

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION, TANYA WEIR, PETRONA
SIMMS, FREDERICK HYLTON, MARIE CILUS
AND YANICK JEAN -LOUIS,
Plaintiffs,

Civil Action No.: 05 CV 4601

Gershon, J.
Mann, M. J.

-against-

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

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**VERIFIED COMPLAINT
JURY TRIAL IS REQUESTED**

Plaintiff, by her attorney, ALBERT VAN-LARE, ESQ., complaining of the defendants alleges the following:

JURISDICTION AND VENUE

1. This action is authorized and instituted pursuant to Title VII of the CIVIL RIGHTS ACT of 1964, 42 USC 2000e et seq. (Title VII) This Court has jurisdiction over this claim pursuant to 29 USC 1331. Claims arising under state statutory and common law are included under this Court's pendent jurisdiction 28 USC 1367. Venue lies in this district pursuant to 28 USC 1392(b).

PARTIES

2. Plaintiff Yanick Jean-Louis is black and female.
3. Plaintiff is of Haitian/Caribbean national origin.

4. Defendants are employers of Plaintiff. Specifically, at all times mentioned she was employed by defendants.

JURISDICTIONAL REQUIREMENTS

5. Plaintiff has complied with all jurisdictional prerequisites to action under Title VII as she has timely filed a charge of discrimination with the United States Equal Employment Opportunity Commission (EEOC).
6. EEOC found probable cause and recommended conciliation and reforms.
7. Defendants declined conciliation.
8. Plaintiff commenced this action following defendants' refusal to enter into conciliation.

FACTUAL ALLEGATIONS

RACE AND NATIONAL ORIGIN

9. Plaintiff has been employed by Defendants as a certified nurse's aide starting in or around October 1998.
10. In or about October 2001 Barbieri was hired by defendants as Director of Nursing.
11. In her capacity as Director of Nursing Barbieri had and still has supervisory jurisdiction over plaintiff's work unit.
12. Director Barbieri (Barbieri) treats employees who are black and of Caribbean/Haitian descent different from others who are not black and are not of Caribbean/Haitian descent.
13. Barbieri started this discriminatory treatment from the time she assumed her position as the Director of Nursing.
14. This management style of hard nose discriminatory treatment adopted by Barbieri created a very hostile work environment.
15. Barbieri constantly refers to the black/Caribbean workers as "monkeys."
16. Barbieri throughout her employment at the facility where plaintiff works (facility) she would refer to the black/Caribbean workers as "wolf," and animals."
17. Barbieri addressed plaintiff in the work place by saying: "who raised you, "who raised you like a wolf."

18. These remarks are inappropriate for the job place.
19. Barbieri did not call other non black/Caribbean workers wolf or ask them the identity of individuals who raised them.
20. Barbieri specifically referred to plaintiff as an “animal” although she was fully aware that plaintiff is a human being and that plaintiff has a name.
21. Barbieri knows that plaintiff is of Haitian national origin.
22. Barbieri would often dismiss plaintiff by mocking her Haitian/Creole identity and language with the use of the word “au revoir” which mean goodbye in French/Haitian Creole.
23. The disparagement and aspersion resulting from Barbieri’s aggressive verbal attacks led to very uncomfortable and hostile work environment for plaintiff.
24. Plaintiff was told several times by Barbieri that: “you don’t speak English,” although plaintiff speaks English fluently.
25. Barbieri questioned plaintiff’s ability to speak English only as a means of intimidation and discrimination since Barbieri knows that plaintiff speaks English fluently.
26. Barbieri has mockingly commented to plaintiff: “who raised you au revoir.”
27. On or about July 29, 2004, Barbieri threatened to terminate plaintiff after making a mockery of plaintiff’s Creole origin.
28. On or about July 24, 2004 Barbieri also asked plaintiff if she was raised by a “wolf.”
29. Plaintiff attempted to resolve these hostilities by making series of complaint to the union.
30. The union investigated the matter on behalf of plaintiff and other similarly situated employees.
31. The union repeatedly brought these complaints to the attention of management.
32. Management failed to appropriately investigate the complaints and remedy the discriminatory conducts.
33. Management provided Barbieri with the necessary support and administrative tools she needed to execute her management by discrimination method.

34. The union acting on behalf of plaintiff and other employees had at least one meeting with Mrs. Esther Benenson to discuss discrimination in the facility where plaintiff works.
35. Upon information and belief, Mrs. Benenson refused to act on the discriminatory complaint and concerns presented to her.
36. Mrs. Benenson refused to investigate the complaint presented to her and instead asked the union in a non polite manner to exit her office.
37. Caribbean employees were cautioned and reprimanded by Barbieri for speaking Haitian Creole while other employees who speak their native (non-English) language were not reprimanded.
38. Barbieri regularly made fun of the accent of plaintiff and other Caribbean born employees.
39. Many black and Caribbean born employees have resigned because of the discriminatory treatment emanating from Barbieri.

RETALIATION

40. Defendants retaliated against plaintiff by issuing false verbal and written warnings against plaintiff.
41. As part of a calculated retaliatory tactics towards plaintiff, defendants also issued written disciplinary memoranda against plaintiff for signing petitions condemning discriminatory conducts in 2002. 2003 and in 2004.
42. Because plaintiff opposed defendant's discriminatory policies she was singled out for harassment by an aggressive and in your face style of supervision.
43. As part of the aggressive retaliatory tactics adopted by Barbieri plaintiff was issued warnings for failure to perform tasks that were neither assigned to her or constituted part of daily responsibilities.
44. After plaintiff filed the administrative action alleging discrimination, Barbieri continued with the retaliatory tactics of issuing written and verbal warnings for conduct that were not infractions or violations.
45. Defendants also falsely stated to the New York Human Rights Division that plaintiff was suspended from employment as a disciplinary measure.
46. Plaintiff has never been suspended from employment.
47. While trying to justify the apparent racist behavior of Barbieri, defendants alleged that plaintiff filed administrative action because she was suspended.

48. Plaintiff was never suspended and could never have filed a discrimination complaint after a suspension that NEVER HAPPENED.
49. Plaintiff was also targeted because she joined other staffers in signing a 76 signature petition aimed at arresting the unconscionable discriminatory practices of Barbieri.

AS AND FOR A FIRST CAUSE OF ACTION

50. Plaintiff repeats paragraphs 1 thru 49.
51. Plaintiff was subjected to different terms and conditions of employment because of her race and national origin. As a result of this differential treatment plaintiff was unjustly and discriminatorily deprived of equal employment opportunities.

AS AND FOR A SECOND CAUSE OF ACTION

52. Plaintiff repeats paragraphs 1 thru 49
53. Defendants violated the New York State Executive Law Section 296 (1) (a) by unfairly discriminatory against plaintiff on the basis of race and national origin.

AS AND FOR A THIRD CAUSE OF ACTION

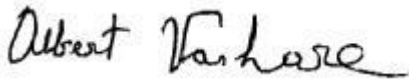
54. Plaintiff repeats paragraph 1 thru 49.
55. Plaintiff was damaged by defendants' denial of equal terms and conditions of employment in violation of Section 8-107.1 (a) of the Administrative Code of the City of New York.

WHEREFORE, plaintiff demands the following relief: (1) A permanent injunction restraining defendants from discriminating against plaintiff on the basis of national origin or race; (2) An order that Defendants compensate, reimburse, and make whole plaintiff for all the benefits she would have received had it not been for defendant's illegal actions, including, but not limited to pay, benefits, training, promotions, and seniority, with interest; (3) Actual and consequential damages as may be proven for pain, suffering, and humiliation plaintiff suffered as a result of

defendant's illegal actions; (4) Punitive damages payable to plaintiff in an amount to properly penalize defendants for their misconduct and to deter such wrongdoing in the future; (5) such other equitable relief as is just and proper; (6) Statutory damages as may be proven at trial on defendants' violation of the New York State Executive Law Sec. 296 (1) (a) and Sec. 8-107. 1 (a) of the Administrative Code of the City of New York.

Dated December 26, 2005

Respectfully Submitted



ALBERT VAN-LARE, ESQ (AV 6614)
Attorney for Plaintiff
45 John Street
4th Floor
N.Y., NY 10038
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Dated: January 5, 2006

VERIFICATION

EASTERN DISTRICT OF NEW YORK: SS.:

Yanick Jean-Louis, being duly sworn, deposes and says

1. I am plaintiff in the above matter.
2. I have read the foregoing complaint and know its contents; the same is true to my personal knowledge, except as to matter alleged upon information and belief, and as to those matters, I believe them to be true.

/s/Yanick Jean-Louis
Yanick Jean-Louis

Sworn to January 05, 2006



Notary Public