

FILED

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
SOUTHERN DIVISION

JAN 8 2002

DAVID W. DANIEL, CLERK
US DISTRICT COURT, EDNC
BY DEP. CLERK

EQUAL EMPLOYMENT OPPORTUNITY)
COMMISSION,)
)
 Plaintiff,)
)
 v.)
)
LIBERTY COMMONS NURSING)
CENTER, INC.,)
)
 Defendant.)
_____)

CIVIL ACTION NO. 7:02-CV-05-F1

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 sex, and to provide appropriate relief to Maria Withey and other similarly situated female employees who were adversely affected by the practices. The Commission alleges that Defendant Liberty Commons Nursing Center, Inc. discriminated against Maria Withey and other similarly situated female employees, including but not limited to Kimberly Allen, because of their sex, female, and retaliated against Maria Withey for opposing unlawful discrimination.

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.

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

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 of the Civil Rights Act and is expressly authorized to bring this action by Sections 706(f)(1) and (3) of Title VII, 42 U.S.C. §2000e-5(f)(1).

4. At all relevant times, Defendant Liberty Commons Nursing Center, Inc. ("Defendant") has continuously been a North Carolina corporation doing business in the State of North Carolina and the City of Wilmington and has continuously had at least fifteen employees.

5. At all relevant times, Defendant has continuously been an employer engaged in an industry affecting commerce under 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, Maria Withey 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 August 1997, Defendant has engaged in unlawful employment practices at its facility located in Wilmington, North Carolina, in violation of Section 703 (a) (1) of Title VII, 42 U.S.C. § 2000e-2 (a) (1), as set forth below:

- a. Defendant subjected Maria Withey and other similarly situated female employees, including but not limited to Kimberly Allen, to discrimination by subjecting them to a sexually hostile work environment based on their

sex. The sexual harassment included unwelcome sexual touching, comments, and advances by their supervisor.

- b. Defendant discharged Maria Withey and otherwise retaliated against her because she opposed the sexual harassment.

8. The effect of the practices complained of in paragraph 7 above has been to deprive Maria Withey, Kimberly Allen and other similarly situated female employees, of equal employment opportunities and otherwise adversely affect their status as employees because of their sex.

9. The effect of the practices complained of in paragraph 7 above has been to deprive Maria Withey of equal employment opportunities and otherwise adversely affect her status as an employee because she opposed unlawful discrimination.

10. The unlawful employment practices complained of in paragraph 7 above were intentional.

11. The unlawful employment practices complained of in paragraph 7 above were done with malice or with reckless indifference to the federally protected rights of Marie Withey, Kimberly Allen and other similarly situated female employees.

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 sexual harassment or any other employment practice that discriminates on the basis of sex and from retaliating against employees who oppose unlawful discrimination or participate in an investigation of unlawful discrimination .

B. Order Defendant to institute and carry out policies, practices, and programs that 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 Maria Withey by providing appropriate back pay 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 reinstatement.

D. Order Defendant to make whole Maria Withey and other similarly situated female employees, including but not limited to Kimberly Allen, by providing compensation for past and future pecuniary losses resulting from the unlawful practices complained of in paragraph 7 above in amounts to be determined at trial.

E. Order Defendant to make whole Maria Withey and other similarly situated female employees, including but not limited to Kimberly Allen, by providing compensation for past and future non-pecuniary losses resulting from the unlawful practices complained of in paragraph 7 above, including but not limited to emotional pain, suffering, inconvenience, loss of enjoyment of life, humiliation, and loss of civil rights in amounts to be determined at trial.

F. Order Defendant to pay Maria Withey and other similarly situated female employees punitive damages for its malicious and reckless conduct, as described 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

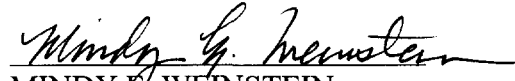
The Commission requests a jury trial on all questions of fact raised by its complaint.


DATED this 8th day of January, 2002.

Respectfully submitted,

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