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FILED
U.S. DISTRICT COURT
2005 SEP 22 A 11:47
DISTRICT OF UTAH
BY: _____
DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

REBECCA LEIGH DEHART,
Plaintiff,

v.

STEVENS-HENAGER COLLEGE, INC.,
Defendant.

**COMPLAINT
AND JURY DEMAND**

Judge Paul G. Cassell
DECK TYPE: Civil
DATE STAMP: 09/22/2005 @ 11:48:18
CASE NUMBER: 1:05CV00118 PGC

Plaintiff Rebecca Leigh Dehart ("Ms. DeHart"), by and through her undersigned counsel, hereby submits this Complaint and Jury Demand against Defendant Stevens-Henager College, Inc. ("Stevens-Henager").

I. INTRODUCTION

1. Stevens-Henager violated Ms. DeHart's right to receive pay based upon her job duties as opposed to her gender by paying Ms. DeHart less than it did a male employee performing substantially similar work. Stevens-Henager also violated Ms.

DeHart' right to engage in the protected activity of complaining about the discriminatory nature of the unequal pay by terminating her because she complained.

II. PARTIES

2. Ms. DeHart is a female, and resides in Weber County, State of Utah.

3. Stevens-Henager is a Utah corporation doing business in Weber County, State of Utah. At all relevant times it was engaged in an industry affecting commerce, with annual gross sales of not less than \$500,000.00 and employed fifteen or more employees.

4. At all relevant times, Stevens-Henager was Ms. DeHart's employer as defined by the FLSA, the EPA and Title VII.

III. JURISDICTION AND VENUE

5. Subject matter jurisdiction is proper in this Court pursuant to 28 U.S.C. §§ 451, 1331, 1337, 1343 and 1345, in that this action arises under federal law, specifically the Fair Labor Standards Act of 1938 ("FLSA") as amended, 29 U.S.C. §§ 216(c) and 217 to enforce the requirements of the Equal Pay Act of 1963, 29 U.S.C. § 206(d) ("EPA") and pursuant to the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e *et.seq.*. This action is also initiated pursuant to 42 U.S.C. § 1981a.

6. The employment practices alleged to be unlawful were committed in Weber County, Utah, which is within the jurisdiction of the United States District Court for the Central Division of Utah. Thus, venue is proper pursuant to 28 U.S.C. § 1391.

7. Ms. DeHart filed a timely Charge with the Equal Employment Opportunity Commission (“EEOC”) alleging that Stevens-Henager discriminated against her and other women on the basis of gender by failing to pay equal pay for equal work. The EEOC, after investigating Ms. Richard’s Charge, issued Ms. DeHart a Letter of Determination finding reasonable cause to believe that Stevens-Henager had violated the EPA and Title VII by failing to pay Ms. DeHart equal work for equal pay. On September 20, 2005, the EEOC issued Ms. DeHart a Notice of Right to Sue on her Title VII claims.

IV. GENERAL ALLEGATIONS

8. Ms. DeHart began working for Stevens-Henager in May 2003 as an Admissions Consultant.

9. During her employment, Ms. DeHart would meet with potential students, interview them and help the students enroll in Steven-Henager’s programs. Patrick Young (“Mr. Young”), a male employee in the same office, essentially performed the same duties as Ms. DeHart.

10. Mr. Young’s duties and Ms. DeHart’s duties required substantially equal work on jobs the performance of which required equal skill, effort and responsibility. The duties were performed under similar working conditions at Stevens-Henager’s Ogden, Utah location.

11. Stevens-Henager paid Ms. DeHart \$36,000.00 a year to perform the duties of an Admissions Consultant.

12. Stevens-Henager paid Mr. Young \$48,000.00 a year to perform substantially the same duties as Ms. DeHart.

13. When Ms. DeHart became aware that Mr. Young was receiving more money for performing substantially the same work, she complained to Stevens-Henager about the pay inequity.

14. Stevens-Henager terminated Ms. DeHart because she had discovered what Mr. Young was making and complained about the pay inequity.

V. CLAIMS FOR RELIEF

First Claim for Relief **(Violation of the EPA)**

15. Ms. DeHart incorporates paragraphs 1 through 14 of this Complaint by this reference.

16. By paying Ms. DeHart at a rate less than her male colleague in the same establishment for substantially equal work on a job requiring substantially equal skill, effort and responsibility under similar work conditions, Stevens-Henager violated the EPA.

17. Because Stevens-Henager purposefully and intentionally discriminated against Ms. DeHart based upon her gender, in violation of the EPA by paying her less

than it paid her male co-worker who was performing substantially the same work, Ms. DeHart has suffered, and will continue to suffer, economic loss.

18. As a result of Stevens-Henager's violation of the EPA, Ms. DeHart is entitled to recover the amount of wages she would have been paid in the absence of the violation, an equal amount as liquidated damages and prejudgment interest on those amounts.

19. Ms. DeHart is entitled to recover all attorneys' fees and costs expended in prosecuting this action.

20. Ms. DeHart is entitled to other such relief as this Court deems appropriate.

Second Claim for Relief
(Retaliation in Violation of the EPA)

21. Ms. DeHart incorporates paragraphs 1 through 20 of this Complaint by this reference.

22. Stevens-Henager took an adverse employment action against Ms. DeHart because she engaged in the protected activity of complaining about the unequal pay she was receiving by terminating her employment.

23. Stevens-Henager's actions constitute unlawful retaliation in violation of the EPA.

24. As a result of Stevens-Henager's actions, Ms. DeHart has suffered, and will continue to suffer, both economic and non-economic loss, including, but not limited to:

loss of wages and benefits, future pecuniary losses, emotional distress, and other compensatory damages.

25. As outlined above, Stevens-Henager purposefully and intentionally retaliated against Ms. DeHart based upon her complaint by taking adverse employment actions against her. Ms. DeHart is entitled to recover damages for all future pecuniary losses, emotional pain, suffering, inconvenience, mental anguish, loss of enjoyment of life, and all other non-pecuniary losses caused by Stevens-Henager's unlawful retaliation.

26. Stevens-Henager's actions described above were done with malice or a reckless indifference to Ms. DeHart' federally protected right to be free from retaliation for having complained of unequal pay. Due to the willful and malicious nature of the retaliation against Ms. DeHart, Ms. DeHart is entitled to an award of punitive damages in an amount sufficient to deter Stevens-Henager from engaging in retaliatory conduct in the future.

27. Ms. DeHart is entitled to recover all attorneys' fees and costs expended in prosecuting this action.

28. Ms. DeHart is entitled to other such relief as this Court deems appropriate.

Third Claim for Relief
(Discrimination in Violation of Title VII)

29. Ms. DeHart incorporates paragraphs 1 through 28 of this Complaint by this reference.

30. By paying a male employee more than it paid Ms. DeHart for performing the same work, Stevens-Henager purposefully and intentionally discriminated against Ms. DeHart in violation of Title VII.

31. Stevens-Henager's actions described above were done with malice or a reckless indifference to Ms. DeHart's federally protected right to have employment decisions based upon legitimate non-discriminatory business reasons. Due to the willful and malicious nature of the discrimination against Ms. DeHart, Ms. DeHart is entitled to an award of punitive damages in an amount sufficient to deter Stevens-Henager from engaging in discriminatory conduct in the future.

32. Ms. DeHart is entitled to recover all attorneys' fees and costs expended in prosecuting this action.

33. Ms. DeHart is entitled to other such relief as this Court deems appropriate.

Fourth Claim for Relief
(Retaliation in Violation of Title VII)

34. Ms. DeHart incorporates paragraphs 1 through 33 of this Complaint by this reference.

35. Stevens-Henager took adverse employment actions against Ms. DeHart because she engaged in the protected activity of complaining about the discrimination she suffered, by terminating her employment.

36. Stevens-Henager's actions constitute unlawful retaliation in violation of Title VII.

37. As a result of Stevens-Henager's actions, Ms. DeHart has suffered, and will continue to suffer, both economic and non-economic loss, including, but not limited to: loss of wages and benefits, future pecuniary losses, emotional distress, and other compensatory damages.

38. As outlined above, Stevens-Henager purposefully and intentionally retaliated against Ms. DeHart based upon her complaint or Charge by taking adverse employment actions against her. Ms. DeHart is entitled to recover damages for all future pecuniary losses, emotional pain, suffering, inconvenience, mental anguish, loss of enjoyment of life, and all other non-pecuniary losses caused by Stevens-Henager's unlawful retaliation.

39. Stevens-Henager's actions described above were done with malice or a reckless indifference to Ms. DeHart's federally protected right to be free from retaliation for having complained of unlawful discrimination. Due to the willful and malicious nature of the retaliation against Ms. DeHart, Ms. DeHart is entitled to an award of punitive damages in an amount sufficient to deter Stevens-Henager from engaging in retaliatory conduct in the future.

40. Ms. DeHart is entitled to recover all attorneys' fees and costs expended in prosecuting this action.

41. Ms. DeHart is entitled to other such relief as this Court deems appropriate.

Request for Jury Trial

42. Ms. DeHart requests that her claims be tried to a jury of her peers.

VI. PRAYER FOR RELIEF


WHEREFORE, Ms. DeHart respectfully requests that the Court enter judgment in her favor and against Stevens-Henager, and award the following:

- a. Back pay, in amounts to be determined at trial;
- b. An amount equal to the amount awarded as back pay as liquidated damages;
- c. Reinstatement, or front pay in lieu of reinstatement;
- d. Emotional distress and punitive damages;
- e. Compensatory and consequential damages;
- f. Injunctive and/or declaratory relief requiring Stevens-Henager to take appropriate actions to ensure that its female employees are paid equal pay for equal work;
- g. Pre-judgment and post-judgment interest at the highest lawful rate;
- h. Attorneys' fees and costs of this action, including expert witness fees, as appropriate;

- i. Injunctive relief restraining Stevens-Henager from engaging in further discriminatory conduct; and,
- j. Any such further relief as the Court deems just and equitable.

Dated this 22nd day of September, 2005.

STRINDBERG SCHOLNICK & CHAMNESS, LLC



Ralph E. Chamness
Erik Strindberg
Attorneys for Plaintiff

Plaintiff's Address
825 West 4100 South
Riverdale, Utah 84045

CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS
REBECCA LEIGH DEHART

(b) County of Residence of First Listed Plaintiff WEBER
 (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)
 Strindberg Scholnick & Channess, LLC, 44 Exchange Place, 2nd Floor,
 Salt Lake City, Utah 84111 - 801-359-4169

FILED
U.S. DISTRICT COURT
2005 SEP 22 A 11:47

County of Residence of First Listed WEBER DISTRICT OF UTAH
 (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.
 BY: DEPUTY CLERK

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

1 U.S. Government Plaintiff

3 Federal Question (U.S. Government Not a Plaintiff)

2 U.S. Government Defendant

4 Diversity (Indicate Citizenship of in Item III)

(For Diversity Cases Only) and One Box for Defendant

Citizen of This State	PTF <input type="checkbox"/> 1	DEF <input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	PTF <input type="checkbox"/> 4	DEF <input type="checkbox"/> 4
Citizen of Another State	2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	610 Agriculture 620 Other Food & Drug 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input checked="" type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights	LABOR <input checked="" type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> Habeas Corpus <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other Civil Rights <input type="checkbox"/> 555 Prison Condition

V. ORIGIN (PLACE AN "X" IN ONE BOX ONLY)

1 Original Proceeding

2 Removed from State Court

3 Remanded from Appellate Court

4 Reinstated or Reopened

5 Transferred from another district (specify)

6 Multidistrict Litigation

7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write brief statement of cause. Do not cite jurisdictional statutes unless diversity.)

Violation of the Equal Pay Act, 29 U.S.C. § 206(d) and Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e

VII. REQUESTED IN COMPLAINT: CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

VIII. RELATED CASE(S) IF ANY (See instructions):

Judge Paul G. Cassell
DECK TYPE: Civil
DATE STAMP: 09/22/2005 @ 11:48:18
CASE NUMBER: 1:05CV00118 PGC

JUDGE _____

DOCKET NUMBER _____

DATE

9-12-05

SIGNATURE OF ATTORNEY OF RECORD



FOR OFFICE USE ONLY

RECEIPT # _____

AMOUNT _____

APPL _____

JUDGE _____

MAG. JUDGE _____

JS 44 Reverse (Rev. 12/96)

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS-44

Authority For Civil Cover Sheet