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IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF FLORIDA  
FT. LAUDERDALE DIVISION

*S* CLARENCE MADDOX  
CLERK, USDC / SDPL / MIA

UNITED STATES EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,	)	
	)	
	)	05-CV-61580-Altonga/Turnoff
Plaintiff,	)	
	)	<u>AMENDED COMPLAINT</u>
v.	)	<u>JURY TRIAL DEMAND</u>
	)	
PH FITNESS, INC. d/b/a FITNESS FIRST and PBH FITTESS, LLC, d/b/a FITNESS FIRST	)	
	)	<u>INJUNCTIVE RELIEF REQUESTED</u>
	)	
Defendants.	)	
	)	

NATURE OF THE ACTION

This is an action under Title VII of the Civil Rights Act of 1964 and Title I of the Civil Rights Act of 1991, to correct unlawful employment practices on the basis of sex, female and pregnancy, and to provide appropriate relief due to Dawn Grungo who was adversely affected by such practices. As stated with greater particularity in the paragraphs below, the United States Equal Employment Opportunity Commission (hereinafter the "EEOC" or "Commission") alleges that Defendants discriminated against Ms. Grungo because of her sex, female, and her pregnancy.

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

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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 committed within the jurisdiction of the United States District Court for the Southern District of Florida, Ft. Lauderdale Division.

#### PARTIES

3. Plaintiff, the EEOC, 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, Defendants PH Fitness, Inc., d/b/a Fitness First and PBH Fitness, LLC d/b/a Fitness First (“Defendants”), fitness facility companies, have continuously been foreign corporations, doing business in the State of Florida and the Cities of Deerfield Beach and Plantation, and have continuously had at least 15 employees.

5. At all relevant times, Defendants have continuously been employers 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, Dawn Grungo filed a charge with the Commission alleging violations of Title VII by Defendants. All conditions precedent to the institution of this lawsuit have been fulfilled.

7. Since at least July 2004, Defendants have engaged in unlawful employment practices at, in violation of Section 703(a)(1) of Title VII, 42 U.S.C. § 2000e-2(a).

- e. Dawn Grungo began working for Defendants in or about June 2002 at the Fitness First Deerfield Beach facility as a front desk clerk.
- f. In or about December 2003, Defendants announced that Dawn Grungo

- g. would be promoted to manager of the new Fitness First Plantation facility. Ms. Grungo was informed that she would transfer to the Fitness First Plantation facility in or about August 2004.
- h. In or about June/July 2004 Dawn Grungo informed her supervisor that she believed she was pregnant.
- i. On or about July 13, 2004, Dawn Grungo informed her supervisor that she was indeed pregnant.
- j. On or about July 15, 2004, Dawn Grungo was terminated.

8. The effect of the unlawful employment practices complained of above has been to deprive Dawn Grungo of equal employment opportunities, and otherwise adversely affect her status as an employee because of her sex.

9. The unlawful employment practices complained of above were intentional.

10. The unlawful employment practices complained of above were done with malice or with reckless indifference to the federally protected rights of Dawn Grungo.

#### PRAYER FOR RELIEF

Wherefore, the Commission requests that this Court:

A. Grant a permanent injunction enjoining Defendants, their officers, successors, assigns and all persons in active concert or participation with them, from engaging in sex and pregnancy discrimination in employment practices at their facilities.

B. Order Defendants to institute and carry out policies, practices, and programs which provide equal employment opportunities for women which eradicate the effects of their past and present unlawful employment practices.

C. Order Defendants to make whole Dawn Grungo 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, including but not limited to, reinstatement, rightful-place hiring, and front pay.

D. Order Defendants to make whole Dawn Grungo by providing compensation for past and future pecuniary losses resulting from the employment practices described in paragraphs seven through eleven above, including but not limited to, out-of-pocket losses, medical expenses and job search expenses, in amounts to be determined at trial.

E. Order Defendants to make whole Dawn Grungo by providing compensation for past and future nonpecuniary losses resulting from the employment practices described in paragraphs seven through ten above, including but not limited to, emotional pain, suffering, inconvenience, loss of enjoyment of life, and humiliation, in amounts to be determined at trial.

F. Order Defendants to pay punitive damages for their malicious and reckless conduct described in paragraphs seven through ten above, in an amount to be determined at trial.

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

H. Award the Commission its costs of this action.

JURY TRIAL DEMAND

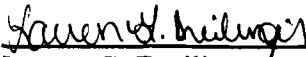
The Commission requests a jury trial on all questions of fact raised by its complaint.

Respectfully Submitted,

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