

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

United States District Court
Southern District of Texas
FILED

MAY 5 - 1999

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,

Plaintiff,

v.

MEDICAL ARTS CLINIC, P.A.,
Defendant.

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Civil Action No. C-99-147

AMENDED COMPLAINT
JURY TRIAL DEMAND

Michael N. Milby, Clerk

NATURE OF ACTION

This is an action under Title VII of the Civil Rights Act of 1964, as amended, and Title I of the Civil Rights Act of 1991, to correct unlawful employment practices on the basis of gender, female, and to provide appropriate relief to Jessica Escobedo-Garcia who was adversely affected by such practices. Jessica Escobedo-Garcia was subjected to unlawful discrimination when she was terminated from her job with Defendant, Medical Arts Clinic, P.A. (hereinafter "Medical Arts Clinic") because of her pregnancy.

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 Sections 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 and are now being committed within the jurisdiction of the United States District Court for the Southern District of Texas, Corpus Christi Division.

PARTIES

3. Plaintiff, the Equal Employment Opportunity Commission (hereinafter "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 Sections 706(f)(1) and (3) of Title VII, 42 U.S.C. §§ 2000e-5(f)(1) and (3).

4. At all relevant times, Defendant, Medical Arts Clinic, a professional association registered to do business in the State of Texas, has continuously been doing business in the State of Texas in the city of Aransas Pass, Texas and has continuously had at least fifteen employees.

5. At all relevant times, the Defendant, Medical Arts Clinic has continuously been an employer engaged in an industry affecting commerce within the meaning of Section 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, Jessica Escobedo-Garcia filed a charge with the Commission alleging violations of Title VII by Defendant, Medical Arts Clinic. All conditions precedent to the institution of this lawsuit have been fulfilled.

7. Since at least on or about May 13, 1997, the Defendant, Medical Arts Clinic has engaged in unlawful employment practices at its Aransas Pass facility located at 1731 West Wheeler, Aransas Pass, Texas, in violation of Sections 701(k) and 703(a)(1) of Title VII, 42 U.S.C. §§ 2000e(k) and 2000e-2(a). The unlawful practices were to subject Jessica Escobedo-Garcia to discrimination in discipline and termination based on gender, female, and her pregnant condition. Jessica Escobedo-Garcia was discriminated against because of her gender, female ("pregnancy"), when Defendant Medical Arts Clinic issued three written warnings against her for alleged violations

of company policy after Defendant found out that Garcia was pregnant again and she began missing time from work due to her pregnancy. Other similarly situated employees were not disciplined for the same type of conduct. Garcia had not received any written warnings in the preceding 18 months of employment with Defendant, and these three written warnings were issued in a 10-day period. Defendant wrongfully terminated Garcia because she was pregnant, and the reasons given by Defendant for her termination are pretextual.

8. The effect of the practices complained of in paragraph seven above has been to deprive Jessica Escobedo-Garcia of equal employment opportunities and to otherwise adversely affect her status as an employee, because of her gender, female (pregnancy).

9. The unlawful employment practices complained of in paragraph seven were and are intentional.

10. The unlawful employment practices complained of in paragraph seven above were and are being done with malice or reckless indifference to the federally protected rights of Jessica Escobedo-Garcia .

PRAYER FOR RELIEF

Wherefore, the Commission respectfully requests that this Court:

A. Grant a permanent injunction enjoining the Defendant, Medical Arts Clinic, its officers, successors, assigns, and all persons in active concert or participation with it, from engaging in any employment practice which discriminates on the basis of gender, including discrimination based on a woman's pregnancy;

B. Order the Defendant, Medical Arts Clinic, to institute and carry out policies, practices, and programs which provide equal employment opportunities for women, including

women who are pregnant, and which eradicate the effects of its past and present unlawful employment practices;

C. Order the Defendant, Medical Arts Clinic, to make whole Jessica Escobedo-Garcia, 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 the re-instatement of Jessica Escobedo-Garcia as a medical assistant or similar position;

D. Order the Defendant, Medical Arts Clinic, to make whole Jessica Escobedo-Garcia, by providing compensation for past and future pecuniary losses resulting from the unlawful employment practices described in paragraph seven above, including, but not limited to, medical expenses and job search expenses, in amounts to be determined at trial;

E. Order the Defendant, Medical Arts Clinic, to make whole Jessica Escobedo-Garcia, by providing compensation for past and future non-pecuniary losses resulting from the unlawful practices complained of in paragraph seven above, including, but not limited to, emotional pain, suffering, loss of enjoyment of life, and humiliation, in amounts to be determined at trial;

F. Order the Defendant, Medical Arts Clinic, to pay Jessica Escobedo-Garcia punitive damages for its malicious and reckless conduct described in paragraph seven above, in amounts to be determined at trial;

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

H. Award the Commission its costs in this action.

JURY TRIAL DEMAND

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

Respectfully submitted,

C. GREGORY STEWART
General Counsel

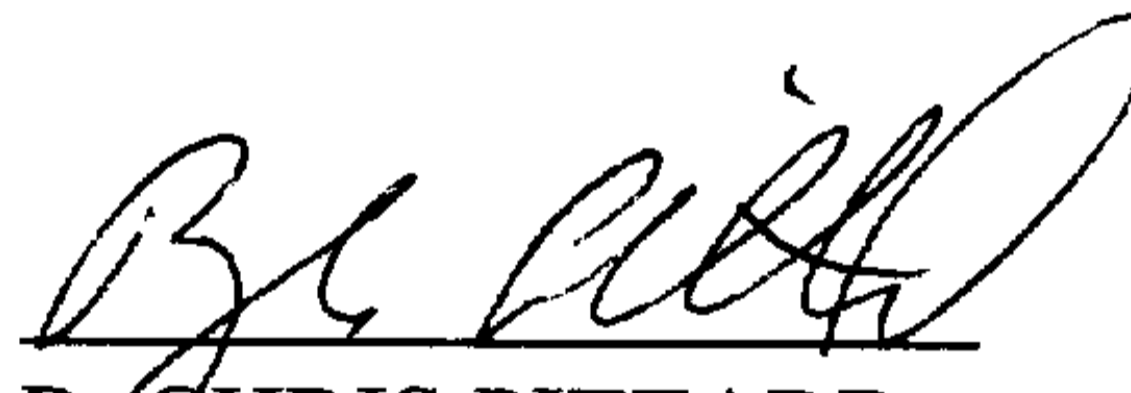
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