

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

EQUAL EMPLOYMENT OPPORTUNITY	)	
COMMISSION,	)	
	)	Civil Action No.
Plaintiff,	)	
	)	
v.	)	
	)	<b><u>COMPLAINT</u></b>
	)	
WHEELS OF WELLNESS, INC.,	)	<b><u>JURY TRIAL DEMAND</u></b>
	)	
Defendant.	)	

**NATURE OF THE ACTION**

The United States Equal Employment Opportunity Commission (the "Commission"), brings this 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 basis of sex and to provide appropriate relief to Michelle Brunson and a class of similarly situated female employees who were adversely affected by such unlawful employment practices while employed by Defendant, Wheels of Wellness, Inc.

As alleged with greater particularity in paragraph 7 below, the Commission alleges that Michelle Brunson and a class of similarly situated female employees were subjected to sexual harassment by Supervisor Roger Russell which included offensive and unwelcome touching and sexually offensive and lewd comments. Although Ms. Brunson and other female employees complained to Defendant Employer about the sexual harassment by Russell, Defendant failed to take prompt remedial action, and the harassment continued. As a result of the hostile work environment, Michelle Brunson was forced to take extended medical leave. Ms. Brunson and a

class of similarly-situated female employees suffered damages, including lost wages and severe emotional distress because of the sexually hostile work environment tolerated and condoned by Defendant Employer.

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

4. At all relevant times mentioned herein, Defendant, Wheels of Wellness, Inc. (the "Employer"), has continuously been doing business in the Commonwealth of Pennsylvania and the City of Philadelphia, 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 § 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, Michelle Brunson 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 of 2003, Defendant Employer has engaged in unlawful employment practices at its Philadelphia, Pennsylvania location in violation of § 703(a)(1) of Title VII, 42 U.S.C. § 2000e-2(a)(1), by subjecting Michelle Brunson and a class of similarly situated female employees to a sexually hostile work environment. The unlawful employment practices include, but are not limited to, the following:

(a) Michelle Brunson became employed by Defendant Employer in October of 2000, as an MDT Monitor, reporting to Supervisor Roger Russell.

(b) Beginning in December 2003, Defendant's Supervisor, Roger Russell, began making unwelcome and sexually suggestive innuendoes, remarks, and comments, including repeated requests for oral sex from Ms. Brunson. In addition, Russell attempted to look down her blouse, and incited other male employees to engage in sexual harassing behavior toward Ms. Brunson.

(c) Mr. Russell's behavior included offensive and unwelcome touching, including grabbing Ms. Brunson on various parts of her body, hugging her, and attempting to kiss her. In January of 2004, Mr. Russell attempted to kiss Ms. Brunson, while cornering her in an elevator.

(e) In June 2004, Ms. Brunson complained to Keith Grey, MDT Lead, about Russell's sexual harassment and asked that something be done to stop the sexual harassment. Although Mr. Grey spoke with Russell about the conduct, the sexual harassment continued unabated. Furthermore, Russell told Grey, referring to Ms. Brunson, "I treat her the way I want to treat her."

(f) On August 20, 2004, Ms. Brunson complained to Meryl Jones, a manager of Service Review, about Mr. Russell's inappropriate conduct. Ms. Jones informed Ms. Brunson that numerous complaints of sexual harassment had been made for years against Mr. Russell, but that Defendant had never taken any corrective action against him.

(g) On August 20, 2004, Ms. Brunson made a formal complaint to Defendant's Human Resource Managers, Barbara Denning and Susan Babcock. On September 14, 2005, Defendant advised Ms. Brunson that she was being transferred out of the MDT department.

(h) On October 15, 2004, Ms. Brunson went out on leave on October 21, 2004, due to the stress and anxiety she was experiencing as a result of the sexual harassment and subsequent transfer. On November 24, 2004, Ms. Brunson took extended Family Medical leave under the Family Medical Leave Act (FMLA). She returned to work on April 11, 2005.

(i) Defendant Employer received numerous sexual harassment complaints against Mr. Russell since at least 1994. Based on the long history of sexual harassment complaints against Mr. Russell, Defendant knew or should have known about the sexually hostile work environment to which Charging Party and other females were being subjected, but failed to take prompt remedial action to stop the harassment.

(j) Roger Russell also sexually harassed a class of similarly situated females, including subjecting them to unwelcome sexually graphic comments, and unwelcome physical touching.

(k) Despite the objections and complaints from the class of female employees, Defendant Employer took no prompt remedial action to cause the wrongful conduct to cease.

8. The effect of the practices complained of in paragraphs 7(a) through (k) above have been to deprive Michelle Brunson and a class of similarly-situated female employees of equal employment opportunities and otherwise affect adversely their status as employees because of their sex.

9. The unlawful employment practices complained of in paragraphs 7(a) through (k) above were intentional.

10. The unlawful employment practices complained of in paragraphs 7(a) through (k) above were done with malice or with reckless indifference to the federally protected rights of Michelle Brunson and a class of similarly-situated female employees.

**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 sexual harassment, and any other employment practice which discriminates on the basis of sex.

B. Order Defendant Employer to institute and carry out policies, practices, and programs which provide equal employment opportunities for women, which provide for a

harassment free work environment, and which eradicate the effects of its past and present unlawful employment practices.

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

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

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 anti-harassment; and requiring all managers and supervisors to report any incidents and/or complaints of harassment and/or retaliation of which they become aware to the department charged with handling such complaints.

F. Order Defendant Employer to make whole Michelle Brunson and a class of affected female employees by providing appropriate back pay and front 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 Michelle Brunson and a class of affected female employees by providing compensation for past and future pecuniary losses resulting from the unlawful employment practices described in paragraphs 7 (a) through (h) above, including, but not limited to out-of-pocket losses, in amounts to be determined at trial.

H. Order Defendant Employer to make whole Michelle Brunson and a class of affected female employees by providing compensation for past and future nonpecuniary losses resulting from the unlawful practices complained of in paragraphs 7 (a) through (h) above, including pain and suffering, humiliation, embarrassment, loss of life's enjoyment and pleasures, depression, anxiety and inconvenience, in amounts to be determined at trial.

I. Order Defendant Employer to pay Michelle Brunson and a class of affected female employees punitive damages for its malicious and reckless conduct described in paragraphs 7 (a) through (h) above, 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.


Respectfully submitted,

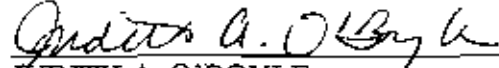
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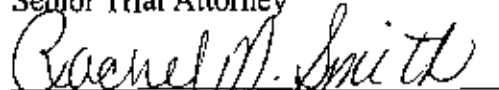
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