

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

EQUAL EMPLOYMENT OPPORTUNITY)	
COMMISSION,)	
)	Civil Action No. 06-1057
Plaintiff,)	
)	Judge Terrence F. McVerry
v.)	
)	
REDSTONE HIGHLANDS PERSONAL CARE)	
CENTER d/b/a REDSTONE HIGHLANDS,)	
)	
Defendant.)	JURY TRIAL DEMANDED

PLAINTIFF-INTERVENOR'S COMPLAINT
AND DEMAND FOR JURY TRIAL

Plaintiff-Intervenor, Reyes M. LiVecchi (hereinafter "Plaintiff-Intervenor") by her undersigned counsel, alleges and complains as follows:

I. INTRODUCTION

1. The claims in this action arise under the Equal Employment Opportunity Act, 42 U.S.C. § 2000e *et seq.* ("Title VII") and the Pennsylvania Human Relations Act, 43 P.S. § 951 *et seq.* ("PHRA").

2. This action was commenced by the Equal Employment Opportunity Commission (hereinafter "EEOC") on August 8, 2006. Plaintiff-Intervenor now wishes to intervene in the action and assert claims against the Defendant, Redstone Highlands Personal Care Center doing business as Redstone Highlands (hereinafter "Redstone Highlands").

3. Plaintiff-Intervenor seeks compensatory and punitive damages, emotional distress damages, attorneys' fees, and other appropriate relief under Title VII and the

PHRA.

II. JURISDICTION

4. This Court has jurisdiction over the subject matter of Plaintiff-Intervenor's Title VII claim pursuant to 28 U.S.C. §§ 1331 and 1343(4). This Court has supplemental jurisdiction over Plaintiff-Intervenor's PHRA claims pursuant to 28 U.S.C. § 1367(a).

III. PROCEDURAL REQUIREMENTS

5. Plaintiff-Intervenor has satisfied the administrative prerequisites of Title VII and the PHRA.

IV. VENUE

6. Venue is proper in the Western District of Pennsylvania because Defendant committed an employment practice made unlawful by Title VII within the Western District of Pennsylvania, and Plaintiff would have worked within the Western District of Pennsylvania but for the unlawful employment practice of Defendant. Venue is also proper in the Western District of Pennsylvania pursuant to 28 U.S.C. §1391(b)-(c).

V. PARTIES

7. Plaintiff-Intervenor Reyes M. LiVecchi is an adult individual who resides at 220 North 5th Street, Youngwood, Pennsylvania.

8. Defendant Redstone Highlands Personal Care Center, doing business as Redstone Highlands is a Pennsylvania corporation headquartered at 6 Garden Center Drive, Greensburg, Pennsylvania.

VI. FACTS

9. Redstone Highlands is a nursing home providing care to elderly individuals.

10. Plaintiff-Intervenor began her employment with Redstone Highlands on or about May 3, 2004 as an Activities Coordinator at Redstone Highlands' North Huntington facility.

11. During her employment with Redstone Highlands, Plaintiff-Intervenor was at all times a hard-working, conscientious employee.

12. Beginning in October 2004 and continuing until February 9, 2005, Plaintiff-Intervenor was repeatedly sexually harassed by Donald Stoddard, a co-worker in the maintenance department. This sexual harassment included:

- a. Mr. Stoddard arranged a Halloween decoration so that a corn stalk looked like an erect penis.
- b. Mr. Stoddard slid into a desk chair behind Plaintiff-Intervenor, so that he was straddling her, and grabbed her around the waist.
- c. Mr. Stoddard, while riding an elevator with Plaintiff-Intervenor, slapped and grabbed her behind.
- d. Mr. Stoddard said to Plaintiff-Intervenor, "I had a dream about you last night and you looked really good in that black night gown."
- e. On another occasion, Mr. Stoddard said, "You look very nice today, and I like that sweater. Let me pull that zipper down."
- f. On more than one occasion, Mr. Stoddard told Plaintiff-Intervenor that she looked good exercising.
- g. On one occasion during lunch, Mr. Stoddard said to Plaintiff-Intervenor, "I was watching you," "you look really good, you have a nice body and chest, you should take your jacket off more often." Mr Stoddard then said, while looking at her, "Now all I need is some sweet dessert."

13. Plaintiff-Intervenor repeatedly told Mr. Stoddard that his conduct was unwelcome, yet his harassment continued.

14. In early January, 2005, Mr. Stoddard made a statement which led Plaintiff-Intervenor to be fearful that Mr. Stoddard was stalking her. The morning after this statement, Plaintiff-Intervenor asked Mr. Stoddard to come into her office, and she told him, *inter alia*, that his behavior needed to stop, that he was scaring her and that she would no longer allow him to intimidate her, among other things. Mr. Stoddard did not respond to Plaintiff-Intervenor's demands, but instead said, "You better watch your back because they're out to get you." Plaintiff-Intervenor was terribly frightened by this interaction, and reported it the following day to Jane Rudy, who was the personal care director at the North Huntington facility.

15. In early January 2005, Plaintiff-Intervenor informed Redstone Highlands' management, Ms. Rudy, that Mr. Stoddard was sexually harassing her.

16. During that conversation, Plaintiff-Intervenor told Ms. Rudy of the instances of sexual harassment set forth in paragraph 12, above. Ms. Rudy informed Plaintiff-Intervenor that Mr. Stoddard had previously attempted to kiss her, Ms. Rudy, on one occasion, and that it was time to inform upper management of his sexual harassment.

17. When Vicki Loucks, Redstone Highlands' Director of Nursing, interviewed Plaintiff-Intervenor about the sexual harassment, Plaintiff-Intervenor was clearly extremely upset by Mr. Stoddard's harassment. At one point, Ms. Loucks began to laugh in response to Plaintiff-Intervenor's recounting of the events.

18. Redstone Highlands spoke with other employees who corroborated at least some of the sexual harassment that Plaintiff-Intervenor had complained of.

19. In addition, other employees informed Redstone Highlands of other incidents of sexual harassment by Mr. Stoddard.

20. During Redstone Highlands' interview of Mr. Stoddard, he allegedly denied "most of" the harassment reported by Plaintiff-Intervenor.

21. Despite corroborating the sexual harassment complained of by Plaintiff-Intervenor, Mr. Stoddard, the harasser, was not disciplined in any way, nor was he told that he had violated Redstone Highland's sexual harassment policy.

22. After initially complaining to Ms. Rudy in early January, 2005, Plaintiff-Intervenor spoke with Ms. Rudy, conservatively, three to four times per week until the time of her constructive discharge on February 11, 2005, about Mr. Stoddard's harassment and about the devastating impact that it was having on Plaintiff-Intervenor. In addition, Plaintiff-Intervenor complained to Ms. Loucks about Mr. Stoddard's behavior on at least two occasions. Finally, Plaintiff-Intervenor complained to her direct supervisor, Candace Kuvinec, about Mr. Stoddard's sexual harassment at least three times. During her complaints to each of these individuals, Plaintiff-Intervenor clearly expressed how upset she was about Mr. Stoddard's harassment. Despite the frequency and number of her complaints to Redstone Highlands' management, nothing was done to correct Plaintiff-Intervenor's hostile work environment.

23. At no time during her employment did Redstone Highlands ever inform Plaintiff-Intervenor of how her complaints were resolved or that Mr. Stoddard had been advised that he must stop any further harassment of Plaintiff-Intervenor.

24. On January 28, 2005, a meeting was held by Redstone Highlands during which their sexual harassment policy was discussed. During that in-service, Redstone

Highlands stated that they had done an in-house investigation into a complaint of sexual harassment and that it was unfounded. Plaintiff-Intervenor believed that this statement was in reference to her complaints of sexual harassment.

25. On February 4, 2005, Plaintiff-Intervenor asked Ms. Rudy what was going to be done in response to her complaints, and Ms. Rudy told Plaintiff-Intervenor that it was “her word against [Mr. Stoddard’s],” and that there were no witnesses to Plaintiff-Intervenor’s complaints.

26. On February 7, 2005, Plaintiff-Intervenor again met with Ms. Rudy and asked her what Respondent was going to do about her complaints. Ms. Rudy did not respond to Plaintiff-Intervenor’s question.

27. At no time following Plaintiff-Intervenor’s complaints of sexual harassment by Mr. Stoddard did Redstone Highlands take any action whatsoever to address Mr. Stoddard’s conduct.

28. At no time following Plaintiff-Intervenor’s complaints of sexual harassment by Mr. Stoddard did Redstone Highlands advise Plaintiff-Intervenor that her complaints of sexual harassment had been investigated, that at least some of the complaints had been corroborated and what action it would take to prevent such sexual harassment in the future.

29. On February 9, 2005, more than one month after Plaintiff-Intervenor’s initial complaint to Redstone Highland’s management, as Plaintiff-Intervenor was getting on the elevator, she came face-to-face with Mr. Stoddard. Mr. Stoddard looked Plaintiff-Intervenor up and down and smirked at her.

30. As a result of Mr. Stoddard’s actions, Plaintiff-Intervenor got on the

elevator and began to sob. Plaintiff-Intervenor returned to her office, locked her door and cried until it was time for her to leave work, less than hour later. Still crying, Plaintiff-Intervenor immediately left work and cried the entire way home. At that point, Plaintiff-Intervenor realized that the harassment was not going to be resolved by Redstone Highlands and would continue; she had no other option but to quit.

31. The sexual harassment by Mr. Stoddard was so severe and pervasive that it altered the terms and conditions of her employment and created a hostile work environment.

32. After her complaint of sexual harassment in early January 2005, Redstone Highland's management began to treat her adversely, in retaliation for complaining of the harassment.

33. Plaintiff-Intervenor was constructively discharged on February 11, 2005, as a result of Redstone Highland's failure to appropriately respond to her complaints of sexual harassment, even after it had prior notice of Mr. Stoddard's harassment of other female employees, as well as Redstone Highland's retaliatory treatment of her after her complaint of sexual harassment in January, 2005.

34. Redstone Highlands' failure to appropriately respond and correct the sexually hostile work environment resulted in a tangible job detriment, namely, Plaintiff-Intervenor's constructive discharge.

35. Redstone Highlands' failure to appropriately respond and correct the sexually hostile work environment resulted in a tangible job detriment, namely, Plaintiff-Intervenor's constructive discharge.

36. Redstone Highlands' retaliation against Plaintiff-Intervenor resulted in a

tangible job detriment, namely, Plaintiff-Intervenor's constructive discharge.

VII. CLAIMS

Count I - Sexual Harassment **Title VII of the Civil Rights Act of 1964**

37. All of the preceding paragraphs are hereby incorporated by reference.

38. Defendant, acting through its employees, subjected Plaintiff-Intervenor to a sexually hostile work environment on the basis of her gender, which altered Plaintiff-Intervenor's terms and conditions of employment.

39. Defendant's conduct as set forth above constitutes an intentional and willful violation of Title VII.

40. As a direct and proximate result of the unlawful conduct of the Defendant, Plaintiff-Intervenor has suffered significant damages, including the deprivation of her employment, income and benefits, loss of opportunity for advancement and promotion, emotional pain and suffering, mental anguish, humiliation and damage to reputation and career.

41. As a result of Defendant's outrageous, unjustified and unlawful conduct, Plaintiff-Intervenor is entitled to punitive damages.

WHEREFORE, Plaintiff-Intervenor requests this Court to enter judgment against Defendant and to award Plaintiff-Intervenor legal and equitable relief, including back pay, front pay, raises, lost future employment opportunities, compensation for pain and suffering, injunctive and declaratory relief, prejudgment interest and costs of litigation, including reasonable attorneys' fees. In addition, Plaintiff-Intervenor requests that this Court award her punitive damages.

Count II – Retaliation
Title VII of the Civil Rights Act of 1964

42. All of the preceding paragraphs are hereby incorporated by reference.

43. Defendant, acting through its employees, engaged in retaliatory behavior against Plaintiff-Intervenor, thereby causing Plaintiff-Intervenor to be constructively discharged because she reported and complained of the sexual harassment by Donald Stoddard, thereby unlawfully retaliating against her for engaging in protected conduct.

44. Defendant's conduct as set forth above constitutes an intentional and willful violation of Title VII.

45. As a direct and proximate result of the unlawful conduct of the Defendant, Plaintiff-Intervenor has suffered significant damages, including the deprivation of her employment, income and benefits, loss of opportunity for advancement and promotion, emotional pain and suffering, mental anguish, humiliation and damage to reputation and career.

46. As a result of Defendant's outrageous, unjustified and unlawful conduct, Plaintiff-Intervenor is entitled to punitive damages.

WHEREFORE, Plaintiff-Intervenor requests this Court to enter judgment against Defendant and to award Plaintiff-Intervenor legal and equitable relief, including back pay, front pay, raises, lost future employment opportunities, compensation for pain and suffering, injunctive and declaratory relief, prejudgment interest and costs of litigation, including reasonable attorneys' fees. In addition, Plaintiff-Intervenor requests that this Court award her punitive damages.

Count III – Sexual Harassment and Retaliation
Pennsylvania Human Relations Act

47. All of the preceding paragraphs are hereby incorporated by reference.

48. The sexual harassment and retaliation set forth above violates the Pennsylvania Human Relations Act, which specifically prohibits discrimination because of an employee's sex and in retaliation for engaging in protected activity. 43 Pa. C.S.A. § 951 *et seq.*

49. As a direct and proximate result of the unlawful conduct of the Defendant, Plaintiff-Intervenor has suffered significant damages, including the deprivation of her employment, income and benefits, loss of opportunity for advancement and promotion, emotional pain and suffering, mental anguish, humiliation and damage to reputation and career.

WHEREFORE, Plaintiff-Intervenor requests this Court to enter judgment against Defendant and to award Plaintiff-Intervenor legal and equitable relief, including back pay, front pay, raises, lost future employment opportunities, compensation for pain and suffering, injunctive and declaratory relief, prejudgment interest and costs of litigation, including reasonable attorneys' fees.

VIII. DAMAGES

50. All of the preceding paragraphs are hereby incorporated by reference.

51. As a direct and proximate result of the unlawful conduct of the Defendant, Plaintiff-Intervenor has suffered the following injuries for which she demands damages from the Defendant:

- a. Lost back pay;

- b. Lost back benefits;
- c. Lost front pay;
- d. Lost front benefits;
- e. Lost raises;
- f. Loss of future employment opportunities;
- g. Pain and suffering, emotional distress, mental anguish, embarrassment, humiliation and damage to reputation and career.

52. Because of Defendant's outrageous, unjustified and unlawful conduct, Plaintiff-Intervenor demands punitive damages of Defendant.

53. Plaintiff-Intervenor is entitled to payment of pre-judgment interest from the date of her termination to the date of judgment.

54. Plaintiff-Intervenor is entitled to payment by Defendant of her costs of litigation, including reasonable attorneys' fees, pursuant to 42 U.S.C. § 1981 and the PHRA.

55. In addition to the foregoing, Plaintiff-Intervenor requests that this honorable Court declare that the sexual harassment to which she was subjected was unlawful.

WHEREFORE, Plaintiff-Intervenor requests this Court to enter judgment against Defendant and to award Plaintiff-Intervenor legal and equitable relief, including back pay, front pay, raises, lost future employment opportunities, compensation for pain and suffering, injunctive and declaratory relief, prejudgment interest and costs of litigation, including reasonable attorneys' fees.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the forgoing Plaintiff-Intervenor's Complaint and Demand for Jury Trial was served this 20th day of October, 2006, via electronic filing and first-class mail, postage prepaid, on counsel of record as follows:

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