

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

UNITED STATES EQUAL EMPLOYMENT)	
OPPORTUNITY COMMISSION,)	
)	Civil Action No. 06-168
Plaintiff,)	
)	
v.)	
)	Electronically Filed
JAMESON MEMORIAL HOSPITAL,)	
)	
Defendant.)	
)	Judge Joy Flowers Conti
JULIE A. BAILEY,)	
)	
Plaintiff-Intervenor,)	
)	
v.)	
)	
JAMESON MEMORIAL HOSPITAL,)	
)	
Defendant.)	

COMPLAINT OF PLAINTIFF-INTERVENOR, JULIE A. BAILEY

Plaintiff-Intervenor, Julie A. Bailey, by and through her counsel, Joseph H. Chivers,
Esquire, allege and aver as follows:

NATURE OF THE ACTION, JURISDICTION AND VENUE

1. This is an action under Title VII of the Civil Rights Act of 1964 (Title VII), as amended (42 U.S.C. §2000 et seq.), the Pennsylvania Human Relations Act (PHRA), as amended (43 Pa. C.S.A. §951 et seq.), and PA common law to correct unlawful employment practices on the basis of race, and retaliation for engaging in protected activities, and to make whole Plaintiff-Intervenor.

2. Jurisdiction of this court is invoked pursuant to 28 U.S.C. §1331 and, for supplemental state claims, 28 U.S.C. §1367(a). This action is authorized and instituted pursuant to Title VII and the PHRA.
3. The actions and policies alleged to be unlawful were committed in and around New Castle, Pennsylvania, where Defendant is located and where Plaintiff-Intervenor worked and, therefore, this action is within the jurisdiction of the United States District Court for the Western District of Pennsylvania, and the venue is proper.
4. Plaintiff-Intervenor filed a timely charge of discrimination with the Equal Employment Opportunity Commission (EEOC) and the Pennsylvania Human Relations Commission (PHRC) (within 300 days / 180 days of the discriminatory actions).

PARTIES

5. Plaintiff-Intervenor Julie A. Bailey (hereinafter referred to as "Plaintiff-Intervenor" or "Ms. Bailey"), has resided at all relevant times at 508 East Elizabeth Street, New Castle, PA 16105. Plaintiff-Intervenor has been employed by Defendant Jameson Memorial Hospital since on or about March 5, 2001, until the present.
6. At all relevant times, Jameson Memorial Hospital (hereinafter referred to as "Defendant" or "Jameson"), a subsidiary of Jameson Health System, Inc., has been doing business in the Commonwealth of Pennsylvania and is located at 1211 Wilmington Road, New Castle, PA 15106.
7. At all relevant times, Jameson has been subject to Title VII and the PHRA.

THE ORIGINAL LAWSUIT

8. On February 9, 2006, the EEOC filed a Complaint in this Court (Civil Action No. 06-0168) against Jameson Memorial Hospital alleging that Jameson Memorial Hospital engaged in unlawful employment practices against Ms. Bailey.
9. Ms. Bailey seeks to intervene in the proceeding commenced by the EEOC, pursuant to section 706(f)(1) of Title VII, 42 U.S.C. §2000e-5(f)(1) and Rule 24 of the Federal Rules of Civil Procedure.

PLAINTIFF-INTERVENOR'S COMPLAINT

10. Ms. Bailey has been employed by Defendant as a Radiology Technician since on or about March 5, 2001. Ms. Bailey is an African American female.
11. Since at least July of 2004, Defendant has failed to provide Ms. Bailey advancement opportunities, including training, scheduled hours and/or a MRI Technician position, in the MRI Department because of her race (African American).
12. From January 2004 through June 2004, Ms. Bailey underwent classroom and clinical training in Magnetic Resonance Imaging ("MRI") at Jameson Health System School of MRI.
13. In and around July 2004, Defendant offered additional MRI training and/or cross-training to its Radiographic Technicians. However, Ms. Bailey was denied the opportunity for the additional MRI training hours in the MRI Department while similarly situated white co-workers, including white employees who were not MRI Certified, were afforded additional training hours. Upon information and belief, at least one white female employee who did

not possess an MRI Certification was given a MRI position in the MRI Department.

14. Defendant's policy states that "[a]ll full and part-time employees working in the Jameson MRI Department have MRI Registry [Certification]". However, Defendant routinely permitted white employees without MRI Certification to train and work in the MRI Department.
15. Defendant's facility, especially the MRI Department, was biased against black employees. White employees regularly used racial epithets towards the African-American employees, including the term "nigger." For instance, a white co-worker stated to Ms. Bailey that she had heard that Ms. Bailey had contacted the NAACP which the white employee referred to as "white limos." Moreover, the same white employee would refer to the NAACP as the organization that "makes money for niggers." When racial epithets and terms like "nigger" were made in the presence of Defendant's management, including Ms. Bailey's supervisor and department head, no corrective nor disciplinary action was taken.
16. In or about July 2005, Ms. Bailey passed her ARRT (MRI) Registry Exam and received her MRI Certification.
17. Following the receipt of her MRI Certification, Defendant continued to deny Ms. Bailey advancement opportunities within the MRI Department.
18. After receiving her MRI Certification, Ms. Bailey actively sought additional training hours and/or hours in the MRI Department from both Defendant's Department Administrator and Head of Human Resources.

19. Ms. Bailey was continually advised that there were no available positions.
20. However, non-MRI Certified white employees were permitted to obtain additional training hours and/or work within the MRI Department.
21. At least one of the non-MRI Certified white co-workers did not actively seek a position within the MRI Department, yet received additional training and hours.
22. Since at least December 2004, Defendant has engaged in unlawful employment practices at its New Castle, PA location in violation of Section 704(a)(1) of Title VII, by retaliating against Ms. Bailey as follows:
23. Following Defendant's denial of training and work hours within the MRI Department, Ms. Bailey filed a Charge of Discrimination with the EEOC alleging race discrimination on or about December 1, 2004. As a result of her protected activity, Ms. Bailey suffered adverse action when she was continually denied additional training and hours in the MRI Department.
24. Moreover, white co-workers who were not MRI Certified were permitted to continue training and/or working in the MRI Department.
25. The effect of the retaliation has been to deprive Ms. Bailey of equal employment opportunities, including promotion/advancement and/or training opportunities in the workplace, and otherwise adversely affect her status as an employee because of her race.
26. Defendant's discriminatory treatment and retaliation against Ms. Bailey were intentional.

27. Defendant's discriminatory treatment and retaliation were done with reckless indifference to the federally protected rights of Ms. Bailey as an employee.

COUNT I: RACE DISCRIMINATION (TITLE VII / PHRA)

28. Plaintiff-Intervenor hereby incorporates Paragraphs 1 through 27 of her Complaint as though the same were more fully set forth at length herein.
29. Plaintiff-Intervenor was discriminated against because of her race (African American).
30. Plaintiff-Intervenor has suffered tangible and intangible losses resulting from the racial discrimination.
31. Plaintiff-Intervenor is entitled to lost wages and benefits unlawfully denied, compensatory damages, interest, punitive damages (under Title VII) and other appropriate relief, including reinstatement.

COUNT II: RETALIATION (TITLE VII / PHRA)

32. Plaintiff-Intervenor hereby incorporates by reference Paragraphs 1 through 31 of her Complaint as though the same were more fully set forth herein.
33. Plaintiff-Intervenor engaged in protected activities within the meaning of Title VII and the PHRA by complaining about race discrimination both internally with the employer and with the EEOC/PHRC.

34. Plaintiff-Intervenor was retaliated against because she engaged in these protected activities.
35. The retaliation is in violation of Title VII and the PHRA.
36. Defendant knows its actions against Plaintiff-Intervenor are in violation of Title VII and the PHRA.
37. Plaintiff-Intervenor has suffered tangible and intangible losses resulting from Defendant's violation of the law: loss of pay; loss of promotional opportunities; humiliation; mental anguish; and, damage to reputation.
38. Plaintiff-Intervenor is seeking lost wages, compensation for pain and suffering, attorney's fees and costs.
39. Defendant's violations of the law are knowing and willful and with malicious intent. Plaintiff-Intervenor is therefore also seeking punitive damages under Title VII.

PRAYER FOR RELIEF

40. WHEREFORE, Plaintiff-Intervenor respectfully requests that this Court:
 - A. Grant a permanent injunction enjoining Defendant, its officers, successors, and assigns and all persons in active concert or participation with them from engaging in any employment practice which violates public policy.
 - B. Order Defendant to make whole Plaintiff-Intervenor, by paying appropriate back pay with prejudgment interest and/or other affirmative relief necessary to eradicate the effects of its unlawful actions and practices.

- C. Order Defendant to pay compensatory and punitive damages to Plaintiff-Intervenor in an amount to be determined at trial.
- D. Order Defendant to pay the costs and reasonable attorney's fees incurred by Plaintiff-Intervenor.
- E. Grant such further relief as the Court deems necessary and proper.

Respectfully submitted,

s/Joseph H. Chivers

Joseph H. Chivers, Esquire

PA ID No. 39184

Suite 600

312 Boulevard of the Allies

Pittsburgh, PA 15222-1923

(412) 281-1110

(412) 281-8481 FAX

jchivers@employmentrightsgroup.com

Counsel for Plaintiff-Intervenor

Julie A. Bailey

DATED: March 30, 2006