

providing for the protection of Civil Rights.

2. Both jurisdiction and venue are proper in this Court, because federal questions are involved, and because, the unlawful employment practices were committed within this judicial circuit. Jurisdiction and venue are therefore proper in this Court pursuant to 28 U.S.C. §1331 and 28 U.S.C. §1391(b).

3. Defendant's management personnel has had actual knowledge of discrimination directed against African-American employees, including but not limited to the discriminatory acts and attitudes discussed herein.

4. At all times mentioned herein, all defendant's employees were acting within the scope of their employment with defendant in furtherance of defendant's business.

5. Plaintiff has all had terms and/or conditions of her employment affected in one or more of the following ways:

- a. Pursuant to Defendant's centralized pattern and practice of discrimination, Plaintiff and other African-American employees are denied promotional opportunities extended to similarly situated or less qualified Caucasian employees;
- b. Pursuant to Defendant's centralized pattern and practice of discrimination, Plaintiff and other African-American employees are subjected to a work environment that is racially hostile;
- c. Pursuant to Defendant's centralized pattern and practice of discrimination, Plaintiff and other African-American employees are subject to job requirements which are materially different from those imposed on similarly situated or less qualified Caucasian employees;
- d. Pursuant to Defendant's centralized pattern and practice of discrimination. Plaintiff and other African-American employees are accused, disciplined and/or terminated for alleged offenses for

which similarly situated Caucasian employees are not; and,

- e. Pursuant to Defendant's centralized pattern and practice of discrimination. Plaintiff and other African-American employees suffer retaliation when they complain of Defendant's racially discriminatory practices.

PLAINTIFF

6. Plaintiff entered a contract of employment with defendant.

7. Plaintiff is an African-American citizen of the United States. Plaintiff earned a Bachelor of Arts Degree in Human Resources in 1990 from Mid-American Nazarine University. Plaintiff earned a Masters of Arts Degree in 1992 in Health Management from Webster University. In 2000, plaintiff earned another Masters of Arts Degree in Information Systems from Friends University.

8. Plaintiff was hired by defendant on or about March 5, 2000 as a charge nurse on the night shift in defendant's complex known as the Care Center. On her first day of employment, plaintiff was mistreated by her Caucasian peers and in particular, Aaron Sykes, who refused to assist plaintiff or help her in any way. Plaintiff complained to Trudy Stultz, the Coordinator of Defendant's 200 Unit in the Care Center and was told to go home and come back to work another shift.

9. In May 2000, plaintiff was having difficulties with some of the Caucasian staff members which she believed, in good faith, to be rooted in racial animosity. Plaintiff approached Ms. Stultz and asked how she was to formally file a complaint. Ms. Stultz told plaintiff to read her policy manual.

10. In July 2000, plaintiff applied for a promotion with defendant for which she was qualified. During the interview process, plaintiff was questioned heavily about her

involvement as part owner in Brookside Care Center and was asked about her responsibilities as part owner of that institution in dealing with agencies such the Equal Employment Opportunity Commission and the Missouri Commission on Human Rights. Plaintiff felt that these questions were an attempt to single her out as an African-American from the promotion and indicated this to her interviewers.

11. Notwithstanding plaintiff's experience, education, and skill, plaintiff was not promoted. Upon information and belief, plaintiff alleges that a less qualified Caucasian was offered the position.

DEFENDANT

12. Defendant John Knox Village was at all times mentioned herein, a corporation existing under the laws of the State of Missouri with its principal place of business at 400 N.W. Murray Road in Lee's Summit, Missouri. Defendant John Knox Village is a residential care facility.

13. The Care Center has four different units known as the 100 unit, 200 unit, 300 unit, and 400 unit.

14. From approximately 1984 through present, Herman Spahr has occupied the position of President for Defendant.

15. As President, Mr. Spahr was defendant's executive officer responsible for all Equal Employment Opportunity policies, practices, and issues for defendant.

ALLEGATIONS OF FACT

16. Plaintiff was repeatedly referred to as "niggers" by residents of the Care Center. Despite complaints to managerial personnel and supervisors, plaintiff was advised that she had to accept this treatment because the residents were of a different era in which that

racial epithet was commonly used and accepted.

17. Plaintiff was repeatedly subjected to racially discriminatory treatment in violation of §1981 by supervisory personnel by being subjected to unjust discipline, disparate treatment, and a racially hostile work environment.

18. Plaintiff complained repeatedly about the racially hostile environment and nothing changed.

19. Mr. Spahr and other members of defendant's management were aware of these racially discriminatory practices and hostile work environment, yet did not remedy the situation.

20. Defendant permitted, tolerated, and by its inaction condoned the racial harassment and discrimination of plaintiff.

21. Defendant's management personnel has had actual and constructive knowledge of discrimination directed against African-American employees including, but not limited to, the discriminatory acts and attitudes discussed herein.

22. As evidence of this pattern and practice of race discrimination, plaintiff alleges the following:

- (a) According to Defendant's EEO-1 Form submitted to the Equal Employment Opportunity Commission for 1995, Defendant employed 52 Officials and Managers of which none were African-American;
- (b) According to Defendant's EEO-1 Form submitted to the Equal Employment Opportunity Commission for 1996, Defendant employed 55 Officials and Managers of which none were African-American;
- (c) According to Defendant's EEO-1 Form submitted to the Equal Employment

Opportunity Commission for 1997, Defendant employed 55 Officials and Managers of which none were African-American;

(d) According to Defendant's EEO-1 Form submitted to the Equal Employment Opportunity Commission for 1998, Defendant employed 57 Officials and Managers of which 2 were African-American; and

(e) According to Defendant's EEO-1 Form submitted to the Equal Employment Opportunity Commission for 1999, Defendant employed 60 Officials and Managers of which 1 was African-American.

TERMS AND CONDITIONS/HOSTILE WORK ENVIRONMENT

23. Plaintiff hereby incorporates paragraphs 1 through 22 of the Complaint, by reference, as if fully set forth herein.

24. Defendant's conduct described herein constitutes a hostile environment particularly Defendant's management's tolerance of racial epithets used by employees and residents directed towards plaintiff.

25. Defendant maintains a pervasive and vile atmosphere by its inaction in failing to reprimand residents and coworkers, perpetuating discriminatory treatment of African-American employees. Plaintiff has been subjected to a hostile work environment which is illustrated by the above discriminatory actions.

26. Defendant's conduct in creating and maintaining a hostile work environment constitutes intentional discrimination, with malice, against Plaintiff.

27. Defendant's conduct in creating and maintaining a hostile work environment constitutes disparate treatment of African-American employees such as Plaintiff, and Defendant's conduct has a disparate impact on African-American employees.

28. Defendant's conduct with regard to maintaining a hostile work environment constitutes intentional discrimination, with malice, against Plaintiff.

29. Defendant's conduct with regard to maintaining a hostile work environment has damaged Plaintiff.

RETALIATION

30. Plaintiffs hereby incorporate paragraphs 1 through 29 of the Complaint, by reference, as if fully set forth herein.

31. Defendant maintains a pattern and practice of retaliation designed to intimidate plaintiff and African-Americans who assert their civil rights by diminishing their work responsibilities, limiting access to work related information, by denying promotions, and/or by demoting or terminating the employee.

32. Defendant maintains a pattern of retaliation to intimidate its African-American employees and deter them from asserting legal claims based on defendant's policies and Constitutionally guaranteed rights, including those relating to pay, promotion, delegation of assignments and duties, performance reviews and discipline, including termination.

33. Plaintiff has been damaged by Defendant's pattern and practice of retaliation against African-American employees.

34. Defendant's retaliatory conduct constitutes intentional discrimination, with malice, against African-American employees such as plaintiff.

DISCRIMINATION IN PROMOTIONS

35. Plaintiff hereby incorporates paragraphs 1 through 34 of the Complaint, by reference, as if fully set forth herein.

36. As part of Defendant's practice of denying African-American employees the

opportunity for promotion, defendant has promotion practices, which are based on subjective rather than objective, job related criteria, and which are not uniformly applied to African-American and Caucasian employees.

37. There are inadequate written policies, procedures, and guidelines used by defendant with respect to promotion of its employees. The system employed by Defendant involves subjective determinations which thereby render the system arbitrary, and such subjective decision making is used as pretext for denying qualified African-American employees promotions to which they are qualified and entitled.

38. As part of Defendant's practice of denying African-American employees the opportunity for promotion, defendant discriminates against African-American employees by:

- (A) filing job openings through word-of-mouth recruitment which is subjective and unfairly restricts the promotion of qualified African-Americans;
- (B) generally failing to publicly post job openings for supervisory and managerial positions;and,
- (C) failing to promote African-Americans to higher level managerial or supervisory positions.

39. Defendant maintains a pattern and practice of racial discrimination in the terms and conditions of its employment by preventing African-American employees from obtaining the experience and opportunities necessary to become qualified for promotion.

For instance, defendant:

- (A) has relegated African-American employees to jobs with less visibility, prestige, responsibility and prospects for promotion than those held by

similarly situated or less qualified Caucasians; and,

(B) has denied African-American employees opportunities to be transferred to positions accorded to similarly situated or less qualified Caucasians, thus limiting the opportunity for African-Americans to acquire professional contacts, develop necessary skills, and achieve the level of recognition necessary for promotion prospects.

40. Plaintiff has been refused promotional opportunities and damaged by Defendant's pattern and practice of discrimination in promotion.

41. Defendant's conduct with regard to promotions constitutes intentional discrimination, with malice, against Plaintiff.

42. Defendant's conduct with regard to promotions constitutes disparate treatment of African-American employees such as Plaintiff and Defendant's conduct with regard to promotions has a disparate impact on Plaintiff.

43. Defendant's policies and practices which discriminatorily deny promotional opportunities have resulted in current and former employees being denied promotional opportunities, including but not limited to Plaintiff.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that this Court:

1. Enter a judgment pursuant to jury verdict(s) that the acts and practices of Defendant complained of herein are violations of the laws of the United States and of Missouri and grant appropriate relief.
2. Require defendant to make prospective and retrospective monetary awards to plaintiff;

3. Require defendant to pay to plaintiff compensatory and punitive damages;
4. Grant plaintiff such other and further relief as may be necessary and proper;
5. Award plaintiff the costs of this action together with reasonable attorney's fees pursuant to 42 U.S.C. §1988.

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