

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

CAROLYN VERSZYLA,)
)
) 05cv0689
Intervener Plaintiff,)
) JUDGE SCHWAB
v.)
) JURY TRIAL DEMANDED
PEDIATRIC ALLIANCE, P.C.,)
)
Defendant.)

COMPLAINT

This is an action under Title VII of the Civil Rights Act of 1964, Title I of the Civil Rights Act of 1991 and Section 5(c) of the Pennsylvania Human Relations Act to correct unlawful employment practices on the basis of retaliation and to provide appropriate relief to Carolyn Verszyla who was adversely affected by such practices. As articulated with greater particularity in paragraph 7 below, Plaintiff alleges that Defendant Pediatric Alliance, P.C. discharged her in retaliation for exercising her rights under Title VII and the PHRA when she complained, on behalf of other female employees, about a sexually hostile work environment created by the words and conduct of a male doctor. Ms. Verszyla suffered mental and emotional distress as a result of Defendant's retaliatory actions against her.

JURISDICTION AND VENUE

1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 451, 1331, 1337, 1343 and 1367. 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"). This

action is also authorized and instituted pursuant to Section 102 of Title I of the Civil Rights Act of 1991, 42 U.S.C. § 1981a. Finally, this action is authorized and instituted pursuant to Section 12(c) of the Pennsylvania Human Relations Act (“PHRA”), 43 P.S. § 962(c).

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

PARTIES

3. Plaintiff Carolyn Verszyla has, at all relevant times, resided at 233 Kenney Drive, Sewickley, Allegheny County, Pennsylvania.

4. At all relevant times, Defendant Pediatric Alliance, P.C. (“Employer”), has continuously been a Pennsylvania corporation, located in the Commonwealth of Pennsylvania and doing business in various locations, including its St. Clair division, and has continuously had at least 15 employees.

5. At all relevant times, 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, Ms. Verszyla filed a Charge of Discrimination with the Equal Employment Opportunity Commission alleging violations of Title VII by Employer and dual filed a Complaint with the Pennsylvania Human Relations Commission. All conditions precedent to the institution of this lawsuit have been fulfilled.

7. Since March 2002, Employer has engaged in unlawful employment practices at its St. Clair division location, in violation of 704(a)(1) of Title VII, 42 U.S.C. § 2000e-2(a)(1), and 5(c) of

the PHRA, 43 P.S. § 955(c). These unlawful practices include, but are not limited to, the following:

a. Employer is a pediatric medical services provider which employs between 100 and 200 employees;

b. Commencing in or about March, 2002, Employer has tolerated and condoned a sexually hostile work environment at its workplace;

c. The hostile work environment consisted of sexually explicit comments and “jokes,” both verbal and through electronic communication, by Dr. Edward King, a recently hired pediatrician. He also engaged in ongoing, unwanted, and inappropriate touching of female employees;

d. At all relevant times, Ms. Verszyla served as the Office Manager at Employer’s St. Clair Division office located in Upper St. Clair, Allegheny County, Pennsylvania.

e. Shortly after Dr. King’s hire, Ms. Verszyla began to receive complaints about unsolicited sexual comments, jokes, and gestures by Dr. King from various employees whom she supervised.

f. Shortly after Dr. King’s hire, Ms. Verszyla began to receive complaints about unsolicited sexual comments, “jokes”, and gestures by Dr. King from employees whom she supervised. On each such occasion, she advised Employer’s St. Clair shareholders that several female staff members had complained about Dr. King’s sexually offensive conduct. In December 2003, Ms. Verszyla advised Employer’s shareholder-owners that several female staff members had complained to her about Dr. King’s sexually offensive conduct.

g. In addition, Ms. Verszyla met with and advised Dr. King of the complaints she had received and further advised him that his conduct was unwelcome and was inappropriate for a

professional office.

h. The unwanted and inappropriate sexually charged language and conduct continued.

i. On or about January 16, 2004, Dr. King sent an email message to all staff about him having feminine hygiene products for their use. Ms. Verszyla immediately sent an e-mail message to an Employer shareholder at the St. Clair office which in part expressed her concern that “[s]ome of the staff may not have found his email funny.”

j. Also on or about January 16, 2004, Ms. Verszyla discovered that someone had created a sexually explicit “sculpture” in Dr. King’s examining room and that its existence had resulted in a commotion among the staff. Ms. Verszyla immediately sent an e-mail message to all staff about the need to maintain a professional atmosphere; she also again requested a meeting with the shareholders to discuss the complaints of a sexually hostile work environment. Her request was denied.

k. On or about January 22, 2004, Ms. Verszyla requested family leave for one hour per work day on a temporary basis. She offered to turn in 5 hours of accumulated personal time per week during this family leave. Her request was denied.

l. On or about February 9, 2004, Ms. Verszyla was discharged from employment with Employer. She was advised that the termination was caused by her “managing style” and interactions with nursing staff.

8. The effect of the practices complained of in paragraph 7 (a) through (l) above has been to deprive Ms. Verszyla of equal employment opportunities and otherwise adversely affect her status as an employee, because she opposed practices she believed to be discriminatory and in retaliation for having exercised her rights and duties under Title VII and the PHRA.

9. The unlawful employment practices complained of in paragraphs 7 (a) through (l) above were intentional.

10. The unlawful employment practices complained of in paragraphs 7 (a) through (l) above were done with malice or with reckless indifference to the federally protected rights of Ms. Verszyla who, as a supervisor, complained to Employer's owners and managers about the creation and maintenance of a sexually hostile work environment and, as a result, Employer retaliated against Ms. Verszyla when it discharged her.

PRAYER FOR RELIEF

Wherefore, the Plaintiff requests that this Court:

A. Grant a permanent injunction enjoining the Employer, its officers, successors, assigns and all persons in active concert or participation with it, from engaging in retaliation against employees who complain of such and in any other employment practice which discriminates on the basis of retaliation.

B. Grant a permanent injunction enjoining the Employer, its officers, successors, assigns and all persons in active concert or participation with it, from discriminating within any of its establishments between employees on the basis of retaliation.

C. Order Employer to make her whole, 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 hiring and front pay.

D. Order Employer to make her whole by providing compensation for past and future non-pecuniary losses resulting from the unlawful practices complained of in paragraphs 7 (a)

through (l) above, including emotional pain, suffering, inconvenience, loss of enjoyment of life, and humiliation, in amounts to be determined at trial.

G. Order Employer to pay her punitive damages for its malicious and/or reckless conduct described in paragraphs 7 (a) through (l) above, in an amount to be determined at trial.

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

I. Award her attorneys' fees and her costs of this action.

Respectfully submitted,

HEALEY & HORNACK, P.C.

/s/ Joseph S. Hornack

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