

FILED

AUG 22 2001

CLERK, U.S. DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
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IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION

EQUAL EMPLOYMENT OPPORTUNITY  
COMMISSION,

Plaintiff,

v.

REGIS CORPORATION,

Defendant

SA01CA03940G

Civil Action No.

COMPLAINT AND  
JURY TRIAL DEMAND

A 01 CA 55 I

NATURE OF 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 bases of sex, male, and retaliation. This action is also brought to provide appropriate relief to Jack R. Kelly, Michael S. Hayes and other similarly situated individuals, who were adversely affected by such practices. Plaintiff alleges that Jack R. Kelly, Michael S. Hayes and other similarly situated individuals were subjected to a sexually hostile work environment. Plaintiff also alleges that Jack R. Kelly, Michael S. Hayes and other similarly situated individuals were subjected to disparate treatment and then discharged in violation of Section 704(a) of Title VII in retaliation for complaining about the sexual harassment.

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) 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 Title I of the Civil Rights Act of 1991, 42 U.S.C. § 1981a.

1.

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 Western District of Texas.

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

4. At all relevant times, Defendant, Regis Corporation ("Regis"), has continuously been a Texas corporation doing business in the State of Texas and the cities of Austin and San Antonio, and has continuously had at least fifteen employees.

5. At all relevant times, Defendant Regis 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, Jack R. Kelly and Michael S. Hayes filed charges with the Commission alleging violations of Title VII by Defendant Regis. All conditions precedent to the institution of this lawsuit have been fulfilled.

7. Since at least April 1997, Defendant Regis has engaged in unlawful employment practices at its Austin, Texas, facility, in violation of Section 703(a) of Title VII, 42 U.S.C. § 2000e-2(a) by subjecting Jack R. Kelly, Michael S. Hayes and other similarly situated individuals to a sexually hostile work environment on the basis of their sex, male. The sexual harassment includes sexually derogatory comments relating to male body parts, sexual advances and unwanted touching.

8. Since at least 1997, Defendant Regis engaged in unlawful employment practices at its Austin, Texas facility, in violation of Section 704(a) of Title VII, 42 U.S.C. § 2000e-3(a) by denying commission increases to Jack R. Kelly, Michael S. Hayes, and others similarly situated, and then discharging them for engaging in statutorily protected activity when these individuals opposed conduct they believed to be an unlawful employment practice.

9. The effect of the practices complained of in paragraphs 7 and 8 above has been to deprive Jack R. Kelly, Michael S. Hayes and other similarly situated individuals of equal employment opportunities and otherwise adversely affect their status as employees because of their sex, male, and because of retaliation.

10. The unlawful employment practices complained of in paragraphs 7 and 8 above were and are intentional.

11. The unlawful employment practices complained of in paragraphs 7 and 8 above were and are done with malice or with reckless indifference to the federally protected rights of Jack R. Kelly, Michael S. Hayes and other similarly situated individuals.

### **PRAYER FOR RELIEF**

Wherefore, the Commission respectfully requests that this Court:

A. Grant a permanent injunction enjoining Defendant Regis, its officers, successors, assigns, and all persons in active concert or participation with it, from subjecting Jack R. Kelly, Michael S. Hayes and other similarly situated individuals to a sexually hostile work environment and from engaging in any employment practice which discriminates on the basis of sex or retaliation.

B. Order Defendant Regis to institute and carry out policies, practices, and programs which provide equal employment opportunities and a non-hostile work environment for males and

which eradicate the effects of its past and present unlawful employment practices.

C. Order Defendant Regis to make whole Jack R. Kelly, Michael S. Hayes and other similarly situated individuals who were adversely affected by the unlawful employment practices described above, by providing appropriate back pay with prejudgment interest, in amounts to be determined at trial, and other affirmative relief necessary to eradicate the effect of its unlawful employment practices, including, but not limited to reinstatement of Jack R. Kelly, Michael S. Hayes and other similarly situated individuals or front pay in lieu thereof.

D. Order Defendant Regis to make whole Jack R. Kelly, Michael S. Hayes and other similarly situated individuals who were adversely affected by the unlawful employment practices described above, by providing compensation for past and future pecuniary losses resulting from the unlawful employment practices described in paragraphs 7 and 8 above, including, but not limited to, medical and/or insurance expenses and job search expenses, in amounts to be determined at trial.

E. Order Defendant Regis to make whole Jack R. Kelly, Michael S. Hayes and other similarly situated individuals by providing compensation for past and future nonpecuniary losses resulting from the unlawful practices complained of in paragraphs 7 and 8 above, including, but not limited to, emotional pain, suffering, loss of enjoyment of life, embarrassment and humiliation in amounts to be determined at trial.

F. Order Defendant Regis to pay Jack R. Kelley, Michael S. Hayes and other similarly situated individuals punitive damages for its malicious and reckless conduct as described in paragraphs 7, 8, 9, 10 and 11 above, in amounts to be determined at trial.

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

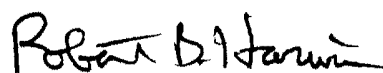
H. Award the Commission its costs of this action.

**JURY TRIAL DEMAND**

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

Respectfully submitted,

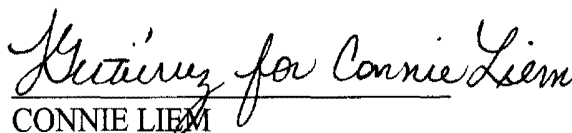
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