

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
SOUTHERN DIVISION

EQUAL EMPLOYMENT OPPORTUNITY)
COMMISSION,)
)
10 S. Howard Street)
3rd Floor)
Baltimore, Maryland 21201)
)
Plaintiff,)
)
v.) Civil Action No.
)
) COMPLAINT & JURY TRIAL DEMAND
ADVANCEMED CORPORATION,)
)
11300 Rockville Pike)
Suite 1001)
Rockville, Maryland 20852)
)
Defendant.)
_____)
_____)

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 race, and to provide appropriate relief to Denise Gaston who was adversely affected by such practices. The Commission alleges that Ms. Gaston, a black female, applied for employment to Defendant AdvanceMed Corporation ("Defendant") as a Chief Nurse and though qualified for the position, was rejected because of her race. Despite her rejection, Defendant continued to solicit applicants and hired a similarly or less qualified applicant outside of Ms. Gaston's protected class.

JURISDICTION AND VENUE

1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. Sections 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. Section 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 District of Maryland, Southern Division.

PARTIES

3. Plaintiff, Equal Employment Opportunity Commission (the "Commission"), is an 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., Section 2000e-5(f)(1) and (3).

4. At all relevant times, Defendant has continuously been a Maryland corporation doing business in the State of Maryland, and the city of Rockville, and has continuously had at least fifteen employees.

5. At all relevant times, Defendant has continuously been an employer engaged in an industry affecting commerce under

Section 701(b), (g) and (h) of Title VII, 42 U.S.C. Sections 2000e(b), (g) and (h).

STATEMENT OF CLAIMS

6. More than thirty days prior to the institution of this lawsuit, Denise Gaston filed a charge with the Commission alleging violations of Title VII by Defendant. All conditions precedent to the institution of this lawsuit have been fulfilled.

7. Since at least April, 2003, Defendant Employer has engaged in unlawful employment practices at its Bethesda, Maryland facility in violation of Section 703(a) Title VII, 42 U.S.C. Section 2000e-2(a). These practices include refusing to hire Denise Gaston because of her race, black.

8. The effect of the practices complained of in paragraph 7 above has been to deprive Denise Gaston of equal employment opportunities and otherwise adversely affect her status as an applicant because of her race.

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

10. The unlawful employment practices complained of in paragraph 7 above were done with malice or with reckless indifference to the federally protected rights of Denise Gaston.

PRAYER FOR RELIEF

Wherefore, the Commission respectfully requests that this Court:

A. Grant a permanent injunction enjoining Defendant Employer, its officers, successors, assigns and all persons in active concert or participation with it, from engaging in employment practices which discriminate on the basis of race, in violation of Section 703(a) of Title VII, 42 U.S.C. Section 2000e-2(a).

B. Order Defendant Employer to institute and carry out policies, practices and programs which provide equal employment opportunities for black applicants for employment and which eradicate the effects of Defendant's past and present unlawful employment practices.

C. Order Defendant Employer to make whole Denise Gaston by providing appropriate back pay with prejudgment interest in amounts to be determined at trial, an offer of employment, and other affirmative relief necessary to eradicate the effects of Defendant's unlawful employment practices.

D. Order Defendant Employer to pay Denise Gaston punitive damages for its malicious and reckless conduct described in paragraph 7 above, in amounts to be determined at trial.

E. Order Defendant Employer to make whole Denise Gaston by

providing compensation for pecuniary losses, including job search expenses.

F. Order Defendant Employer to make whole Denise Gaston by providing compensation for non-pecuniary losses, including emotional pain, suffering, mental anguish, embarrassment, and isolation, in amounts to be proven at trial.

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

H. Award the Commission its costs in this action.

JURY TRIAL DEMAND

The Commission requests a jury trial on all questions of fact raised in the Complaint.

Respectfully submitted,

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General Counsel

JAMES L. LEE
Deputy General Counsel

GWENDOLYN YOUNG REAMS
Associate General Counsel

_____/s/_____
GERALD S. KIEL
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_____/s/_____
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