

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,)	
)	
)	
Plaintiff,)	CASE NO. 03-345-CV-W-JTM
)	
)	
v.)	<u>COMPLAINT</u>
)	
KREISLER DRUG NO. 3, INC.)	JURY TRIAL DEMAND
)	
Defendant.)	

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 sex, and to provide appropriate relief to Cathy Foster, who was adversely affected by such practices. The Equal Employment Opportunity Commission alleges that a male pharmacist at Kreisler Drug No. 3 discriminated against Ms. Foster and other female employees in the terms and conditions of their employment because of their sex. The Commission also alleges that Defendant retaliated against Ms. Foster for complaining about the discriminatory treatment and contacting the Equal Employment Opportunity Commission by terminating her employment.

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 Western District of Missouri.

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, Kreisler Drug No. 3, Inc., has continuously been a Missouri corporation doing business in the State of Missouri and the City of Clinton, and has continuously had at least 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, Cathy Foster 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. Since at least September 1996, Defendant has engaged in the following unlawful employment practices at its facility in Clinton, Missouri, in violation of Sections 703 and 704 of Title VII, 42 U.S.C. §§ 2000e-2 and 3.

(a) Defendant discriminated against Cathy Foster and other female employees in the terms and conditions of their employment. One of Defendant's co-owners,

a pharmacist, routinely harassed Foster and other female employees, scrutinized their work and attendance more harshly than he did male employees, and otherwise subjected female employees to less favorable terms and conditions of employment than male employees.

(b) Defendant retaliated against Ms. Foster for complaining about the pharmacist's treatment and for contacting the Commission to report Defendant's employment discrimination.

8. The effect of the practices complained of in paragraph 7 above has been to deprive Cathy Foster of equal employment opportunities and otherwise adversely affect her status as an employee , because of her sex and because of retaliation.

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 Cathy Foster.

PRAYER FOR RELIEF

Wherefore, the Commission respectfully requests that this Court:

A. Grant a permanent injunction enjoining Defendant, its officers, successors, assigns, and all persons in active concert or participation with it, from engaging in and any other employment practice which discriminates on the basis of sex or which constitutes retaliation.

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

C. Order Defendant to make whole Cathy Foster, by providing appropriate backpay 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 rightful place reinstatement of Cathy Foster.

D. Order Defendant to make whole , by providing compensation for past and future pecuniary losses resulting from the unlawful employment practices described in paragraph 7 above, including , in amounts to be determined at trial.

E. Order Defendant to make whole Cathy Foster by providing compensation for past and future nonpecuniary losses resulting from the unlawful practices complained of in paragraph 7 above, including pain and suffering, loss of enjoyment of life, damage to reputation, and humiliation, in amounts to be determined at trial.

F. Order Defendant to pay 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.

Respectfully submitted,

GWENDOLYN YOUNG REAMS
Associate General Counsel

/s/ Robert G. Johnson
ROBERT G. JOHNSON
Regional Attorney

/s/ Donna L. Harper
DONNA L. HARPER
Supervisory Trial Attorney
EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION
St. Louis District Office
Robert A. Young Federal Bldg.
1222 Spruce, Room 8.100
St. Louis, MO 63103
(314) 539-6614
FAX: 314-539-7895
E-MAIL: bob.johnson@eeoc.gov
donna.harper@eeoc.gov

/s/ Andrea G. Baran
ANDREA G. BARAN MO #46520
Senior Trial Attorney
EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION
Kansas City Area Office
Gateway Tower II
400 State Avenue
Suite 905
Kansas City, KS 66101
(913) 551-5848
FAX: (913) 551-6957
E-MAIL: andrea.baran@eeoc.gov