

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

EQUAL EMPLOYMENT OPPORTUNITY	§	
COMMISSION	§	
	§	
Plaintiff	§	
	§	
v.	§	CIVIL ACTION NO. 6:05CV162
	§	
JEA SENIOR LIVING d/b/a PINEHURST.	§	JUDGE SCHNEIDER
ALZHEIMER'S SPECIAL CARE CENTER	§	
	§	
Defendant.	§	
	§	
	§	
	§	

**PLAINTIFFS' (INTERVENERS') ORIGINAL COMPLAINT**

NOW COME Intervenors, Rosemary Baker, Mattie Bowser, Teresa Bowser, Deaquinita Clark, Hazel Dixon, Vernell Evans, Tammy Hartsfield, Aquanetta Mims, Voncella Street, Phyllis Temple, Sherry Warlick, Linda Warren, Tiffany Watson, and Tijuana Watson, Plaintiffs herein, complaining of JEA Senior Living d/b/a Pinehurst Alzheimer's Special Care Center, Defendant herein, and for causes of action submit the following:

**I**

**Jurisdiction and Venue**

1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. § 1343(4); 28 U.S.C. § 1337; and 42 U.S.C. § 20003–5(f). This is a suit in equity and at law authorized and instituted pursuant to Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e, *et seq.*, 42 U.S.C. § 1981, and 42 U.S.C. § 1981(a) and it seeks declaratory relief pursuant to 28 U.S.C. §§ 2201, 2202.

2. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391 and 124(a)(1) in that the unlawful employment practices alleged below were and are being committed within the State of Texas and the Eastern District of Texas. Defendant is subject to service in the Eastern District of Texas, Tyler Division.

## II

### Parties

3. At all relevant times, Plaintiffs, except Plaintiff Warlick, were African-American citizens of the United States and residents of Smith County, Texas. Plaintiff Warlick is a Caucasian citizen of the United States. Plaintiffs have been subjected to unlawful employment practices committed in the State of Texas, Eastern District, Tyler Division.

4. Defendant is a company doing business in the Eastern District of Texas, Tyler Division. Defendant maintains and administers records relevant to its employment practices within said district and division. Defendant is an employer within the meaning of 42 U.S.C. § 2000e, *et seq.*, in that the defendant is engaged in an industry affecting commerce and employs at least fifteen (15) persons.

## III

### Federal Causes of Action

5. This is a proceeding for a declaratory judgment, injunctive relief, compensatory and punitive damages, and other relief to secure the rights of plaintiffs under 42 U.S.C. §§ 2000e, *et seq.*, 42 U.S.C. § 1981 and 42 U.S.C. § 1981(a). It is brought to prevent defendant from maintaining a policy, practice, custom or usage of discriminating against plaintiffs in regard to terms, conditions and privileges of employment, and to compensate them for discrimination and discharge.

6. Since approximately 2002, Defendant has discriminated against plaintiffs on account of their race, African-American or in the case of Plaintiff Warlick because she associated with the African-American employees, culminating in their termination and/or constructive discharge.

7. Specifically, in approximately 2002, Ashley Bulman became the administrator for Defendant. From that time on, white employees were systematically treated better than the African-American employees, including Plaintiffs herein.

8. White employees were generally paid better than African-American employees. They would get raises that the African-American employees did not. In fact, new white employees were hired at rates greater than the African-American employees.

9. Defendant, through Administrator Bulman, also overlooked prejudice by supervisors. One supervisor said that there would never be a Black person hired in her department. One nurse referred to the Black employees as “monkeys.” Another nurse referred to the Black employees as a “bunch of niggers.” Other employees have said that they do not like working with Black people and called them “niggers.” Black employees are also referred to as “you people” and “these gals.” One white employee even wore a confederate flag and was not made to take it off.

10. Prior to Administrator Bulman’s arrival, most of the supervisors were African-American. After Administrator Bulman’s arrival, all of the supervisors became white.

11. African-American employees, including Plaintiffs herein, were talked to and treated differently than the white employees in all respects. They were also disciplined or even terminated for reasons that white employees were not terminated.

12. Plaintiffs were each terminated or constructively discharged as a result of Defendant’s discriminatory practices. Some were simply driven away by the unacceptable discriminatory

practices. Others were fired for pretextual reasons and/or reasons for which white employees were not terminated.

13. Plaintiff Sherry Warlick is the sole white Plaintiff in this cause of action. Plaintiff Warlick was treated differently by Defendant because she hung around with African-American employee and co-Plaintiff Tammy Hartsfield. In particular, she was told that it was best if she came up to the front to eat instead of eating in the break room with Plaintiff Hartsfield. When she refused, she began to be disciplined over pretextual matters. Plaintiff Warlick and Plaintiff Hartsfield were not even allowed to be in the office at the same time together. Plaintiff Warlick was ultimately terminated or, alternatively, constructively discharged, in retaliation for her opposition to race discrimination.

14. Within 300 days of the acts of which plaintiffs complain, most of the plaintiffs filed written charges of discrimination with the Equal Employment Opportunity Commission. Thereafter, the Commission investigated plaintiffs' charges and concluded that there was reasonable cause to believe that violations of Title VII had occurred. Suit was thereafter filed by the EEOC and plaintiffs have sought to intervene on a prompt basis. All conditions precedent to the filing of this action have been fulfilled.

15. As a result of defendant's unlawful conduct, plaintiffs have suffered loss of enjoyment of life and severe emotional distress for which they seek compensatory and punitive damages.

16. Defendant's actions complained of herein were taken with malice or with a conscious disregard for plaintiffs' federally protected rights, making an award of exemplary damages appropriate.

IV

**Request for Relief**

ACCORDINGLY, Plaintiffs respectfully request that this Court advance this case on the docket and grant them the following relief:

1. Grant plaintiffs a permanent injunction, enjoining defendant, its agents, employees, successors, and attorneys from continuing to discriminate against them;
2. Grant plaintiffs a declaratory judgment, declaring defendant's past practices herein complained of to be in violation of 42 U.S.C. § 2000e, *et seq.*, 42 U.S.C. § 1981 and 42 U.S.C. § 1981(a);
3. Grant plaintiffs back pay, front pay, retroactive seniority, compensatory damages, and any other necessary equitable and legal relief to compensate them;
4. Grant plaintiffs immediate reinstatement, or alternatively, if reinstatement is deemed infeasible, front pay;
5. Grant plaintiffs actual damages;
6. Grant plaintiffs punitive damages;
7. Grant plaintiffs attorneys' fees; and
8. Grant such other general relief to which plaintiffs show themselves justly entitled.

Respectfully Submitted,

/s/ Alex A. Castetter

Alex A. Castetter  
Attorney for Plaintiff  
Bar Card No. 00783808

Stuckey, Garrigan & Castetter  
Law Offices  
2803 C North Street  
P.O. Box 631902  
Nacogdoches, Texas 75963-1902  
(936) 560-6020/FAX: 560-9578  
aacstugar@cox-internet.com

**CERTIFICATE OF SERVICE**

I hereby certify that I have served counsel in this case with a true and correct copy of the foregoing Plaintiffs' (Intervenors') Original Complaint by sending same electronically to:

Robert A. Canino  
Suzanne M. Anderson  
Equal Employment Opportunity Commission  
Dallas District Office  
207 South Houston, 3<sup>rd</sup> Floor  
Dallas, Texas 75202

Patrick J. Maher  
Shannon, Gracey, Ratliff & Miller, L.L.P.  
777 Main Street, Suite 3800  
Fort Worth, Texas 76102-5304

on this the 17<sup>th</sup> day of August, 2005.

/s/ Alex A. Castetter

Alex A. Castetter