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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,

Plaintiff

v.

WILLIAM O. BENENSON REHABILITATION:
PAVILION & FLUSHING MANOR
GERIATRIC CENTER, INC.

Defendants.

Civil Action No.

COMPLAINT
JURY TRIAL DEMAND

CV 05 4601
GERSHON, J.

MANN, M.J.

NATURE OF THE ACTION

This is an action under Title VII of the Civil Rights Act of 1964, as amended, and Title I of the Civil Rights Act of 1991 to correct unlawful employment practices on the basis of race (Black), national origin (Caribbean), and/or retaliation and to provide relief for Marie Cilus, Frederick Hylton, Petrona Simms and Tanya Weir ("Charging Parties") and a class of other similarly situated individuals (collectively, "claimants"). This lawsuit is also brought on behalf of Defendants' employees, regardless of race or national origin, who were subject to retaliation for opposing or refusing to participate in the discriminatory practices, alleged herein, which are described with greater specificity in paragraph seven (7) below.

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 Section 707 of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §§ 2000e-

5(f)(1) and (3) and § 2000e-6 ("Title VII"), and pursuant to Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981a.

2. The unlawful employment practices alleged below were and are now being committed within the jurisdiction of the United States District Court for the Eastern District of New York.

PARTIES

3. Plaintiff, Equal Employment Opportunity Commission ("EEOC" or "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 Sections 706(f)(1) and (3) and Section 707 of Title VII, 42 U.S.C. §§ 2000e-5(f)(1) and (3) and § 2000e-6.

4. At all relevant times, Defendants have continuously been New York corporations doing business in the State of New York and have had at least fifteen employees during the relevant time period.

5. At all relevant times, Defendants have continuously been an employer engaged in an industry affecting commerce within the meaning of Section 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, the Charging Parties filed Charges of Discrimination 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 October 2001, Defendants, through its Director of Nursing and other Supervisors and Managers, have engaged in unlawful employment practices in violation of Section 703(a) of Title VII, 42 U.S.C. § 2000e. These practices include, but are not limited to, the following:

- (a) Defendants subjected claimants to harassment based on their race and/or national origin by making offensive comments such as, "All the Haitians are the same, they kill one another and do voodoo," "You're not in a Jamaican fish market," "Go back on the Banana Boat where you came from," and "Are you all smoking weed?"
- (b) Defendants also discriminatorily forbid claimants to speak in Creole while permitting other employees to speak in their native languages.
- (c) Defendants also permitted their residents to make egregious comments to the claimants such as calling them "Black Nigger" and "Monkey."
- (d) Defendants also subjected claimants to stricter supervisor and harsher discipline, even for minor offenses, as compared to other employees who were not Black and/or Caribbean.
- (e) Although claimants continually complained about the discrimination, Defendants did not prevent the continuing offensive behavior.
- (f) Defendants retaliated against claimants and other individuals who complained of harassment or who refused to participate in the discriminatory work atmosphere by further harassing them, terminating them and/or taking other adverse action against them.

8. The effect of the practices complained of above has been to deprive claimants and other individuals of equal employment opportunities and otherwise adversely affect their status as employees because of their race, national origin and/or refusal to participate in discriminatory practices.

9. The unlawful employment practices complained of above were intentional.

10. At all relevant times, Defendants have acted with malice or reckless indifference to the federally protected rights of claimants.

PRAYER FOR RELIEF

Wherefore, the Commission respectfully requests that this Court:

A. Grant a permanent injunction enjoining Defendants, its officers, successors, assigns and all persons in active concert or participation with it, from engaging in any employment practices that discriminate on the basis of race or national origin;

B. Order Defendants to institute and carry out policies, practices and programs that provide equal employment opportunities for all employees, regardless of race or national origin, and that eradicate the effects of Defendants' past and present unlawful employment practices;

C. Order Defendants to make whole all those individuals affected by the unlawful employment practices described above, by providing compensation for past and future pecuniary losses in amounts to be determined at trial;

D. Order Defendants to make whole all those individuals affected by the unlawful employment practices described above, by providing compensation for non-pecuniary losses, including pain, suffering and humiliation, in amounts to be determined at trial;

- E. Order Defendants to provide punitive damages for its malicious and/or reckless conduct, in amounts to be determined at trial;
- F. Grant such further relief as the Court deems necessary and proper;
- G. Award the Commission its costs in this action.

JURY TRIAL DEMAND

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

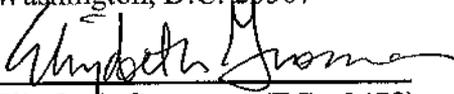
Dated: September 29, 2005

Respectfully submitted,

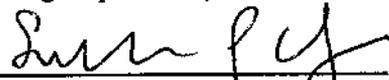
James L. Lee
Deputy General Counsel

Gwendolyn Young Reams
Associate General Counsel

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION
1801 L Street, N.W.
Washington, D.C. 20507


Elizabeth Grossman (EG - 2478)
Acting Regional Attorney


Nora E. Curtin (NC - 5223)
Acting Supervisory Trial Attorney


Sunu P. Chandy (SC - 3585)
Senior Trial Attorney
US EEOC - New York District Office
33 Whitehall Street, 5th Floor
New York, New York 10004
Phone: 212-336-3706
Fax: 212-336-3623