

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
LUFKIN DIVISION

FILED - CLERK
U.S. DISTRICT COURT
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TX EASTERN - LUFKIN

EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION
Plaintiff,

v.

WVT OF TEXAS, INC.
Defendant.

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BY _____

CIVIL ACTION NO. _____

Judge Hannah

JURY TRIAL DEMANDED

ORIGINAL COMPLAINT

1. This is an action under the Equal Pay Act of 1963, as amended, 29 U.S.C. §206 *et seq.* and Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §2000e, *et seq.* and Title I of the Civil Rights Act of 1991, as amended, 42 U.S.C. §1981 *et seq.* to restrain the unlawful payment of wages to employees of one sex at rates less than the rates paid to employees of the opposite sex and to correct unlawful employment practices on the basis of sex, and to provide appropriate relief to Marilyn Sylvest who was adversely affected by such unlawful practices. As alleged herein, the Defendant, WVT of Texas, Inc. ("WVT") unlawfully pays its female customer managers at wage rates which are less than the rates paid to its male employees performing substantially equal work, and otherwise discriminates against those females because of their sex in violation of Title VII of the Civil Rights Act of 1964 and the Equal Pay Act.

JURISDICTION AND VENUE

2. 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 16(c) and 17 of the Fair Labor Standards Act of 1938 (the "FLSA"), as amended 29 U.S.C.

§§216 (c) and 217, to enforce the requirements of the Equal Pay Act of 1963, codified as Section 6(d) of the FLSA, 29 U.S.C. §206(d), *et seq.* ("Equal Pay Act") and pursuant to Section 706 (f)(1) and (3) of Title VII of the Civil Rights Acts of 1964, as amended, 42 U.S.C. §2000e, *et seq.* ("Title VII") and Section 102 of the Civil Rights Act of 1991, 42 U.S.C. §1981A.

3. Venue is proper in this Court because the unlawful employment practices alleged below were and are now being committed within the jurisdiction of the United States District Court for the Southern District of Texas, Houston Division.

PARTIES

4. Plaintiff, Equal Employment Opportunity Commission ("Commission") is an agency of the United States of America charged with the administration, interpretation and enforcement of the Equal Pay Act and Title VII, and is expressly authorized to bring this action by Sections 16 (c) and 17 of the FLSA, 29 U.S.C. §§216 (c) and 217, as amended by Section 2 of the Reorganization Plan No. 1 of 1978, 92 Stat. 3781, and Public Law 98-532 (1984), 98 Stat. 2705 and by Section 706 (f)(1) and (3) of Title VII, 42 U.S.C. §2000e-5 (f)(1) and (3).

5. Defendant WVT has continuously been and is now doing business in the State of Texas and the City of Crockett and has continuously had more than 15 employees. WVT has its principal place of business at 1042 S. 4th Street, Crockett, Texas 75835. WVT may be served with process by serving its registered agent in Texas, Laura Holcomb, Highway 19 N. Northridge Plaza, Crockett, Texas 75835.

6. At all relevant times, Defendant WVT has acted directly or indirectly as an employer in relation to employees and continuously been an employer within the meaning

of Section 3(d) of the FLSA, 29 U.S.C. §203(d).

7. At all relevant times, Defendant WVT has continuously employed employees engaged in commerce or in the production of goods for commerce within the meaning of Sections 3(b), (i) and (j) of the FLSA, 29 U.S.C. §§203(b), (i) and (j) or has continuously been an enterprise engaged in commerce or in the production of goods for commerce within the meaning of Sections 3(r) and (s) of the FLSA, 29 U.S.C. §§203(r) and (s).

8. At all relevant times, Defendant WVT 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

9. More than thirty days prior to the institution of this lawsuit, Marilyn Sylvest filed a charge of discrimination with the Commission alleging violations of the Equal Pay Act and Title VII by Defendant WVT, her former employer. All conditions precedent to the institution of this lawsuit have been fulfilled.

10. Since at least 1999, WVT has engaged in unlawful employment practices at its office located at 1042 S. 4th Street, Crockett, Texas, in violation of Sections 6(d)(1) and 15(a)(2) of the FLSA, 29 U.S.C. §§206(d)(1) and 215 (a)(2), and Section 703(a)(1) of Title VII of the Civil Rights Act of 1964, 42 U.S.C. §2000e-2.

11. Ms. Sylvest was hired by Defendant WVT in August 1999 as a customer manager at the salary of \$350 per week. Defendant also employed another female as a customer manager at the rate of \$350 per week. In November 1999 Defendant hired a male employee as a customer manager at the salary of \$400 per week even though he had less experience and qualifications than Ms. Sylvest and the other female customer

manager. Thus, since at least November 1999, Defendant WVT has willfully violated Sections 6(d)(1) and 15(a)(2) of the Equal Pay Act and Section 703(a)(1) of Title VII by paying wages to its female customer managers at rates less than the rate paid to a male customer manager in the same establishment for substantially equal work on jobs the performance of which required equal skill, effort, and responsibility and which were performed under similar working conditions.

12. As a result of the acts complained of above, Defendant WVT unlawfully had withheld and is continuing to withhold the payment of wages due to Ms. Sylvest.

13. The effect of the practices complained of herein has been to deprive Ms. Sylvest of equal employment opportunities and otherwise adversely affected her status as an employee because of her sex.

14. The conduct described in the paragraphs above was willful, intentional and was committed with malice or with willful disregard for the federally protected civil rights of Ms. Sylvest.

PRAYER FOR RELIEF

WHEREFORE, the Commission respectfully requests that this Court:

15. Grant a permanent injunction enjoining Defendant WVT, its officers, successors, assigns and all persons in active concert or participation with it, from engaging in an employment practice which discriminates on the basis of sex and from discriminating within any of its establishment between employees on the basis of sex, by paying wages to employees at rates less than the rates at which it pays wages to employees of the opposite sex in the same establishment for equal work on jobs, the performance of which

require equal skill, effort and responsibility, and which are performed under similar working conditions;

16. Order Defendant WVT to institute and carry out policies, practices and procedures which provide equal employment opportunities for its female employees and which eradicate the effects of its unlawful employment practices;

17. Order Defendant WVT to make Ms. Sylvest whole 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;

18. Order Defendant WVT to make Ms. Sylvest whole by providing appropriate compensatory damages to her in amounts to be proved at trial resulting from the unlawful practices described above;

19. Order Defendant WVT to pay punitive damages to Ms. Sylvest for its willful, malicious and/or reckless conduct described above in amounts to be proved at trial;

20. Grant a judgment requiring Defendant WVT to pay appropriate back wages in an amount to be proved at trial, and an equal sum as liquidated damages or prejudgment interest in lieu thereof, to employees whose wages are being unlawfully withheld as a result of the acts complained of above, including but not limited to, Ms. Sylvest;

21. Award pre-judgment and post-judgment interest on all amounts recovered as allowed by law;

22. Order all affirmative relief necessary to eradicate the effects of its unlawful employment practices;

23. Award the Commission its costs in this action; and

24. Grant such other and further relief as the Court deems necessary and proper in the public interest.

JURY TRIAL DEMAND

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

Respectfully submitted,

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION

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