

UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF MICHIGAN

EQUAL EMPLOYMENT OPPORTUNITY  
COMMISSION,

Plaintiff,

v.

RITE AID CORP.

Defendant.

03-73405

Case No.:

ROBERT H. CLELAND

COMPLAINT  
AND JURY DEMAND

MAGISTRATE JUDGE PEPE

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 sex, and to provide appropriate relief to Charging Party, Nancy Clark, who was adversely affected by such practices. Plaintiff, the United States Equal Employment Opportunity Commission, ("Commission" or "EEOC") alleges that Clark, a female, was sexually harassed by a store manager of Rite Aid Corp.

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U.S. DIST. COURT  
EAST DIST. MICH.  
DETROIT

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) 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. § 1981(a).

2. The employment practices alleged to be unlawful were committed within the jurisdiction of the United States District Court for the Eastern District of Michigan.

3. Plaintiff, Equal Employment Opportunity 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) of Title VII, 42 U.S.C. §§ 2000c-5(f)(1) and (3).

4. At all relevant times, Defendant has continuously been a corporation doing business in the State of Michigan and the City of Livonia, and has continuously had at least fifteen (15) employees.

5. At all relevant times, Defendant has 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. §§ 2000c(b), (g), and (h).

#### STATEMENT OF CLAIMS

6. More than thirty days prior to the institution of this lawsuit, Clark, filed a Charge of Discrimination 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 June, 2001, Defendant has engaged in unlawful employment practices at its Livonia, Michigan facility, in violation of Section 703(a), 42 U.S.C. §2000c-2(a). The unlawful employment practices include the following:

- a. Plaintiff's Supervisor, created a sexually hostile work environment for Clark beginning in July of 2001, by frequently making offensive remarks having sexual overtones and physical touching.

- b. The Manager commented once to Clark when she was bent over or kneeling down to use the safe, put away stock or perform some other aspect of her job, "well, while you're down there..." indicating to her that she should perform oral sex on him.
- c. Clark wore a pair of blue jeans to work that had a hole in the back. The manager stuck his finger in the hole and, thus, touched her buttocks. The manager would also stick his hands in the front pockets of Clark's pants and tell her he was "getting a smoke."
- d. The manager had a habit of inappropriately touching Clark's shoulders and rubbing up against her and others in the facility on a frequent basis in a sexual manner.
- e. The manager engaged in other conduct offensive to Clark.

8. Defendant, having knowledge of the sexual harassment, failed to take effective corrective action to end the harassment and prevent it from recurring.

9. Defendant was aware of Clark's opposition to the manager's unwelcome sexual conduct complained of in paragraph 7 above, because the conduct was severe and pervasive and she instructed the manager to stop.

10. As a result of the unlawful employment practices complained of, Clark suffered pecuniary compensatory damages and non-pecuniary compensatory damages in the nature of emotional pain, suffering, inconvenience, mental anguish, loss of enjoyment of life, and lost wages.

11. The unlawful employment practices complained of in paragraphs 7, 8 and 9 above

were intentional.

12. The unlawful employment practices complained of in paragraphs 7, 8 and 9 above were done with malice or with reckless indifference to Clark's federally protected rights.

**PRAYER FOR RELIEF**

Wherefore, the Commission respectfully requests that this Court:

- A. Grant a permanent injunction enjoining Defendant, its officers, successors, assigns, and all persons in active concert or participation with Defendant, from engaging in sexual harassment and any other unlawful employment practices which discriminate on the basis of sex.
- B. Order Defendant to provide mandatory training regarding Title VII and its prohibition against sexual harassment to all management and non-management employees at its Livonia facility.
- C. Order Defendant to institute and carry out policies, practices and programs which provide equal employment opportunities for women, and which eradicate the effects of its past and present unlawful employment practices.
- D. Order Defendant to make whole Charging Party, Nancy Clark, by providing the appropriate amount of back pay with prejudgment interest, in an amount to be proved at trial, and other affirmative relief necessary to eradicate the effects of its unlawful employment practices.
- E. Order Defendant to make whole Nancy Clark by providing compensation for past and future pecuniary losses resulting from the unlawful employment practices described in paragraphs 7, 8 and 9 above in amounts to be proven at trial.

- F. Order Defendant to make whole Nancy Clark by providing compensation for past and future non-pecuniary losses resulting from the unlawful practices complained of in paragraphs 7, 8 and 9 above in amounts to be proven at trial.
- G. Order Defendant to pay Nancy Clark punitive damages for their malicious and/or reckless conduct described in paragraphs 7, 8 and 9 above in amounts to be proven at trial.
- H. Grant such further relief as the Court deems necessary and proper in the public interest.
- I. Award the Commission its costs of this action.

**JURY TRIAL DEMAND**

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

Respectfully submitted,

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