IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF ILLINOIS

EQUAL EMPLOYMENT)
OPPORTUNITY COMMISSION,)
)
Plaintiff,) Case No. 05-440-GPM
)
and PEARLE PHILLIPS,)
Plaintiff/Intervenor) <u>JURY TRIAL DEMANDED</u>
)
V.)
)
WALGREEN COMPANY,)
)
Defendant.)
)

COMPLAINT IN INTERVENTION

Plaintiff/Intervenor, Pearle Phillips ("Phillips"), brings this Complaint in Intervention pursuant to Rule 24(a) of the Federal Rules of Civil Procedure and states and alleges the following for her cause against Defendant, Walgreen Company ("Defendant"):

Jurisdiction and Venue

- 1. Jurisdiction of the Court is invoked pursuant to 28 U.S.C. §§ 1343 (a)(4).
- 2. This case arises under the laws of the United States, specifically 42 U.S.C. Section1981.
- 3. Venue is proper pursuant to 42 U.S.C. § 2000e-5(f)(3) and because the employment actions at issue were committed within the jurisdiction of this Court.

Parties

4. The Equal Employment Opportunity Commission ("EEOC") is the federal agency authorized by federal law to enforce Title VII.

- 5. Phillips is an African American female and at all times relevant to this Complaint was a citizen and resident of the State of Illinois.
- 6. At all relevant times, Defendant has continuously been doing business in the State of Illinois and the County of St. Clair and continuously employing at least 15 employees.
- 7. Defendant is an Illinois Corporation authorized and registered to do business in Illinois and is an employer in Illinois within the meaning of 42 U.S.C. 2000e(b).

Exhaustion of Administrative Remedies

- 8. Phillips timely filed with the EEOC a Charge of Discrimination alleging violations of Title VII against Defendant (attached as Exhibit A).
 - 9. After an unsuccessful attempt at conciliation, the EEOC initiated this action.
- 10. All private, administrative and judicial prerequisites to the institution of this action have been fulfilled.

COUNT I

Violation under Title VII of the Civil Rights Act

- 11. Paragraphs 1 through 10 above are incorporated as if stated fully herein.
- 12. Phillips is an African American.
- 13. Phillips became employed by Defendant in about December 1997 at the Walgreens store in Swansea, Illinois as assistant manager.
- 14. Phillips was reassigned to the Woodriver, Illinois Walgreens store in November,1998. She was promoted to Executive Assistant Manager.
- 15. Within a year of Phillips' transfer to the Woodriver location, Phillips' District Manager learned she was African American. Phillips was abruptly reassigned to the Blackjack,

Missouri Walgreens, a store commonly referred to by Walgreens Management as an "ethnic store" due to its high volume of non-white customers and low sales volume.

- 16. The reassignment to a predominantly black/low income "ethnic" store impacted Phillips' income and promotion opportunities.
- 17. Within months of reassignment to the Blackjack location, Phillips sought a transfer and reassignment to a store in the East District of Illinois.
- 18. Phillips communicated to her District Manager, Mr. Woods, that she had been hearing rumors that she had been "marked" for ethnic stores only.
 - 19. Mr. Woods advised Phillips there were plenty of ethnic stores that made money.
- 20. Phillips communicated to Mr. Woods she felt there was a real problem with discriminatory practices based on race as they pertained to store assignments and promotions..
- 21. To placate Phillips, Defendant reassigned Phillips for a brief period to the Collinsville, Illinois Walgreens store where she was referred to as the "Black Manager".
- 22. Phillips communicated to District Manager Mark Drury that she had been labeled as black, a practice she opposed.
- 23. Phillips then worked for a brief period of time in a Belleville, Illinois Walgreens store.
- 24. Phillips was reassigned to the East St. Louis Walgreens store in July 2002, a predominantly black, low income store, even though she was qualified for and sought store management opportunities in O'Fallon, Illinois.
- 25. Defendant engaged in a pattern of race discrimination by making store assignments to Phillips based on race.

- 26. Defendant engaged in a pattern of race discrimination by denying Phillips promotions she sought because of her race.
- 27. The effect of Defendant's practices was to deprive Phillips of equal employment opportunities and otherwise affect her status based on race.
- 28. The unlawful employment practices were done with malice or reckless indifference to Phillips' federally protected rights. Phillips is therefore entitled to an award of punitive damages.
- 29. As a direct and proximate result of Defendant's actions and/or inactions, Phillips has suffered lost income and benefits.
- 30. As a direct and proximate result of Defendant's actions and/or inactions, Phillips has suffered emotional pain, suffering, inconvenience, embarrassment and humiliation.
- 31. Phillips is entitled to recover reasonable attorney's fees and costs as provided in 42 U.S.C. § 2000e-5(k).

COUNT II

Violation under 42 U.S.C. § 1981 Race Discrimination

- 32. Phillips realleges and incorporates by reference the allegations contained in Paragraph 1-31 above
 - 33. Phillips is African American.
- 34. Defendant has intentionally discriminated against Phillips on the basis of race as set forth above in violation of 42 U.S.C. § 1981.
- 35. Phillips has suffered and will continue to suffer irreparable harm and injury as a result of Defendants' actions/inactions as set forth herein.

discrimination by Defendant.

37. Defendant's conduct has caused Phillips pain and suffering and loss of future

earning capacity.

38. Defendant's actions were in willful, gross and reckless disregard of Phillips'

rights under 42 U.S.C. § 1981.

39. As a direct and proximate result of Defendant's discrimination against Phillips.

she is entitled to the relief set forth below.

Prayer for Relief

WHEREFORE, Plaintiff/Intervenor Pearle Phillips requests that the Court enter judgment

in her favor against Defendant for such damages, actual and nominal, as are fair and reasonable,

for her reasonable attorney's fees and costs incurred herein, for interest as allowed by law, and

for such other and further legal and equitable relief as the Court deems just and proper.

Respectfully submitted,

By: _/s/ JoDee Favre

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CERTIFICATE OF SERVICE

I certify that on April 26, 2007, I electronically filed the above and foregoing document with the Clerk of the Court using the CM/ECF system which sent notification of such filing to the following CM/ECF participants:

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> _/s/ JoDee Favre Attorney for Plaintiff Phillips/Intervenor