless indifference to the federally protected rights of Ms. Broussard.

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 engaging in racial discrimination and another other employment practices which discriminates on the basis of race.

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

C. Order Defendant Employer to make whole Ms. Broussard by providing appropriate compensation for past and future pecuniary losses resulting from the unlawful employment practices described above, in amounts to be determined at trial, and other affirmative relief necessary to eradicate the effects of its unlawful employment practices.

D. Order Defendant Employer to make whole Ms. Broussard by providing

compensation for past and future non-pecuniary losses cause by the above unlawful conduct described above, including pain and suffering, emotional distress, indignity, loss of enjoyment of life, loss of self-esteem, and humiliation, in amounts to be determined at trial.

E. Order Defendant Employer to pay Ms. Broussard punitive damages for its malicious and reckless conduct described above, in amounts 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 of this action.

JURY TRIAL DEMAND

The Commission requests a jury trial on all questions of facts by its complaints.

Respectfully submitted,

JAMES L. LEE
Deputy General Counsel

GWENDOLYN YOUNG REAMS
Associate General Counsel

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

Dated: 8/8/06

/s/ Leah for
WILLIAM R. TAMAYO
Regional Attorney

Dated: 8/8/06

/s/ Jonathan T. Peck
JONATHAN T. PECK
Supervisory Trial Attorney

Dated: August 8, 2006

SANYA HILL MAXION
Senior Trial Attorney

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
San Francisco District Office
350 The Embarcadero, Suite 500
San Francisco, CA 94105
Telephone: (415) 625-5650