

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,

Plaintiff,

THERESA CHASE,

Plaintiff-Intervenor,

v.

WHITE HOUSE HOME FOR ADULTS,
and RONALD HERTZEL, individually,

Defendants.

**CIVIL ACTION NO. 04-CV-1091
(GLS/RFT)**

AMENDED INTERVENOR'S COMPLAINT

This is an action under Title VII of the Civil Rights Act of 1964, Title I of the Civil Rights Act of 1991, and the New York State Executive Law, §290, *et. seq.*, to correct unlawful employment practices on the basis of sex and retaliation, and to provide appropriate relief to Theresa Chase (hereinafter "Plaintiff-Intervenor") and similar situated female employees (hereinafter "the class"), who were affected by such practices. As alleged with greater particularity below, defendants White House Home for Adults (hereinafter "White House") and Ronal Hertzel ("Hertzel") subjected Plaintiff-Intervenor and the class of female employees to repeated sexual harassment and unlawful retaliation. In addition, defendants constructively discharged Plaintiff-Intervenor and similarly situated female employees when it failed to remedy the sexually hostile and retaliatory work environment.

JURISDICTION AND VENUE

1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. § 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.

2. Defendant White House regularly does business within the Northern District of New York and venue is proper in this district pursuant to 28 U.S.C. § 1391.

PARTIES

3. Plaintiff-Intervenor Theresa Chase resides in the County of Rensselaer, State of New York.

4. Defendant White House is a New York corporation doing business in the State of New York, Rensselaer County, and has continuously had at least fifteen employees.

5. At all relevant times, defendant White House 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).

6. Upon information and belief, at all times herein relevant, defendant Hertzell resided in the County of Rensselaer, State of New York.

STATEMENT OF CLAIMS

7. Theresa Chase filed a charge with the Equal Employment Opportunity Commission (hereinafter "EEOC") on January 29, 2003, alleging violations of Title VII of the Civil Rights Act of 1964 by defendant White House. The EEOC filed a Complaint on the basis of this charge on or about September 20, 2004. Defendant White House filed an Answer to the EEOC's Complaint on or about October 28, 2004.

AS AND FOR A FIRST CAUSE OF ACTION

8. Plaintiff-Intervenor was employed as a nurses' aide for defendant White House from October 2000 to December 2001, when she was promoted to Assistant Administrator. Ms. Chase remained an Assistant Administrator until her employment ended on May 24, 2002.

9. Throughout the duration of Ms. Chase's employment, defendant White House engaged in unlawful employment practices at its facility in Rensselaer, New York, in violation of Section 703(a)(1), of Title VII of the Civil Rights Act of 1964. These practices include, but are not limited to, the following:

a. Defendant Hertzell, the owner of defendant White House, subjected Ms. Chase to repeated and persistent crude and vulgar sexual statements about her, other employees, Mr. Hertzell's girlfriend, residents of the home, and visitors to the home. In addition, Mr. Hertzell routinely made sexual references about food, and directed crude sexual gestures to Ms. Chase and her colleagues in the workplace.

b. Mr. Hertzell's offensive and sexually explicit behavior was unwanted and unwelcomed by Ms. Chase and her colleagues in the workplace.

c. Although Ms. Chase complained about Mr. Hertzell's behavior to the White House Administrator, defendant made no efforts reasonably calculated to prevent or eradicate the conduct, and Mr. Hertzell's behavior persisted unremedied.

d. Beginning immediately after Ms. Chase's final complaint about Mr. Hertzell's behavior, Mr. Hertzell acted in an angry and abrupt manner toward her, and did not stop his crude and offensive sexual remarks. On or about May 20, 2002, while Ms. Chase was alone in the office, defendant Hertzell took a gun out of his pants, slammed it on her desk and asked her

in a threatening tone whether she was scared. As a result, Ms. Chase feared for her physical safety and well-being in the presence of defendant Hertzel.

e. As a result of Mr. Hertzel's crude and vulgar sexual behavior, Hertzel's physically threatening conduct, and defendant White House's refusal to appropriately address it, the employment conditions at the White House Home for Adults became so intolerable that Ms. Chase was forced to resign from her position.

10. The harassing and discriminatory employment practices complained of above have deprived Ms. Chase of equal employment opportunity, caused her to suffer emotional pain and suffering, and caused her to suffer financial losses.

11. The harassing and discriminatory employment practices complained of in paragraph 8 above were intentional.

12. The harassing and discriminatory employment practices complained of in paragraph 8 above were done with malice and/or with reckless indifference to Ms. Chase's federally protected rights, and are imputable to the Defendant.

AS AND FOR A SECOND CAUSE OF ACTION

13. Plaintiff repeats and realleges each and every allegation contained in Paragraphs 1 through 12 as though set forth in full herein.

14. By its actions herein alleged, defendant White House has retaliated against Ms. Chase in violation of Title VII of the Civil Rights Act of 1964, 42 U.S.C. §2000e-3(a).

15. As a result of this retaliatory conduct, Ms. Chase has suffered emotional trauma and physical consequences, and is entitled to an award of compensatory damages from defendant White House.

16. Because the retaliatory conduct of defendant White House was malicious and/or done with reckless indifference to Ms. Chase's federally-protected rights, Ms. Chase is entitled to an award of punitive damages against defendant White House.

AS AND FOR A THIRD CAUSE OF ACTION

17. Plaintiff repeats and realleges each and every allegation contained in Paragraphs 1 through 16 as though set forth in full herein.

18. By their actions herein alleged, defendants White House and Hertzler have harassed and discriminated against Ms. Chase on the basis of her sex in violation of New York State Executive Law §296.

19. As a result of the deprivation of Ms. Chase's rights, she has suffered emotional trauma and physical consequences and is entitled to compensatory damages from defendants.

AS AND FOR A FOURTH CAUSE OF ACTION

20. Plaintiff repeats and realleges each and every allegation contained in Paragraphs 1 through 19 as though set forth in full herein.

21. By their actions herein alleged, defendants White House and Hertzler have retaliated against Ms. Chase in violation of New York State Executive Law §296.

22. As a result of the deprivation of Ms. Chase's rights, she has suffered emotional trauma and physical consequences and is entitled to compensatory damages from defendants.

PRAYER FOR RELIEF

WHEREFORE, the Plaintiff-Intervenor respectfully requests that this Court:

A. Order defendants to make Theresa Chase whole by providing compensation for past and future pecuniary losses resulting from the unlawful employment practices described

above, including but not limited to, appropriate back pay with prejudgment interest and job search expenses, in amounts to be determined at trial.

B. Order defendants to make Theresa Chase whole by providing compensation for past and future non-pecuniary losses resulting from the unlawful employment practices described above, including, but not limited to, emotional pain and suffering in amounts to be determined at trial.

C. Order defendant White House to pay Theresa Chase punitive damages for its malicious and reckless conduct described above, in amounts to be determined at trial.

D. Award Theresa Chase her reasonable attorneys' fees and costs.

E. Grant Ms. Chase such further relief as the Court deems necessary and proper.

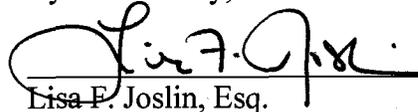
JURY TRIAL DEMAND

Plaintiff-Intervenor Theresa Chase requests a jury trial on all questions of fact raised by her Complaint.

Dated: February 22, 2005

Respectfully submitted,

Theresa Chase
PLAINTIFF-INTERVENOR
By her attorney,

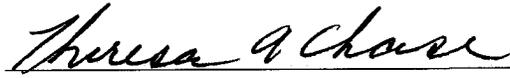


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VERIFICATION

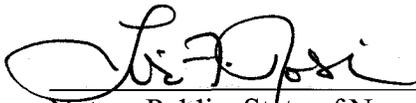
STATE OF NEW YORK)
 ss:
COUNTY OF ALBANY)

THERESA CHASE, being duly sworn, deposes and says that she is the Plaintiff named in the within action; that she has read the foregoing Verified Complaint and knows the contents thereof; and that the same is true to her own knowledge, except as to the matters therein stated to be alleged upon information and belief, and as to those matters she believes it to be true.



THERESA CHASE

Sworn to before me this 22nd
day of February, 2005.



Notary Public, State of New York

LISA F. JOSLIN
Notary Public, State of New York
Qualified in Albany County
No. 02J06002753
Commission Expires Feb. 17, 2006