

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

FILED

DEC 31 1998

DAVID W. DANIEL, CLERK
US DISTRICT COURT
E. DIST. N. CAROLINA

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,

Plaintiff,

v.

KMART CORPORATION,

Defendant.

CIVIL ACTION NO.

5:98-CV-980-F(3)

COMPLAINT

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 religion, and to provide appropriate relief to Delois Drummond, who was adversely affected by such practices. Plaintiff alleges that Defendant discriminated against Delois Drummond in violation of Title VII, when it refused to accommodate her religious beliefs and practice and when it failed to place her into a full-time position because of her religious beliefs and practice.

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.

2. The employment practices alleged to be unlawful were committed within the jurisdiction of the United States District Court for the Eastern District of North Carolina, Western Division.

PARTIES

3. Plaintiff, the 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 Kmart Corporation ("Defendant"), has continuously been a Michigan corporation doing business in the State of North Carolina and the City of Wilson, and has continuously had at least fifteen (15) employees.

5. At all relevant times, Defendant 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, Delois Drummond filed a charge with the Commission alleging violations of Title VII by Defendant. All conditions precedent to the institution of this lawsuit have been fulfilled.

7. Beginning around March 1997, and continuing, Defendant engaged in unlawful employment practices at its Wilson, North

Carolina facility, in violation of Section 703(a)(1) of Title VII, 42 U.S.C. § 2000e-2(a)(1). The unlawful practices include refusing to accommodate the religious beliefs and practices of Delois Drummond, a Seventh Day Adventist, and refusing to place Ms. Drummond, who was a part-time employee, into a full-time position because of her religious objection to working on her Sabbath.

8. The effect of the practices complained of in paragraph 7 above has been to deprive Delois Drummond of equal employment opportunities and otherwise adversely affect her status as an employee because of her religion.

9. The unlawful employment practices complained of in paragraph 7 above were intentional.

10. The unlawful employment practices complained of in paragraph 7 above were done with malice or with reckless indifference to the federally protected rights of Delois Drummond.

PRAYER FOR RELIEF

Wherefore, the Commission respectfully requests that this Court:

A. Grant a permanent injunction enjoining Defendant Kmart Corporation, its officers, successors, assigns, and all persons in active concert or participation with it, from engaging in religious discrimination.

B. Order Defendant Kmart Corporation to institute and carry out policies, practices, and programs which provide equal

employment opportunities for all employees without regard to religion, and which eradicate the effects of its past and present unlawful employment practices.

C. Order Defendant Kmart Corporation to make whole Delois Drummond, by providing appropriate back pay with prejudgment interest, in amounts to be determined at trial, and other affirmative relief necessary to eradicate the effects of its unlawful employment practices, including but not limited to reinstatement and other damages to be determined at trial.

D. Order Defendant Kmart Corporation to make whole Delois Drummond by providing compensation for past and future pecuniary losses resulting from the unlawful employment practices described in paragraph 7 above, including but not limited to job search expenses, medical expenses and pecuniary loss resulting from her loss of employment benefits, in amounts to be determined at trial.

E. Order Defendant Kmart Corporation to make whole Delois Drummond by providing compensation for past and future nonpecuniary losses resulting from the unlawful practices complained of in paragraph 7 above, including emotional pain, suffering, inconvenience, humiliation, and loss of enjoyment of life, in amounts to determined at trial.

F. Order Defendant Kmart Corporation to pay Delois Drummond punitive damages for its malicious and reckless conduct described in paragraph 7 above, in amounts to be determined at trial.

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

H. Award the Commission its costs of this action.

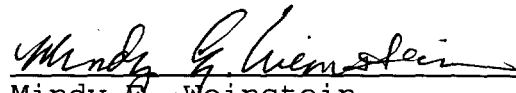
JURY TRIAL DEMAND

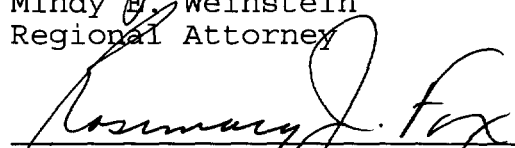
The Commission requests a jury trial on all questions of fact raised by its complaint.

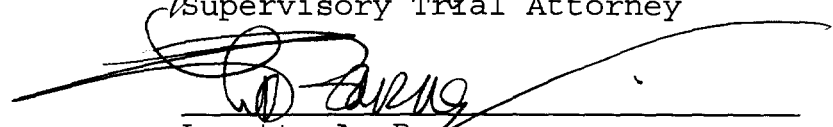
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