

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

EQUAL EMPLOYMENT OPPORTUNITY)
COMMISSION,)
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Plaintiff,)
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VICTORIA’S SECRET STORES, INC.,)
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Defendant.)
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CIVIL ACTION NO.

COMPLAINT
JURY TRIAL DEMAND

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 bases of race and religion and to provide appropriate relief to Lauren Ellerson, who was adversely effected by such practices. The Commission alleges that during her employment as co-manager of one of Victoria’s Secret’s retail stores, Ms. Ellerson was subjected to a hostile work environment by sales associates, other co- managers and the store manager who repeatedly made offensive remarks and engaged in practices that were derogatory to Ms. Ellerson’s race, Black, and her religion, Baptist. The Commission alleges that the Store Manager participated in the discriminatory remarks and practices to some extent; and on other occasions, ignored and condoned the remarks and practices, and failed to take prompt and effective corrective action when they were reported to her.

In addition, the Commission alleges that although management assured Ms. Ellerson upon hire that her religious requirements could be accommodated so that she would only be scheduled to work one Sunday per month, management did not honor this agreement and even scheduled Ms. Ellerson to work on communion Sunday, the third Sunday of each month and the most important Sunday for her to attend religious services. Although Ms. Ellerson reported the

offensive and discriminatory work environment to Defendant's Vice President of Store Operations, the harassment continued, and the conditions of Ms. Ellerson's employment were made so intolerable that she was forced to take a medical leave of absence that led to the termination of her employment.

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 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. § 2000e-5(f)(1) and (3).

4. At all relevant times, Defendant Victoria's Secret Stores, Inc. (the "Employer"), has continuously been doing business in the Commonwealth of Pennsylvania and the City of Langhorne, and has continuously had at least fifteen 15 employees.

5. At all relevant times, Defendant Employer has continuously been an employer engaged in an industry effecting 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, Lauren Ellerson filed a charge of discrimination 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 December 1999, Defendant Employer has engaged in unlawful employment practices at its Oxford Valley Mall store in Langhorne, Pennsylvania by subjecting Ms. Ellerson to a hostile work environment based on her race, Black, and her religion, Baptist, and failing to accommodate Ms. Ellerson's religious needs. These unlawful practices include but are not limited to the following:

(a) Ms. Ellerson was ordered by Store Manager Evelyn Gibson and another co-manager to watch Black customers very closely when they entered the store, to consider them to be shoplifters until proven otherwise, and to go outside of the store premises to spot groups of Blacks who may enter the store. Store Manager Gibson instructed Ms. Ellerson not to report an incident as theft when a white customer disappeared with merchandise yet required Ms. Ellerson to write up reports on Blacks for shoplifting when Ms. Ellerson had not observed any such activity.

(b) In the presence of the Store Manager, Ms. Ellerson was accused by a bra specialist of "trying to be white," and was spoken to in the slang known as "ebonics" as though Ms. Ellerson would understand this "street" language. Store Manager Gibson also spoke to Ms. Ellerson in "ebonics."

(c) The Store Manager and another co-manager instructed Ms. Ellerson that they did not hire applicants from a particular local high school because they are "race mixers."

(d) Co-workers asked Mr. Ellerson if her hair was real, and one co-manager tugged at her hair while asking if Ms. Ellerson had hair extensions; in addition, co-workers commented about Blacks "looking alike" and being afraid of water; in addition, in response to a comment made by a Black customer, an employee expressed displeasure at the way "you people" talk. At a meeting in which Store Manager Gibson and Ms. Ellerson were present, a co-manager made the statement that Blacks claim racial discrimination whenever something goes against them, and this statement was not addressed or corrected by the Store Manager.

(e) When Ms. Ellerson reported to Store Manager Gibson that racially derogatory remarks were made that were upsetting to her, Ms. Gibson shrugged or laughed and took no action to correct the situation.

(f) Employees left notes in Ms. Ellerson's purse calling her "Dum Dum" and "Bitch," took away her keys so that Ms. Ellerson could not find them, and called her "lackey" and "flunky."

(g) Upon her hire, Ms. Ellerson was assured by Defendant Employer's District Director, Alexis Black, that Defendant Employer could accommodate her need to attend church on Sundays and that she would only have to work one Sunday a month. However, Ms. Ellerson was continuously scheduled to work two or three Sundays a month.

(h) Ms. Ellerson complained to Store Manager Gibson about the scheduling, and requested that she at least have the third Sunday of each month off so that she could receive communion. Gibson ignored this request and continued to schedule Ellerson on Sundays, including the third Sunday of the month

(i) Defendant Employer's Co-Manager Jackie Addis referred to Ms. Ellerson as "Christian girlfriend," and Store Manager Gibson informed Ms. Ellerson that an applicant who had left a voice mail message at the store saying "God bless and Godspeed" would not be hired, since "[w]e don't want another religious person. You are enough."

(j) Alexis Black, District Manager, proclaimed at a meeting at the Langhorne store that if any employee had a problem at the store they should not come to her but should solve the problems themselves within the store; this comment discouraged Ms. Ellerson from reporting to Ms. Black about the hostile work environment.

(k) Ms. Ellerson complained to the Vice President, Michael Bender, about the harassment and about the employees not following safety rules.

(l) After the phone call to Bender, District Director Black called a store meeting, but she asked Ms. Ellerson to arrive an hour later than everyone else. The meeting focused solely

on the failure to follow safety rules and did not address Ms. Ellerson's complaints of discrimination.

(m) On or about April 4, 2001, Defendant's Loss Prevention and Control Investigator came to the store to investigate Ms. Ellerson's allegations; however, during the investigation, the harassment worsened. A co-manager asked Ms. Ellerson, "What other Victoria's Secret stories are you going to tell?" Ms. Ellerson was never informed of the results of the investigation.

(n) On or about April 12, 2001, Ms. Ellerson took disability leave because she was unable to continue working due to major depression and anxiety, caused by the hostile work environment.

8. The effects of the practices complained of in paragraph 7(a)-(n) above have been to deprive Lauren Ellerson of equal employment opportunities and otherwise adversely effect her status as an employee because of her race, black, and her religion, Christian Baptist.

9. The unlawful employment practices complained of in paragraph 7(a)-(n) were intentional.

10. The unlawful employment practices complained of in paragraph 7(a)-(n) were done with malice or reckless indifference to the federally protected rights of Lauren Ellerson.

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 harassment based upon race or religion, from refusing to make a reasonable accommodation for an employee's religious belief, and from any other employment practice which discriminates on the basis of race or religion.

B. Order Defendant Employer to institute and carry out policies, practices, and programs which effectively prohibit racial and religious harassment in the work place and which

provide equal employment opportunities for Blacks and Baptists, and which eradicate the effects of its unlawful employment practices.

C. Order Defendant Employer to make Lauren Ellerson whole by providing appropriate backpay with prejudgement interest, in amounts to be determined at trial, and other affirmative relief necessary to eradicate the effects of its unlawful employment practices.

D. Order Defendant Employer to make Lauren Ellerson whole by providing compensation for past and future pecuniary losses resulting from the unlawful employment practices described in paragraph 7(a)-(n) above, including medical expenses and any other out-of-pocket losses incurred, in amounts to be determined at trial.

E. Order Defendant Employer to make whole Lauren Ellerson by providing compensation for past and future nonpecuniary losses resulting from the unlawful employment practices complained of in paragraph 7(a)-(n) above, including emotional pain, suffering, depression, anxiety, loss of enjoyment of life, humiliation, and other psychological and physiological symptoms and conditions, in amounts to be determined at trial.

F. Order Defendant Employer to pay Lauren Ellerson punitive damages for its malicious and reckless conduct described in paragraph 7(a)-(n) above, in amounts to be determined at trial.

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

H. 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.

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