

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
(CHARLESTON)

FILED

SEP 27 2001

SAMUEL L. KAY, CLERK
U. S. District & Bankruptcy Courts
Southern District of West Virginia

EQUAL EMPLOYMENT OPPORTUNITY)
COMMISSION,)
)
Plaintiff,)
)
v.)
)
CHARLESTON AREA MEDICAL CENTER, INC.)
)
Defendant.)
_____)

Civil Action No. 2:01-0910

COMPLAINT

JURY TRIAL DEMANDED

NATURE OF THE 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 basis of race (African American), and to provide appropriate relief to Velda E. Cave who was adversely affected by such practices. As alleged with greater particularity in paragraph 7 below, the Commission alleges that the defendant, Charleston Area Medical Center, Inc. ("Defendant Employer"), which merged with Strategic Health Services, Inc. ("Strategic") in December, 2000, discriminated against Ms. Cave, the only African American nurse employed by Strategic, when she was selected for layoff/reduction in force, while similarly situated white nurses with less seniority and training, and with poorer annual evaluations, were retained. Moreover, Ms. Cave was treated more harshly, at the time she was notified of her discharge and summarily escorted from the facility. As a result of Strategic's discrimination against Ms. Cave because of her race, she suffered harm and damages.

¹The style of this case reflects the merger of Strategic Health Services, Inc. d/b/a Strategic Home Health Services with Charleston Area Medical Center, Inc. on December 1, 2000.

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 Section 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 Southern District of West Virginia.

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 Charleston Area Medical Center, Inc. has continuously been a corporation doing business in the State of West Virginia and the City of Charleston, 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, Velda E. Cave filed a charge with the Commission alleging violations of Title VII by Defendant Employer. All conditions precedent to the institution of this lawsuit have been fulfilled.

7. On or about April 20, 1999, Defendant Employer engaged in unlawful employment

practices at its Charleston, West Virginia location, in violation of Section 703(a)(1) of Title VII, 42 U.S.C. § 2000e-2(a). The practices include, but are not limited to the following:

- (a) In 1986, Ms. Cave was employed as a registered nurse by Defendant Employer.
- (b) Ms. Cave worked in direct patient care until 1994, when she was promoted to the position of QI/Education RN, an administrative role in the Quality Improvement Department.
- (c) From 1994 through her discharge, Ms. Cave worked in an administrative capacity in either the Quality Improvement Department; the Quality Improvement/Education Department; and/or the Case Management Department, as Case Management RN.
- (d) On or about April 20, 1999, Defendant discharged Ms. Cave, informing her that the discharge was part of a reduction in force.
- (e) At the time of her discharge, Ms. Cave was informed that everyone in her department was being discharged.
- (f) At the time of her discharge, Ms. Cave was the only African American professional on staff, and was the only individual discharged.
- (g) Defendant retained white professionals in Ms. Cave's department, as well as in other departments.
- (h) At the time of her discharge, Ms. Cave had annual evaluations which were superior to those of white employees who were retained.
- (i) At the time of her discharge, Ms. Cave had more seniority than white individuals retained.
- (j) Defendant failed to follow its own Staff Reduction policy when it chose Ms. Cave for discharge.
- (k) Unlike other employees, Ms. Cave was not afforded sixty (60) days notification of

her termination.

(l) Rather, on the day Ms. Cave was informed of her discharge, she was told to gather her personal belongings and to vacate the premises immediately.

(m) Unlike its treatment of other terminated employees, Defendant's agent escorted Ms. Cave back to her office and watched as she gathered her personal belongings.

(n) Defendant's agent instructed Ms. Cave, within earshot of Ms. Cave's co-workers, not to "take anything" that "didn't belong" to her.

(o) Defendant ensured that Ms. Cave left the building directly.

(p) Unlike other employees, Ms. Cave was told that she was not permitted to return to the facility.

(q) Ms. Cave was mortified and embarrassed by the treatment she was subjected to on her last day of work, while being discharged without warning.

(r) Subsequent to her discharge, Ms. Cave's former co-workers informed her that, due to the way she was treated on the last day, they thought she had stolen something and that was why she was being discharged.

8. The effect of the practices complained of in paragraph 7(a) through (r) above has been to deprive Ms. Cave of equal employment opportunities and otherwise adversely affect her status as an employee, because of her race.

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

10. The unlawful employment practices complained of in paragraph 7(a) through (r) above were done with malice and with reckless disregard or indifference to the federally protected rights of Ms. Cave.

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 discriminating in hiring, firing, or other terms and conditions of employment on the basis of an individual's race.

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

C. Order Defendant Employer to make whole Ms. Cave, 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, including but not limited to reinstatement, front pay, a positive letter of recommendation, removal of all evidence of her claims preceding this litigation from her personnel file.

D. Order Defendant Employer to make whole Ms. Cave, by providing compensation for past and future pecuniary losses resulting from the unlawful employment practices described in paragraph 7(a) through (r) above, including relocation expenses, job search expenses, and medical expenses not covered by the Employer's employee benefit plan, in amounts to be determined at trial.

E. Order Defendant Employer to make whole Ms. Cave by providing compensation for past and future non-pecuniary losses resulting from the unlawful practices complained of in paragraph 7(a) through (r) above, including emotional pain, suffering, inconvenience, loss of enjoyment of life, and humiliation, in amounts to be determined at trial.

F. Order Defendant Employer to pay Ms. Cave punitive damages for its malicious and

reckless conduct described in paragraph 7(a) through (r) 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.

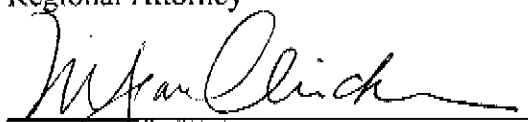
JURY TRIAL DEMAND

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

GWENDOLYN YOUNG REAMS
Associate General Counsel



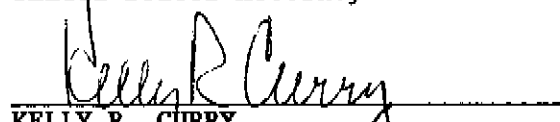
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