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MARY A. WILKOWSKI 4622  
304C Iolani Avenue  
Honolulu, Hawaii 96813  
Telephone: (808) 536-5444  
Facsimile: (808) 591-2990  
E-Mail: maw808@aol.com

FILED IN THE  
UNITED STATES DISTRICT COURT  
DISTRICT OF HAWAII

Attorney for Plaintiff-Intervenor  
DORIS FALETOI

MAR 20 2007  
at 2 o'clock and 4 min M  
SUE BEITIA, CLERK

UNITED STATES DISTRICT COURT  
DISTRICT OF HAWAII

U.S. EQUAL EMPLOYMENT  
OPPORTUNITY COMMISSION,

Plaintiff,

vs.

STRAUB HOSPITAL and  
HAWAII PACIFIC HEALTH,

Defendants.

\_\_\_\_\_  
DORIS FALETOI,

Plaintiff-Intervenor,

vs.

STRAUB HOSPITAL and  
HAWAII PACIFIC HEALTH,

Defendants.

Case No.: CV-06-00539<sup>530</sup>ACK-LEK

**CIVIL RIGHTS COMPLAINT OF  
PLAINTIFF-INTERVENOR DORIS  
FALETOI**

**JURY TRIAL DEMANDED**

**CIVIL RIGHTS COMPLAINT OF**  
**PLAINTIFF-INTERVENOR DORIS FALETOI**

Plaintiff-Intervenor DORIS FALETOI (“Plaintiff-Intervenor”), by and through her undersigned attorney, hereby alleges the following claims against her prospective employers, Defendants HAWAII PACIFIC HEALTH and STRAUB HOSPITAL (“Defendants” or “Defendant Employers”). A jury trial in this case has been set. The factual bases for each claim are incorporated and realleged as part of each successive claim.

1. 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 gender (female) and age (over 40) to provide appropriate relief because Defendants failed and refused to hire her because she is a woman and over the age of 40, and she has been adversely affected because of Defendants’ practices. Plaintiff-Intervenor alleges that Defendant Employers discriminated against her, despite her qualifications for such positions, by failing to hire her as a security officer for its medical facilities on three separate occasions: for Straub Hospital in or about March 2004, for Straub Hospital in or about May 2004, and for Kapiolani Medical Center for Women and Children in or about May 2004.

2. Plaintiff-Intervenor is also among a group of similarly-situated women on whose behalf the Equal Employment Opportunity Commission filed suit on September 28, 2006 against Defendant Employers under the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. §§ 621 et seq., (the “ADEA”), to correct unlawful employment practices on the basis of age (over 40).

### **JURISDICTION AND VENUE**

3. 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”). This Court also has jurisdiction over pendant State of Hawaii claims, which are also alleged

4. The employment practices alleged to be unlawful occurred within the jurisdiction of the United States District Court for the District of Hawaii.

### **PARTIES**

5. Plaintiff-Intervenor is a woman who, at all relevant times, was a resident of the City and County of Honolulu, in the State of Hawaii.

6. Defendant Straub Hospital is and was at all relevant times a Hawaii corporation continuously doing business in the City and County of Honolulu, State of Hawaii. It has continuously maintained at least 15 employees.

7. Defendant Hawaii Pacific Health is and was at all relevant times a Hawaii corporation continuously doing business in the City and County of Honolulu. It has continuously maintained at least 15 employees.

8. 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).

9. All of the acts and failures to act alleged herein were duly performed by and attributable to all Defendants, each acting as a successor, agent, employee, or under the direction and control of the others, except as specifically alleged otherwise. Said acts and failures to act were within the scope of such agency and/or employment, and each Defendant participated in, approved and/or ratified the unlawful acts and omissions by the other Defendants complained of herein. Whenever and wherever reference is made in this Complaint to any act by a Defendant or Defendants, such allegations and reference shall also be deemed to mean the acts and failures to act of each Defendant acting individually, jointly, and/or severally.

### **STATEMENT OF CLAIMS**

#### **Count 1 - Discrimination (Gender)**

in violation of Section 703 of Title VII, 42 U.S.C. § 2000e-2, et seq.

10. Plaintiff-Intervenor has satisfied all jurisdictional prerequisites to filing suit in this Court, pursuant to Title VII.

11. Since March 2004, Defendant Employers individually and collectively engaged in unlawful employment practices at their Honolulu location in violation of Section 703 of Title VII, 42 U.S.C. § 2000e-2, by failing to hire Plaintiff-Intervenor because she is a woman.

12. Defendant Employers' discriminatory and unlawful practices have deprived Plaintiff-Intervenor of her right to equal employment opportunities and otherwise adversely affected her status as an applicant for employment, because of her gender.

13. Defendant Employers' unlawful employment practices were done either maliciously or with reckless indifference to Plaintiff-Intervenor's federally-protected rights.

Count 2 - Discrimination (Gender)

in violation of H.R.S. 378-2, et seq., the Hawaii Administrative Rules  
and Common Law

14. HRS Sec. 378-2 provides that:

It shall be an unlawful discriminatory practice:

(1) Because of race, **sex**, sexual orientation, age, religion, color, ancestry, disability, marital status, or arrest and court record:

(A) For any employer to refuse to hire or employ or to bar or discharge from employment, or otherwise to discriminate against any individual in compensation or in the terms, conditions, or privileges of employment;

(3) For any person whether an employer, employee, or not, to aid, abet, incite, compel, or coerce the doing of any of the discriminatory practices forbidden by

this part, or to attempt to do so[.]

15. As alleged, the actions of Defendants, and each of them, violated HRS 378-2, et seq.

16. Plaintiff-Intervenor received a right to sue letter from the Equal Employment Opportunity Commission and timely asserts this claim..

17. The actions of Defendants, and each of them, violated the common law protections afforded to Plaintiff-Intervenor that proscribe discrimination by a prospective employer based upon gender.

18. By reason of Defendants' conduct, Plaintiff-Intervenor has necessarily retained an attorney to prosecute this action. She is, therefore, entitled to an award of reasonable attorneys' fees and litigation expenses incurred in bringing this suit.

19. As a result of Defendants' actions, Plaintiff-Intervenor has suffered humiliation, mental anguish and emotional and physical distress resulting in damages in an amount to be proved at trial. Defendants' actions have also caused her to sustain economic damages to be proven at trial.

### Count 3 - Discrimination (Age)

in violation of H.R.S. 378-2, et seq., the Hawaii Administrative Rules  
and Common Law

20. HRS Sec. 378-2 provides that:

It shall be an unlawful discriminatory practice:

(1) Because of race, sex, sexual orientation, **age**, religion, color, ancestry,

disability, marital status, or arrest and court record:

- (A) For any employer to refuse to hire or employ or to bar or discharge from employment, or otherwise to discriminate against any individual in compensation or in the terms, conditions, or privileges of employment;
- (3) For any person whether an employer, employee, or not, to aid, abet, incite, compel, or coerce the doing of any of the discriminatory practices forbidden by this part, or to attempt to do so[.]

21. As alleged, the actions of Defendants, and each of them, violated HRS 378-2, et seq.

22. Plaintiff-Intervenor received a right to sue letter from the Equal Employment Opportunity Commission and timely asserts this claim..

23. The actions of Defendants, and each of them, violated the common law protections afforded to Plaintiff-Intervenor that proscribe discrimination by a prospective employer based upon age.

24. By reason of Defendants' conduct, Plaintiff-Intervenor has necessarily retained an attorney to prosecute this action. She is, therefore, entitled to an award of reasonable attorneys' fees and litigation expenses incurred in bringing this suit.

25. As a result of Defendants' actions, Plaintiff-Intervenor has suffered humiliation, mental anguish and emotional and physical distress resulting in damages in an amount to be proved at trial. Defendants' actions have also caused her to sustain economic damages to be proven at trial.

## PRAYER FOR RELIEF

Wherefore, Plaintiff-Intervenor respectfully urges this Court to:

A. Permanently enjoin Defendant Employers, their officers, successors, assigns, and all persons in active concert or participation with it, from engaging in sex- and age-based discrimination and any other discriminatory employment practices.

B. Order Defendant Employers to institute and carry out policies, practices, and programs that provide equal employment opportunities for women, and that mitigate the effects of their past unlawful employment practices.

C. Order Defendant Employers to make Plaintiff-Intervenor whole by providing compensatory back pay, plus prejudgment interest, in an amount to be determined at trial, and other affirmative relief necessary to eradicate the effects of their unlawful employment practices, including but not limited to rightful-place hiring, plus prejudgment interest.

D. Order Defendant Employers to make Plaintiff-Intervenor whole by compensating her for past and future pecuniary losses resulting from their unlawful employment practices, in an amount to be determined at trial.

E. Order Defendant Employers to make Plaintiff-Intervenor whole by compensating her for past and future non-pecuniary losses resulting from their unlawful



practices, including emotional pain, suffering, inconvenience, loss of enjoyment of life, and humiliation, in an amount to be determined at trial.

F. Order Defendant Employers to pay Plaintiff-Intervenor punitive damages for their malicious and reckless conduct, in an amount to be determined at trial.

G. Order Defendant Employers to pay Plaintiff-Intervenor her attorney's fees and costs.

H. Grant such further relief as this Court deems necessary and proper,

**JURY TRIAL DEMAND**

Jury trial has been set in this matter, and Plaintiff-Intervenor seeks a jury trial on all questions of fact raised by this Complaint.

Dated: Honolulu, Hawaii, March 19, 2007.

  
MARY A. WILKOWSKI  
Attorney for Plaintiff-Intervenor  
DORIS FALETOI