

USDC SCAN INDEX SHEET



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3:98-CV-01778 EEOC V. PACIFIC HOMES  
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CLERK, U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

BY: *[Signature]* DEPUTY

1 PAMELA J. THOMASON  
ANAT EHRLICH  
2 DANIEL C. PRECIADO  
U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION  
3 255 E. Temple Street, 4th Floor  
Los Angeles, CA 90012  
4 Telephone: (213) 894-1083  
5 Attorneys for Plaintiff

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7  
8 UNITED STATES DISTRICT COURT  
9 SOUTHERN DISTRICT OF CALIFORNIA

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11 **98cv 1778H POR**

12 U.S. EQUAL EMPLOYMENT ) CV  
13 OPPORTUNITY COMMISSION, )  
14 Plaintiff, ) COMPLAINT AND JURY DEMAND  
15 v. )  
16 PACIFIC HOMES d/b/a FREDRICKA )  
17 MANOR, )  
Defendant. )

18 NATURE OF THE ACTION

19 This is an action brought under Title VII of the Civil  
20 Rights Act of 1964, as amended, to correct unlawful employment  
21 practices due to retaliation, and to provide appropriate relief  
22 to Mark Tate ("Tate") who was adversely affected by such  
23 practices. Plaintiff U.S. Equal Employment Opportunity  
24 Commission (the "EEOC" or "Commission") alleges that Tate was  
25 fired by Defendant in retaliation for complaining about sexual  
26 harassment.

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**JURISDICTION AND VENUE**

1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§451, 1331, 1337, 1343 and 1345.

2. This action is authorized and instituted pursuant to §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) and pursuant to §102 of the Civil Rights Act of 1991, 42 U.S.C. §1981A.

3. The employment practices alleged to be unlawful were committed within the Southern District of California.

**PARTIES**

4. Plaintiff, "Commission," is an 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 under §§706(f)(1) and (3) of Title VII, 42 U.S.C. §§2000e-5(f)(1) and (3).

5. At all relevant times, Pacific Homes d/b/a Fredricka Manor, ("Defendant"), has continuously had at least fifteen (15) employees.

6. At all relevant times, Defendant has continuously been engaged in an industry affecting commerce within the meaning of §§701(b), (g) and (h) of Title VII, 42 U.S.C. §§2000e-(b), (g) and (h).

**STATEMENT OF CLAIMS**

7. More than thirty (30) days prior to the institution of this lawsuit, Mark Tate filed a charge with the U.S. Equal Employment Opportunity Commission alleging violations of Title VII by Defendant. All conditions precedent to the institution of this lawsuit have been fulfilled.

1 8. Since at least December, 1995, Defendant has been  
2 engaged in unlawful employment practices at its Chula Vista,  
3 California location, in violation of §703(a) of Title VII, 42  
4 U.S.C. §2000e-2(a) and in violation of Section 704(a) of Title  
5 VII, 42 U.S.C. §2000e-3(a). These practices include firing Mark  
6 Tate in December, 1995 because he complained about sexual  
7 harassment.

8 9. The effect of the practices complained of above has  
9 been to deprive Mark Tate of equal employment opportunities in  
10 retaliation for participating in a protected activity.

11 10. As a direct and proximate result of the aforesaid acts  
12 of Defendant, Mark Tate has suffered a loss of earnings in an  
13 amount according to proof.

14 11. As a direct and proximate result of the aforesaid acts  
15 of Defendant, Mark Tate has suffered emotional distress,  
16 embarrassment, humiliation and related damages in an amount  
17 according to proof.

18 12. The unlawful practices complained of above were  
19 committed with malice or reckless indifference to the federally  
20 protected rights of Mark Tate.

21 **PRAYER FOR RELIEF**

22 Wherefore, the Commission respectfully requests that this  
23 Court:

24 A. Grant a permanent injunction enjoining Defendant, its  
25 officers, successors, assigns and all persons in active concert  
26 or participation with it, from engaging in unlawful retaliation;

27 B. Order Defendant to institute and carry out policies,  
28 practices, and programs which provide equal employment

1 opportunities for individuals and which eradicate the effects of  
2 its past and present unlawful employment practices;

3 C. Order Defendant to pay appropriate damages suffered by  
4 Tate, including back wages and benefits, together with  
5 prejudgment interest, according to proof;

6 D. Order Defendant to pay compensatory damages suffered by  
7 Tate, according to proof;

8 E. Order Defendant to make whole Tate, who was adversely  
9 affected by the unlawful practices described above, by providing  
10 affirmative relief necessary to eradicate the effects of the  
11 unlawful practices, including, but not limited to, rightful place  
12 employment;

13 F. Order Defendant to pay punitive damages, according to  
14 proof;

15 G. Grant such further relief as the Court deems necessary  
16 and proper; and

17 H. Awarding the Commission its costs in this action.

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JURY TRIAL DEMAND

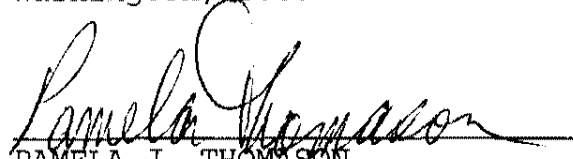
The Commission requests a jury trial on all questions of fact raised by its complaint.

Respectfully submitted,

C. GREGORY STEWART  
GENERAL COUNSEL

U.S. Equal Employment  
Opportunity Commission  
1801 L Street, NW  
Washington, D.C.

Date: September 29, 1998

  
PAMELA J. THOMASON  
REGIONAL ATTORNEY

U.S. Equal Employment  
Opportunity Commission  
255 E. Temple Street, 4th Fl.  
Los Angeles, CA 90012

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**CIVIL COVER SHEET**

**I (a) PLAINTIFFS**

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

**DEFENDANTS**

PACIFIC HOMES d/b/a FREDRICKA MANOR

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF Los Angeles  
EXCEPT IN U.S. PLAINTIFF CASES

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT San Diego

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)  
Pamela J. Thomason/Daniel C. Preciado  
U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION  
255 E. Temple Street, 4th Floor  
Los Angeles, CA 90012  
(213) 894-1083

ATTORNEYS (IF KNOWN)  
CLERK, U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

DEPUTY  
BY: '98cv 1778 H POR

**II. BASIS OF JURISDICTION (PLACE AN x IN ONE BOX ONLY)**

- 1 U.S. Government Plaintiff
- 2 U.S. Government Defendant
- 3 Federal Question (U.S. Government Not a Party)
- 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN x IN ONE BOX FOR PLAINTIFF AND ONE FOR DEFENDANT)**  
(For Diversity Cases Only)

	PTF	DEF		PTF	DEF
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

**IV. ORIGIN (PLACE AN x IN ONE BOX ONLY)**

- 1 Original Proceeding
- 2 Removed from State Court
- 3 Remanded from Appellate Court
- 4 Reinstated or Reopened
- 5 Transferred from another district (specify)
- 6 Multidistrict Litigation
- 7 Appeal to District Judge from Magistrate Judgment

**V. REQUESTED IN COMPLAINT:**  CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 **DEMAND \$**

Check YES only if demanded in complaint:  
**JURY DEMAND:**  YES  NO

**VI. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY.)** Action regarding employment discrimination pursuant to Title VII of the Civil Rights Act of 1964, as amended.

**VII. NATURE OF SUIT (PLACE AN x IN ONE BOX ONLY)**

OTHER STATUTES	CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY
<input type="checkbox"/> 400 State Reapportionment	<input type="checkbox"/> 110 Insurance	<b>PERSONAL INJURY</b>	<input type="checkbox"/> 610 Agriculture	<input type="checkbox"/> 422 Appeal
<input type="checkbox"/> 410 Antitrust	<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 620 Other Food & Drug	<input type="checkbox"/> 28 USC 158
<input type="checkbox"/> 430 Banks and Banking	<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property	<input type="checkbox"/> 423 Withdrawal
<input type="checkbox"/> 450 Commerce/ICC Rates/etc.	<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 21 USC 881	<input type="checkbox"/> 28 USC 157
<input type="checkbox"/> 460 Deportation	<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 330 Federal Employers' Liability	<input type="checkbox"/> 630 Liquor Laws	<b>PROPERTY RIGHTS</b>
<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations	<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 640 R.R. & Truck	<input type="checkbox"/> 820 Copyrights
<input type="checkbox"/> 810 Selective Service	<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 650 Airline Regs	<input type="checkbox"/> 830 Patent
<input type="checkbox"/> 850 Securities/Commodities/Exchange	<input type="checkbox"/> 153 Recovery of Overpayment Of Veteran's Benefits	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 660 Occupational Safety/Health	<input type="checkbox"/> 840 Trademark
<input type="checkbox"/> 875 Customer Challenge 12 USC 3410	<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 690 Other	<b>SOCIAL SECURITY</b>
<input type="checkbox"/> 891 Agricultural Act	<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 360 Other Personal Injury	<b>LABOR</b>	<input type="checkbox"/> 861 HIA (1395ff)
<input type="checkbox"/> 892 Economic Stabilization Act	<input type="checkbox"/> 195 Contract Product Liability	<b>CIVIL RIGHTS</b>	<input type="checkbox"/> 710 Fair Labor Standards Act	<input type="checkbox"/> 862 Black Lung (923)
<input type="checkbox"/> 893 Environmental Matters	<b>REAL PROPERTY</b>	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 720 Labor/Mgmt. Relations	<input type="checkbox"/> 863 DIWC/DIWW (405(g))
<input type="checkbox"/> 894 Energy Allocation Act	<input type="checkbox"/> 210 Land Condemnation	<input checked="" type="checkbox"/> 442 Employment	<input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act	<input type="checkbox"/> 864 SSID Title XVI
<input type="checkbox"/> 895 Freedom of Information Act	<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 443 Housing/Accommodations	<input type="checkbox"/> 740 Railway Labor Act	<input type="checkbox"/> 865 RSI (405(g))
<input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice	<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 444 Welfare	<input type="checkbox"/> 790 Other Labor Litigation	<b>FEDERAL TAX SUITS</b>
<input type="checkbox"/> 950 Constitutionality of State Statutes	<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)
<input type="checkbox"/> 870 Other Statutory Actions	<input type="checkbox"/> 245 Tort Product Liability			<input type="checkbox"/> 871 IRS-Third Party 26 USC 7609
	<input type="checkbox"/> 290 All Other Real Property			

**VIII(a). IDENTICAL CASES:** Has this action been previously filed and dismissed, remanded or closed?  No  Yes

If yes, list case number(s): \_\_\_\_\_