

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN**

EQUAL EMPLOYMENT OPPORTUNITY)  
COMMISSION, )

Plaintiff, )

v. )

APPLEGATE HOLDINGS, LLC AND )  
ADVANCE EMPLOYMENT OF )  
MT. PLEASANT, )

Defendants. )

CASE NO. 5:04-CV-00167

HONORABLE RICHARD ALAN  
ENSLAN

AMENDED COMPLAINT AND JURY  
TRIAL DEMAND

**NATURE OF THE ACTION**

This is an action brought under Title VII of the Civil Rights Act of 1964 to correct unlawful employment practices and to provide appropriate relief to Bonnie Tracey (“Tracey”) who was adversely affected by such practices. The Equal Employment Opportunity Commission (“Commission”) alleges that Applegate Holdings LLC, and Advance Employment of Mt. Pleasant, Inc. (collectively “Defendants”) discriminated against Tracy by subjecting her, and others similarly situated, to unwelcome and offensive religious based materials and otherwise harassing her based on religion. The Defendants also subjected Tracy and other similarly situated females to a hostile environment based on their sex, female.

**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 Sections 706(f)(1) and (3) and 707(e) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e-5(f)(1) and (3) and 42 U.S.C. 2000e-6(e) (“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 Western District of Michigan, Southern Division.

3. Plaintiff, the Equal Employment Opportunity Commission (the “Commission”), 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) and 707(e) of Title VII, 42 U.S.C. §§ 2000e-5(f)(1) and (3), and 2000e-6(e).

4. At all relevant times, Defendants, Applegate Holdings LLC, and Advance Employment of Mt. Pleasant, Inc. (the “Employer”), have continuously been an employer doing business in the State of Michigan and the City of Webberville and Lansing, respectively, and have continuously had at least 15 employees each.

5. At all relevant times, Defendants have continuously been an employer 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, Bonnie Tracy 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 March 2000, Defendants have engaged in unlawful employment practices at its Webberville, Michigan facility, in violation of Section 703(a), 42 U.S.C. § 2000e-2(a). The Defendants unlawful employment practices included subjecting Tracy and other similarly situated individuals to unwelcome and offensive religious based materials which espouse, *inter alia*, the owner’s religious views on the role of men and women.

8. The incidents of harassing treatment include, but are not limited to, the following:

- A. Defendant Applegate stapled articles to the employee's paychecks which discuss religion and the biblical role of women and men.
- B. Making derogatory references about women in the work place and disseminating literature.
- C. Making inquiries about employees' religious practices and strongly encouraging them to attend a certain church and company sponsored prayer meetings.

9. Tracy and other similarly situated employees complained about this offensive literature and Tracy reported complaints by other employees.

10. Despite the complaints, the Defendants refused to take prompt remedial action reasonably designed to end the harassment.

11. The effect of the conduct complained of in paragraphs 8 and 9 above has been to deprive Tracy and others similarly situated of equal employment opportunities and otherwise adversely affect their status as employees because of their religion, and sex, female.

12. The unlawful employment practices complained of in paragraph 8 above were and are intentional.

13. As the result of the unlawful employment practices, Tracy and others similarly situated have suffered emotional pain, suffering, inconvenience, mental anguish, loss of enjoyment of life.

14. The unlawful employment practices complained of in paragraph 8 above were and are done with malice or with reckless indifference to the federally protected rights of

Tracy and others similarly situated.

**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 religious harassment and sex discrimination and any other employment practice which discriminates on the basis of religion and sex.

B. Order Defendant Employer to institute and carry out policies, practices, and programs which provide equal employment opportunities for women and persons of all religious faiths, and which eradicate the effects of its past and present unlawful employment practices.

C. ORDER Defendant Employer to provide training on Title VII of the Civil Rights Act of 1964, as amended, and its prohibitions against harassment of its employees at its Applegate facility as well as its human resources department;.

D. Order Defendant Employer to make whole Tracy and others similarly situated by providing compensation for past pecuniary losses resulting from the unlawful employment practices described in paragraph 8 above in amounts to be proven at trial.

E. Order Defendant Employer to make whole Tracy and others similarly situated by providing compensation for past non-pecuniary losses resulting from the unlawful practices complained of in paragraph 8 above in amounts to be proven at trial.

F. Order Defendant Employer to pay Tracy and others similarly situated punitive damages for its malicious or reckless conduct described in paragraph 8 above, in amounts to be proven at trial.

G. ORDER Defendant Employer to pay nominal damages.

H. Grant such further relief as the Court deems necessary and proper in the public interest, including the institution of a religious and sex discrimination policy and complaint procedure, and mandatory religious and sex discrimination training for all Defendant's management employees.

I. Award the Commission its costs of this action.

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**JURY TRIAL DEMAND**

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

Respectfully submitted,

ERIC S. DREIBAND  
General Counsel

JAMES N. LEE  
Deputy General Counsel

DATED: December 14, 2004

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