

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS

EQUAL EMPLOYMENT OPPORTUNITY	)	
COMMISSION,	)	
	)	
Plaintiff,	)	CIVIL ACTION NO. 03-1107-MLB
	)	
v.	)	
	)	<u>COMPLAINT</u>
CLARA BARTON HOSPITAL	)	
ASSOCIATION, INC.,	)	
	)	JURY TRIAL DEMAND
<u>Defendant.</u>	)	

NATURE OF THE ACTION

This is an action under Title VII of the Civil Rights Act of 1964 to correct unlawful employment practices on the basis of sex, and to provide appropriate relief to Nita Brack, who was adversely affected by such practices. The Equal Employment Opportunity Commission alleges that the Clara Barton Hospital Association, Inc.'s hospital administrator, who is male, sexually harassed Ms. Brack and subjected her to a sexually hostile working environment. The Commission also alleges that Defendant retaliated against Ms. Brack for complaining about the sexual harassment by placing her on probation, demoting her and terminating her.

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").

2. The employment practices alleged to be unlawful were committed within the jurisdiction of the United States District Court for the District of Kansas .

### 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, Clara Barton Hospital Association, Inc. ("Defendant"), has continuously been a Kansas not for profit corporation doing business in the State of Kansas and the City of Hoisington, 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, Nita Brack 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 April 1, 2000, Defendant has engaged in the following unlawful employment practices at its facility in Hoisington, Kansas, in violation of Sections 703 and 704 of Title VII, 42 U.S.C. §§ 2000e-2 and 3.

(a) Defendant subjected Nita Brack to sexual harassment during her employment. Defendant's hospital administrator, male, sexually harassed Ms.

Brack and subjected her to a sexually hostile working environment. The unlawful conduct was unwelcome, sexual in nature, and directed at Ms. Brack because of her sex. The unlawful conduct was sufficiently severe or pervasive to create a hostile working environment which altered the terms or conditions of Ms. Brack's employment.

(b) Defendant retaliated against Ms. Brack for complaining about sexually harassing conduct by placing her on probation, then demoting her and later terminating her employment.

8. The effect of the practices complained of in paragraph 7 above has been to deprive Nita Brack 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 Nita Brack

#### 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 Nita Brack, 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 Nita Brack

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 Nita Brack 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,

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REQUEST FOR PLACE OF TRIAL

Plaintiff requests trial of the above case to be held in Wichita, Kansas.

s/ Andrea Taylor  
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