

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION

US DISTRICT COURT  
SOUTHERN DISTRICT  
OF INDIANA  
2005 JUN 29 PM 2:11  
LAURA A. BRIGGS  
CLERK

EQUAL EMPLOYMENT OPPORTUNITY  
COMMISSION,

Plaintiff,

v.

DAVIS HOMES, LLC

Defendant.

CIVIL ACTION NO.

**1 :05-cv-0970-DFH-WTL**

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 retaliation, and to provide appropriate relief to Allesha Collins who was adversely affected by such practices. As alleged with greater particularity in paragraphs 7, 8, 9 and 10 below, the Commission alleges that Defendant retaliated against Collins in violation of Title VII and engaged in practices contrary to public policy as a result of Collins filing a charge with the EEOC.

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 Southern District of Indiana, Indianapolis 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, Davis Homes LLC ("Davis" or the "Employer"), has continuously been doing business in the State of Indiana and the City of Indianapolis, and has continuously had at least 15 employees.

5. At all relevant times, Defendant Employer 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, Allesha Collins filed charges with the Commission alleging violations of Title VII by Defendant Employer. All conditions precedent to the institution of this lawsuit have been fulfilled.

7. Since at least April 2004, Defendant Employer has engaged in unlawful employment practices at its Indianapolis facility, in violation of Section 704(a) of Title VII, 42 U.S.C. § 2000e-3(a). Defendant Employer subjected Collins to retaliatory practices by requiring

Collins to release her employment discrimination claims as a condition of receiving previously earned commissions.

8. Since at least April 2004, Defendant Employer has engaged in unlawful employment practices at its Indianapolis facility, in violation of Section 704(a) of Title VII, 42 U.S.C. § 2000e-3(a). Defendant Employer subjected Collins to retaliatory practices by requiring Collins to withdraw her EEOC charge as a condition of receiving previously earned commissions.

9. Since at least April 2004, Defendant Employer has engaged in unlawful employment practices at its Indianapolis facility, in violation of Section 704(a) of Title VII, 42 U.S.C. § 2000e-3(a). Defendant Employer subjected Collins to different terms and conditions for receipt of previously earned commissions, in retaliation for filing a charge with the EEOC.

10. Since at least June 2004, Defendant Employer has engaged in employment practices in violation of public policy at its Indianapolis facility, by restricting Collins from disclosing accurate information to the EEOC as a condition of receiving previously earned commissions.

11. The effect of the practices complained of in paragraphs 7, 8, 9 and 10 above has been to deprive Allesha Collins of equal employment opportunities and otherwise adversely affect her status as an employee, because she filed a charge with the EEOC.

12. The unlawful employment practices complained of in paragraphs 7, 8, 9 and 10 above were intentional.

13. The unlawful employment practices complained of in paragraphs 7, 8, 9 and 10 above were done with malice or with reckless indifference to the federally protected rights of Ms. Collins.

PRAAYER 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 retaliating against employees for having filed a charge with the Commission or otherwise invoking the protections of Title VII or assisting others in doing so.

B. Grant a permanent injunction enjoining Defendant Employer, its officers, successors, assigns, and all persons in active concert or participation with it, from requiring employees to release their discrimination claims or withdraw EEOC charges in order to receive previously earned commissions.

C. Grant a permanent injunction enjoining Defendant Employer, its officers, successors, assigns, and all persons in active concert or participation with it, from engaging in employment practices which violate public policy by restricting the free flow of information from employees or former employees to the EEOC.

D. Order Defendant Employer to institute and carry out policies, practices, and programs which provide equal employment opportunities for individuals who have filed a charge with the Commission or who otherwise avail themselves of the protections of Title VII or assist

others in doing so, and which eradicate the effects of its past and present unlawful employment practices.

E. Order Defendant Employer to make whole Allesha Collins by providing her with previously earned commissions plus prejudgment interest, in amounts to be determined at trial, and other affirmative relief necessary to eradicate the effects of its unlawful employment practices.

F. Order Defendant Employer to make whole Allesha Collins, by providing compensation for past and future pecuniary losses resulting from the unlawful employment practices described in paragraphs 7, 8, 9 and 10 above, in amounts to be determined at trial.

G. Order Defendant Employer to make whole Allesha Collins by providing compensation for past and future nonpecuniary losses resulting from the unlawful practices complained of in paragraphs 7 and 8 above, including emotional pain, suffering, and inconvenience, loss of enjoyment of life, and humiliation, in amounts to be determined at trial.

H. Order Defendant Employer to pay Allesha Collins punitive damages for its malicious and reckless conduct described in paragraphs 7 and 8 above, in amounts to be determined at trial.

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

J. 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.

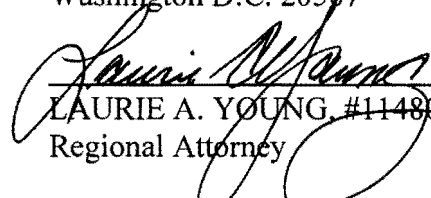
Respectfully Submitted,

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