

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
LUBBOCK DIVISION

U.S. DISTRICT COURT
NORTHERN DISTRICT OF TEXAS

FILED

SEP 26 2003

CLERK, U.S. DISTRICT COURT

By

Deputy

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,

Plaintiff,

v.

OXYCARE PLUS, INC.,

Defendant.

CIVIL ACTION NO.

COMPLAINT

Jury Trial Demand

5-03CV0243-C

NATURE OF THE ACTION

This is an action under Title VII of the Civil Rights Act of 1964, as amended, and Title 1 of the Civil Rights Act of 1991, to correct unlawful employment practices on the basis of gender, female, and to provide appropriate relief to Vanessa K. Braziel, who was adversely affected by such practices. The Equal Employment Opportunity Commission (the "Commission") alleges that Defendant, Oxycare Plus, Inc., engaged in discriminatory employment practices when it subjected Vanessa K. Braziel to discriminatory terms and conditions of employment, and when it discharged Ms. Braziel, because of her gender, in violation of Section 703(a) of Title VII.

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 706(f)(1) and (3) of Title VII of the 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 Northern District of Texas, Lubbock Division.

PARTIES

3. Plaintiff, 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, Oxycare Plus, Inc., has continuously been a Texas Corporation doing business in the State of Texas, and the City of Lubbock, and has continuously had at least 15 employees.

5. At all relevant times, Defendant Oxycare Plus, Inc. 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, Vanessa K. Braziel, filed a charge with the Commission alleging violations of Title VII by Defendant, Oxycare Plus, Inc. All conditions precedent to the institution of this lawsuit have been fulfilled.

7. Since at least June 2002, Defendant engaged in unlawful employment practices at its facility in Lubbock, Texas, in violation of Section 703(a)(1) of Title VII, 42 U.S.C. § 2000e-2(a) (1). More specifically, Defendant employed Vanessa K. Braziel at Oxycare Plus, Inc., and

- a. Since at least June 2002, Defendant Oxycare Plus, Inc. engaged in unlawful employment practices when it limited Vanessa K. Braziel's work hours, and refused to allow her to work weekends, or "on-call", because of her gender, female; and

b. Defendant Oxycare Plus, Inc. engaged in an unlawful employment practice when it discharged Vanessa K. Braziel because of her gender, female.

8. The effect of the practices complained of in paragraph seven above has been to deprive Vanessa K. Braziel of equal employment opportunities and otherwise adversely affect her status as an employee, because of her gender, female.

9. The unlawful employment practices complained of in paragraph seven above were intentional.

10. The unlawful employment practices complained of in paragraph seven above were done with malice or with reckless indifference to the federally protected rights of Vanessa K. Braziel.

PRAYER FOR RELIEF

Wherefore, the Commission respectfully requests that this Court:

A. Grant a permanent injunction enjoining Defendant, Oxycare Plus, Inc., its officers, successors, assigns, and all persons in active concert or participation with it, from engaging in any employment practice which discriminates on the basis of gender, female;

B. Order Defendant, Oxycare Plus, Inc. to institute and carry out policies, practices, and programs which provide equal employment opportunities for females, and which eradicate the effects of its past and present unlawful employment practices described in paragraph seven above;

C. Order Defendant, Oxycare Plus, Inc. to make whole Vanessa K. Braziel, by providing appropriate backpay with prejudgment interest, in an amount to be determined at trial, and other affirmative relief necessary to eradicate the effects of its unlawful employment practices, including but not limited to the reinstatement of Vanessa K. Braziel, or front pay in lieu thereof;

D. Order Defendant, Oxycare Plus, Inc. to make whole Vanessa K. Braziel, by providing compensation for past and future pecuniary losses resulting from the unlawful employment practice described in paragraph seven above, including, but not limited to, job search expenses, relocation expenses, and medical expenses, in amounts to be determined at trial;

E. Order Defendant, Oxycare Plus, Inc. to make whole Vanessa K. Braziel, by providing compensation for past and future non-pecuniary losses resulting from the unlawful employment practices complained of in paragraph seven above, including, but not limited to, emotional pain, suffering, inconvenience, loss of enjoyment of life, and humiliation, in an amount to be determined at trial;

F. Order Defendant, Oxycare Plus, Inc. to pay Vanessa K. Braziel punitive damages for its malicious and reckless conduct described in paragraph seven above, in an amount to be determined at trial;

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

H. Award the Commission its costs of this action.

JURY TRIAL DEMAND

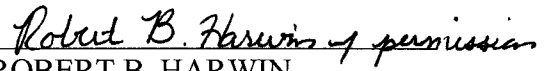
The Commission requests a jury trial on all questions of fact raised by its complaint.

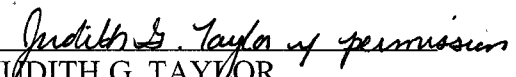
Respectfully submitted,

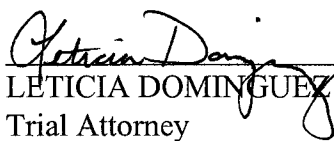
ERIC S. DREIBAND
General Counsel

JAMES L. LEE
Deputy General Counsel

GWENDOLYN YOUNG REAMS
Associate General Counsel


ROBERT B. HARWIN
Regional Attorney
District of Columbia Bar No. 076083


JUDITH G. TAYLOR
Supervisory Trial Attorney
Texas Bar No. 19708300


LETICIA DOMINGUEZ
Trial Attorney
Texas Bar No. 00795741

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION

El Paso Area Office
300 E. Main Dr., Suite 500
El Paso, Texas 79901
Telephone: (915) 534-6676
Facsimile: (915) 534-6701

ATTORNEYS FOR PLAINTIFF