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U.S. DIST. COURT
MIDDLE DISTRICT OF LA
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RICHARD T. MARTIN
CLERK

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

DOROTHY BANKS, TINA BROOKS, SHIRLEY BROWN,
ANNETTE GRAY, MARY L. HOLMES, ANNIE JOHNSON,
AMY LANE, ROSA MALVEAU, DOROTHY MCPPIPE,
ALMA NEWMAN, MAGGIE TUCKER, BERTHA TWINE,
BERTHELLA WALLACE, EDNA WELCH,
MARY WILLIAMS, and NELLIE WILLIAMS

* CIVIL ACTION
* NO. 98-974-A-M2
* SECTION ____
* MAG. ____

VERSUS

EAST BATON ROUGE PARISH SCHOOL BOARD,
INGRID KELLEY, WARREN L. PRATT, JR.,
DR. PRESS L. ROBINSON, SR., JACQUELINE MIMS,
PATRICE NIQUILLE, PATRICIA HAYNE-SMITH,
NOEL HAMMATT, ROGER MOSER, DANIEL R.
HENDERSON, ELDON R. LEDOUX, DALTON DEVAL, ALL,
WILLIAM P. BLACK, and JAMES MANLEY

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* JURY REQUESTED
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COMPLAINT

Plaintiffs, Dorothy Banks, Tina Brooks, Shirley Brown, Annette Gray, Mary L. Holmes,
Annie Johnson, Amy Lane, Rosa Malveau, Dorothy McPipe, Alma Newman, Maggie Tucker, Bertha
Twine, Berthella Wallace, Edna Welch, Mary Williams, and Nellie Williams, complain against
defendants, East Baton Rouge Parish School Board ("EBRPSB" or "School Board"), Ingrid Kelley,
Warren L. Pratt, Jr., Dr. Press L. Robinson, Sr., Jacqueline Mims, Patrice Niquille, Patricia Hayne-
Smith, Noel Hammatt, Roger Moser, Daniel R. Henderson, Eldon R. Ledoux, Dalton Devall,
William P. Black, and James Manley alleging:

See Summons



JURISDICTION

1.

This Court has jurisdiction pursuant to §706(f)(3) of Title VII of the Civil Rights Act of 1964 and 1991, as amended, 42 U.S.C. §2000e-5(f)(3), §1983 of the Civil Rights Act of 1871, 42 U.S.C. §1983 and 28 U.S.C. §1331.

PARTIES

2.

The plaintiffs, Dorothy Banks, Tina Brooks, Shirley Brown, Annette Gray, Mary L. Holmes, Annie Johnson, Amy Lane, Rosa Malveau, Dorothy McPipe, Alma Newman, Maggie Tucker, Bertha Twine, Berthella Wallace, Edna Welch, Mary Williams, and Nellie Williams are women of full age of majority who are residents of Baton Rouge, Louisiana, and who at all relevant times were employed by defendant, East Baton Rouge Parish School Board, in janitorial positions.

3.

Defendant, East Baton Rouge Parish School Board (“EBRPSB” or “School Board”), is a political subdivision of the State of Louisiana and an employer of plaintiffs, within the meaning of §701(b) of Title VII, 42 U.S.C. §2000e-(b).

4.

Defendants, Ingrid Kelley, Warren L. Pratt, Jr., Dr. Press L. Robinson, Sr., Jacqueline Mims, Patrice Niquille, Patricia Hayne-Smith, Noel Hammatt, Roger Moser, Daniel R. Henderson, Eldon R. Ledoux, Dalton Devall and William P. Black are persons of full age of majority who are residents of Baton Rouge, Louisiana and who are members of the EBRPSB.

5.

Defendant, James Manley, is a person of full age of majority, upon information and belief a resident of Baton Rouge, Louisiana, and employed by the EBRPSB in the position of supervisor of human resources for its maintenance division. At all relevant times, Mr. Manley has been a supervisor of the plaintiffs.

ADMINISTRATIVE PREREQUISITES

6.

On May 6, 1998, plaintiffs, Dorothy Banks, Tina Brooks, Annette Gray, Mary L. Holmes, Annie Johnson, Amy Lane, Rosa Malveau, Dorothy McPipe, Alma Newman, Maggie Tucker, Bertha Twine, Berthella Wallace, Edna Welch, Mary Williams, and Nellie Williams filed charges with the Equal Employment Opportunity Commission (“EEOC”), on behalf of themselves and those similarly situated, charging the EBRPSB with discriminating against them on the basis of their gender and with retaliating against them for being parties to a state lawsuit alleging employment discrimination.

7.

The EEOC charges were filed within three hundred (300) days of the discriminatory and retaliatory employment practices described in this Complaint. On November 9, 1998, the plaintiffs received notification of right to sue from the EEOC.

FACTS

8.

On June 29, 1993, and in amending petitions filed on October 6, 1993 and April 12, 1994, plaintiffs along with other female Janitor I employees became parties to a state lawsuit filed against the School Board alleging employment discrimination. The state lawsuit alleged in part that the

School Board had reduced their hours of employment from 6 hours to 4 hours and had eliminated their medical benefits and, in some cases, their retirement benefits, on the basis of their sex -- female. In the summer of 1997, plaintiffs entered into settlement negotiations with the School Board in an attempt to resolve the state lawsuit. One element of settlement demanded by the plaintiffs herein was reinstatement to full-time janitorial positions with resumption of their retirement and medical benefits.

9.

The School Board responded in part to the state law plaintiffs' settlement proposal by informing plaintiffs that it was creating a new, full-time janitorial position and that it wanted to find out how many of the plaintiffs were interested in and how many were eligible for employment in the new, full-time janitorial position.

10.

In September or October 1997, plaintiffs were contacted by the human resources department for the maintenance division and directed to come to a School Board office to take a test for the new full-time janitorial position. Plaintiffs were then given a "practical" test in the morning, evaluating their skills in operating a lawnmower, an edger, a weeder, a buffer and other equipment as well as performing tasks such as changing air-conditioning filters and climbing ladders to change light bulbs. Then after a lunch break, plaintiffs were all directed to take a timed, written reading test. Upon information and belief, the reading test did not pertain to janitorial duties, but was a general reading test. Many of the plaintiffs did not finish the reading test in the time allotted.

11.

Thereafter, plaintiffs were notified that they had all “passed” the practical section of the test, but that they, with the exception of Shirley Brown, had “failed” the reading portion of the janitor test. Shirley Brown was notified that she had passed both sections of the test, indeed, that she had made the highest score.

12.

Plaintiffs were contacted individually and orally by defendant, Manley, who told them that unless they passed the reading test with an eighth grade level reading score, they could not qualify for the new full-time janitorial position.

13.

Mr. Manley informed plaintiffs that they could remain in their current job position of Janitor I, working four hours per day, without medical benefits. Alternatively, Mr. Manley offered plaintiffs, except Shirley Brown, employment in the new full-time janitorial position on a “probationary” basis. Mr. Manley informed the plaintiffs that if they accepted the “probationary” janitorial position, they would have to go to adult education classes in reading and be re-tested in reading. Mr. Manley told plaintiffs that if they passed the reading test at the end of nine months, their pay would be increased to their current step to reflect their years as a School Board employee but not to their current hourly rate. Mr. Manley showed plaintiffs the salary scale for the new janitorial position, which provided a lower hourly rate for each corresponding step than did the salary scale for the Janitor I positions which they currently held.

14.

Mr. Manley did not give all of the plaintiffs the same information about the conditions of employment, nor were the conditions written down. Mr. Manley informed some of the plaintiffs that if they did not receive a passing score on the reading test after re-taking it, they would be terminated. Mr. Manley informed other plaintiffs that he did not know what would happen to them if they did not pass the reading test after re-taking it.

15.

Mr. Manley informed the plaintiffs that if they accepted the probationary janitorial position, they would be placed at the "zero" step in the wage scale for that position. At the "zero" step they would be paid \$5.82 per hour. Mr. Manley informed plaintiffs that only if they passed the reading test could they be raised to their current salary step, and even then they would not be raised to their current hourly rate.

16.

Mr. Manley told plaintiffs that if they took the new janitor job on a probationary basis, they could not return to their former janitor positions, because the positions would no longer be available. When Mr. Manley was asked if they could stay in their current janitorial positions, work on their reading and then take the test again, he told them no; Mr. Manley said that once the new janitor positions were filled, janitorial substitutes would be hired, who would then be the only ones promoted into the new janitor positions.

17.

Plaintiffs are all long term employees of the EBRPSB (all had more than 6 years of service), who through step increases over the years had earned pay increases and had reached at least the sixth

step in the janitorial pay scale (G-12). For example, Shirley Brown, Dorothy Banks, Mary Holmes, Amy Lane, Rosa Malveau and Dorothy McPipe had 7, 9, 10, 17, 26 and 22 years of service, respectively, in 1997 with the School Board. Rosa Malveau, Dorothy McPipe, Berthella Wallace and Edna Welch who were earning \$10 per hour at Step 15 as Janitor I's, would have seen their wage rates cut almost in half at Step 0 in the new janitor position.

18.

Mr. Manley offered Shirley Brown a "promotion" to the new janitorial position, at her current salary Step 7. However, Step 7 in the new janitorial salary scale paid \$7.36 per hour whereas Ms. Brown was earning \$8.08 per hour in her Janitor I position at Step 7. Shirley Brown protested that since she made the highest score and was being promoted to a new position, she should be earning more, not less. Nevertheless, Ms. Brown accepted the job as offered.

19.

Upon information and belief, the past policy of the School Board has always been when promoting employees, to assign the employees to the pay grade called for by the new position at the step equal to or above their previous salary, plus 5%. This new policy or practice put into effect for the new janitor position only affects Janitor I employees -- all female.

20.

Plaintiff, Rosa Malveau, asked Mr. Manley why they had to take a reading test for the new position, and he told her "that's what happens when you file a lawsuit."

21.

Upon information and belief, the new full-time janitor position requires the same skills and performance of the same duties as the old Janitor I and Janitor II job positions. Upon information

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and belief, no janitors, prior to this time, have been required to take a reading test for the performance of those duties.

22.

Upon information and belief, the reading test does not evaluate a necessary skill for the new janitorial position; upon information and belief the reading test was established as a prerequisite to the new janitorial position in retaliation for plaintiffs' filing a state discrimination lawsuit.

23.

Upon information and belief, some of the plaintiffs who accepted the new janitorial position on a probationary basis are performing the job duties of that position satisfactorily but are being paid a reduced rate of pay in comparison to their seniority with the School Board.

24.

When Mr. Manley told plaintiff, Tina Brooks, about her options regarding the full-time janitor position, he told her that she might have to work nights because "it would be discrimination to put all men in the night jobs." Upon information and belief, Mr. Manley told Ms. Brooks this to discourage her from taking the new janitorial position, knowing that she could not work at night because she had a 5-year old daughter.

25.

Plaintiff, Dorothy McPipe, had worked for the EBRPSB for 22 years prior to being given this reading test; Ms. McPipe was also a high school graduate of the East Baton Rouge Parish public schools. Nevertheless, Ms. McPipe has been told that she is not qualified to hold the lowest paid School Board position, even though she has performed that position for 22 years.

26.

Plaintiff, Nellie Williams, had been employed by the School Board for 8 years when she took the practical and reading tests for the new janitor position. Ms. Williams graduated from Baker High School, an East Baton Rouge Parish public school in 1977, but has now been told that she cannot read well enough to qualify for the lowest paying janitorial job in the school system, which she has performed for 8 years.

27.

The plaintiffs were required to risk the seniority of their part-time Janitor I positions and their many years of service to take a “probationary” full-time position at a greatly reduced hourly pay rate. Upon information and belief, the conditions placed on this probationary employment were retaliatory in intent and discriminatory in effect. The only people affected by these conditions were persons in the Janitor I position, all female.

28.

Upon information and belief, defendants Manley and School Board members, Ingrid Kelley, Warren L. Pratt, Jr., Dr. Press L. Robinson, Sr., Jacqueline Mims, Patrice Niquille, Patricia Hayne-Smith, Noel Hammatt, Roger Moser, Daniel R. Henderson, Eldon R. Ledoux, Dalton Devall, and William P. Black established the conditions, qualifications and job description for a full-time janitorial position with the intent to retaliate against female employees who had filed a lawsuit with the School Board; alternatively, the conditions that they placed on this new position had a discriminatory impact on the plaintiffs.

COUNT I

The defendant, East Baton Rouge Parish School Board, has discriminated against plaintiffs in the terms and conditions of their employment on the basis of their gender and in violation of Title VII.

COUNT II

The defendant, East Baton Rouge Parish School Board has retaliated against plaintiffs because of their state law discrimination lawsuit in violation of Title VII.

COUNT III

Defendants, East Baton Rouge Parish School Board, Ingrid Kelley, Warren L. Pratt, Jr., Dr. Press L. Robinson, Sr., Jacqueline Mims, Patrice Niquille, Patricia Hayne-Smith, Noel Hammatt, Roger Moser, Daniel R. Henderson, Eldon R. Ledoux, Dalton Devall, William P. Black, and James Manley have discriminated against plaintiffs under color of state law in violation of the Civil Rights Act of 1871, 42 U.S.C. §1983.

WHEREFORE, plaintiffs pray for a trial by jury, and respectfully request that this Court enter a judgment against the defendants as follows:

- a. Declaring the acts and practices complained of are in violation of Title VII and §1983 of the Civil Rights Act of 1871;
- b. Enjoining and permanently restraining those violations;
- c. Directing the defendants to take such affirmative action as is necessary to ensure that the effects of these unlawful employment practices are eliminated and do not continue to affect plaintiffs' employment opportunities;

- d. Directing defendants to place plaintiffs in the positions they would have occupied but for the defendants' discriminatory treatment and making them whole for all earnings they would have received but for the defendants' discriminatory treatment including but not limited to wages, pensions and lost medical benefits;
- e. Awarding plaintiffs compensatory and punitive damages;
- f. Awarding plaintiffs the costs involved in bringing this action, including reasonable attorney's fees;
- g. Awarding plaintiffs prejudgment interest; and
- h. Granting such other relief as this Court deems equitable and proper.

ROBEIN, URANN & LURYE, P.L.C.



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