

United States Equal Employment Opportunity Commission  
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**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**EQUAL EMPLOYMENT OPPORTUNITY )  
COMMISSION, )**

**Plaintiff, )**

**v. )**

**ROSS STORES, INC., )**

**Defendant. )**

**CIVIL ACTION NO.**

**COMPLAINT**  
**JURY TRIAL DEMAND**

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**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 that discriminate on the basis of national origin and to provide appropriate relief to Natalia R. Vistinis, who was adversely affected by such practices. As articulated with greater particularity in Paragraph 7 below, the Commission alleges that Ms. Vistinis was discriminated against based on her national origin (Russian) when Defendant Employer Ross Stores unlawfully denied her a raise after she was promoted because of her accent. As a result of the discriminatory conduct, the Commission alleges that Ms. Vistinis suffered backpay and emotional distress damages.

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 § 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)” (“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 Eastern District of Pennsylvania.

PARTIES

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) of Title VII, 42 U.S.C. § 2000(e)-5(f)(1) and (3).

4. At all relevant times, Defendant Employer has continuously been and is now doing business in the State of Pennsylvania, in the City of Lansdale, and has continuously had at least 15 employees.

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

STATEMENT OF CLAIMS

6. More than thirty days prior to the institution of this lawsuit, a charge of discrimination was filed with the Commission, alleging violations of Title VII by Defendant Employer. All

conditions precedent to the institution of this lawsuit have been fulfilled.

7. Since at least November of 2003, Defendant Employer has engaged in unlawful employment practices at its Lansdale, Pennsylvania facility in violation of Section 703(a)(1) of Title VII, 42 U.S.C. Section 2000e-2(a)(1) by discriminating against Natalia Vistinis on the basis of her National origin (Russian). The unlawful employment practices included the following:

(a) Ms. Vistinis was hired as a Retail Associate by Defendant Employer on or about October 6, 2000. She received a promotion to Front-End Supervisor on or about June 15, 2003 and received a \$1.00 per hour pay increase with this promotion.

(b) In November of 2003, Jerome Bennett, former Store Manager, promoted Ms. Vistinis to the position of Area Supervisor. As Area Supervisor, Ms. Vistinis assumed additional responsibilities such as opening and closing the store, and approving cash deposits.

(c) At the time of Ms. Vistinis' promotion, Mr. Bennett also informed her that she was entitled to a promotional pay increase. However, Ms. Vistinis never received this pay increase as she was promised. Upon information and belief, other non-Russian persons promoted to Area Supervisor, prior to November of 2003, received a pay increase upon their promotion to Area Supervisor.

(d) Ms. Vistinis informed Mr. Bennett that she did not receive a pay increase with her last promotion to Area Supervisor. Mr. Bennett assured Ms. Vistinis that he would investigate the issue and reassured her that not only would she receive her pay increase, but that it would be applied retroactively.

(e) Having not received the pay increase, in June of 2004, Ms. Vistinis again inquired about her raise of Mr. Bennett. Mr. Bennett then informed Ms. Vistinis that he was told by District

Manager, Cindy Robinson, that she had not received her raise because of her Russian accent. However, Bennett once again assured Ms. Vistinis that he would investigate and apply the raise retroactively.

(f) However, Mr. Bennett took no action to correct the discriminatory action taken against Ms. Vistinis as he was eventually transferred and later terminated from his position as Store Manager.

(g) Having received no assistance from Mr. Bennett, Ms. Vistinis approached Assistant Store Manager, Rand Oliver, with her concerns. Ms. Oliver told Ms. Vistinis that Mr. Bennett had previously informed her of the pay raise issue. Ms. Oliver also stated that Mr. Bennett had previously informed her that Ms. Vistinis was seeking her promotional pay raise, and that Ms. Robinson had stated that Ms. Vistinis had not received her raise because of her Russian accent.

(h) After Ms. Vistinis' complaints of disparate treatment, Defendant Employer continued to deny Ms. Vistinis a promotional pay raise because of her accent and denied that the manager's statement about her accent was ever made. Defendant Employer subsequently reclassified Ms. Vistinis' position, contending that Ms. Vistinis' promotion was a lateral move, not meriting a pay increase, in or about October of 2004.

10. The effect of the practices complained of in paragraph 7(a) through (h) above has been to deprive Natalia Vistinis of equal employment opportunities and otherwise affect her status as an employee because of her national origin (Russian) in violation of Title VII.

11. The acts complained of in paragraph 7 above were intentional.

12. The unlawful employment practices complained of in paragraph 7 (a) through (i) above were done with malice or with reckless indifference to the federally protected rights of Natalia Vistinis.

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 any employment practice which discriminates on the basis of national origin.

B. Order Defendant Employer to institute and carry out policies, practices, and programs which provide equal employment opportunities and which provide for a work environment free of discrimination, and which eradicate the effects of its past and present unlawful employment practices.

C. Order Defendant Employer to institute and carry out anti-discrimination policies and complaint procedures.

D. Order Defendant Employer to institute and carry out complaint procedures which encourage employees to come forward with complaints regarding violation of its policies against national origin discrimination.

E. Order Defendant Employer to institute and carry out a training program which shall promote supervisor accountability imposing on all managers and supervisory personnel a duty to actively monitor their work areas to ensure compliance with policies on non-discrimination; and requiring all managers and supervisors to report any incidents and/or complaints of discrimination of which they become aware to the department charged with handling such complaints.

F. Order Defendant Employer to make whole Natalia Vistinis by providing appropriate back pay with prejudgment interest, in amounts to be determined at trial, and other affirmative relief necessary to eradicate the effects of its unlawful employment practices.

G. Order Defendant Employer to make whole Natalia Vistinis by providing compensation for past and pecuniary losses resulting from the unlawful employment practices described in paragraphs 7(a) through (h), including but not limited to out of pocket losses, in amounts to be determined at trial.

H. Order Defendant Employer to make whole Natalia Vistinis by providing compensation for past and future non-pecuniary losses resulting from the unlawful practices complained of in paragraphs 7(a) through (h), including pain and suffering, humiliation, embarrassment, anxiety and inconvenience, in amounts to be determined at trial.

J. Grant such further relief as the Court deems necessary and proper in the public interest.

K. Award the Commission the costs of this action.


JURY TRIAL DEMAND


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


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EQUAL EMPLOYMENT OPPORTUNITY  
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