

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

LIBRARY
U.S. DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI, FLORIDA

EQUAL EMPLOYMENT OPPORTUNITY)
COMMISSION,)
)
Plaintiff,)
)
v.)
)
FRANCISCO BALDOR SCHOOL,)
)
Defendant.)
_____)

98-1405

CIV-UNGARO-BENACEC

CIVIL ACTION NO.

MAGISTRATE JUDGE
BROWN

COMPLAINT
JURY TRIAL DEMAND
INJUNCTIVE RELIEF SOUGHT

NATURE OF THE ACTION

This is an action under Title VII of the Civil Rights Act of 1964 and Title VII of the Civil Rights Act of 1991, to correct unlawful employment practices on the basis of sex (pregnancy) and to provide appropriate relief to Mercedes Alvarez, and any other similarly situated individuals who were adversely affected by such practices. As alleged with greater particularity in paragraph 7 below, the Equal Employment Opportunity Commission (the "EEOC" or "Commission") alleges that Mercedes Alvarez was either not hired or was terminated from a teaching position at the Francisco Baldor School because she was pregnant.

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 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. 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 Florida, Miami Division.

PARTIES

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

4. At all relevant times, Defendant Francisco Baldor School (the "Employer"), has continuously been a private educational institution in the State of Florida and the City of Miami, and at all relevant times has had at least 15 employees.

5. At all relevant times, Defendant Employer 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

6. More than thirty days prior to the institution of this lawsuit, Mercedes Alvarez filed a charge with the Commission alleging violations of Title VII by Defendant Employer, Francisco Baldor School. All conditions precedent to the institution of this lawsuit have been fulfilled.

7. On or about August 23, 1995, Defendant Employer Francisco Baldor School engaged in unlawful employment practices at its Miami, Florida, facility in violation of Section 703(a)(1) of Title VII, 42 U.S.C. § 2000e-2(a)(1) and Section 701(k) of Title VII, 42 U.S.C. §§

2000e(k), by implementing a policy and/or practice that discriminates against pregnant employees. Because of a condition of her gender, pregnancy, Ms. Alvarez was subjected to disparate treatment. Mercedes Alvarez was not allowed to teach the third grade at Francisco Baldor School because of her pregnancy. The Defendant Employer terminated her or failed to hire her for the position of third grade teacher in that:

a. Mercedes Alvarez was interviewed and offered employment as a third grade teacher at the Francisco Baldor School. Ms. Alvarez accepted employment and was invited to attend a teacher's meeting at the Francisco Baldor School on or about August 23, 1995. On or about August 23, 1995, the school's director, Miriam Morales, asked Ms. Alvarez if she was pregnant and Ms. Alvarez confirmed that she was pregnant.

b. On or about August 23, 1995, Ms. Alvarez was told by Ms. Morales that the parents of the children attending the Francisco Baldor School would not be happy about her being pregnant. Ms. Alvarez was told that her pregnancy was a problem and that she would not be allowed to teach third grade at the Francisco Baldor School because she was pregnant.

c. Ms. Alvarez told Miriam Morales that she believed denying her employment on the basis of pregnancy was illegal. Ms. Morales then told Mercedes Alvarez not to attend the scheduled teacher's meeting and to leave the school grounds.

8. The effect of the practices complained of in paragraph 7 above has been to deprive Mercedes Alvarez and any other similarly situated female employees of equal employment opportunities and otherwise adversely affect their status as employee(s) or applicant(s) for employment because of their gender.

9. The unlawful employment practices complained of in paragraph 7 above were and are intentional.

10. The unlawful employment practices complained of in paragraph 7 above were and are done with malice or with reckless indifference to the federally protected rights of Mercedes Alvarez and any other similarly situated female employees.

PRAYER FOR RELIEF

Wherefore, the Commission respectfully requests that this Court:

A. Grant a permanent injunction enjoining Defendant Employer Francisco Baldor School, its officers, successors, assigns, and all persons in active concert or participation with it, from engaging in such discharge or failure to hire and any other employment practices which discriminates on the basis of sex (pregnancy).

B. Order Defendant Employer Francisco Baldor School to institute and carry out policies, practices, and programs which provide equal employment opportunities for pregnant employees, and which eradicate the effects of its past and present unlawful employment practices.

C. Order Defendant Employer Francisco Baldor School to make whole Mercedes Alvarez and any other similarly situated individuals, by providing appropriate backpay 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, frontpay or reinstatement/hire of Mercedes Alvarez.

D. Order Defendant Employer Francisco Baldor School to pay Mercedes Alvarez and any other similarly situated individuals punitive damages for its malicious and/or reckless conduct

described in paragraph 7 above, in amounts to be determined at trial.

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

F. Award the Commission its costs of this action.

JURY TRIAL DEMAND

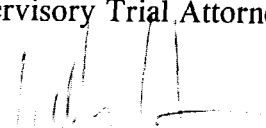
The Commission requests a jury trial on all questions of fact raised by its complaint.

C. GREGORY STEWART
General Counsel

GWENDOLN Y. REAMS
Deputy General Counsel

DELNER FRANKLIN-THOMAS
Regional Attorney

EVE G. LOWE
Supervisory Trial Attorney



KELLY HENDERSON
Trial Attorney
Florida Bar Number 980500
EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION
Two South Biscayne Boulevard
Suite 2700
Miami, Florida 33131
(305) 530-6006
(305) 530-6000
(305) 530-7660 Facsimile

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I (a) PLAINTIFFS

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DEFENDANTS

FRANCISCO BALDOR SCHOOL

CIV - UNGARO - BENAGES

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

DADE / 198 CV 1405 / UUB / STB

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)
 Kelly Henderson 305-530-6006
 One Biscayne Tower, Suite 2700
 Two So. Biscayne Blvd.
 Miami, FL 33131

ATTORNEYS (IF KNOWN)

(d) CIRCLE COUNTY WHERE ACTION AROSE:

DADE MONROE, BROWARD, PALM BEACH, MARTIN, ST. LUCIE, INDIAN RIVER, OKEECHOBEE, HIGHLANDS

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 BOX FOR DEFENDANT)

- | | | | | | |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| | 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. 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 to correct unlawful employment practices in violation of Section 703(a)(1) of Title VII of the Civil Rights Act of 1964, as amended and Section 701(k) of Title VII. Action alleges employment discrimination based on pregnancy. Iva. 3 days estimated (for both sides) to try entire case.

V. NATURE OF SUIT (PLACE AN X IN ONE BOX ONLY)

A CONTRACT	A TORTS	B FORFEITURE/PENALTY	A BANKRUPTCY	A OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury—Med Malpractice <input type="checkbox"/> 365 Personal Injury—Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other A LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Emp. Ret. Inc. Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 A PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark B SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) A FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input checked="" type="checkbox"/> 890 Other Statutory Actions *A or B
A REAL PROPERTY	A CIVIL RIGHTS	B PRISONER PETITIONS		
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 441 Voting <input checked="" type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input checked="" type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights *A or B		

VI. ORIGIN (PLACE AN X IN ONE BOX ONLY)

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

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 **DEMAND \$** _____ **JURY DEMAND:** YES NO

VIII. RELATED CASE(S) IF ANY (See instructions):

JUDGE _____ DOCKET NUMBER _____

DATE June 22, 1998

SIGNATURE OF ATTORNEY OF RECORD Kelly Henderson, Esq., FBN 9S0500

[Signature] 6/22/98