

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
STATESVILLE DIVISION
CIVIL ACTION NO. 5:04CV207**

FILED
STATESVILLE, N.C.

SEP 8 2005

**EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,**

Plaintiff

and

PAULA THOMPSON,

Plaintiff- Intervenor

vs.

WELBORNE AUTOMOTIVE, INC.

formerly known as

NISSAN OF HICKORY, INC.,

Defendant.

**U.S. DISTRICT COURT
W. DIST. OF NC**

**COMPLAINT IN
INTERVENTION**

Plaintiff-Intervenor Paula Thompson ("Thompson") alleges:

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 basis of sex and to provide appropriate relief to Plaintiff-Intervenor Paula Thompson, a female, who was adversely affected by such practices. As alleged with greater particularity below, Plaintiff-Intervenor alleges that Defendant, Welborne Automotive, Inc., formerly known as Nissan of Hickory, Inc., discriminated against Plaintiff-Intervenor by discharging her because of her sex.

JURISDICTION AND VENUE

1. Under Title VII, Thompson is a "party aggrieved" by the practices of the Defendant and there has the right to intervene pursuant to 29 U.S.C. 2000e-2000e-5(f)(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 V.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.

- 1a. To the extent that claims are alleged or asserted under the law of North Carolina, the Court has supplemental jurisdiction, pursuant to 28 U.S.C. § 1367(a).
2. The employment practices alleged to be unlawful were committed within the jurisdiction of the United States District Court for the Western District of North Carolina.

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).
- 3a. Plaintiff-Intervenor is an adult female citizen and resident of Mecklenburg County, North Carolina. Plaintiff-Intervenor is entitled to intervene as a matter of right, pursuant to § 706(f)(1) of Title VII, 42 U.S.C. § 2000e-5(f)(1).
4. At all relevant times, Defendant Welbome Automotive, Inc., formerly known as Nissan of Hickory, Inc. ("Defendant"); has continuously been a North Carolina corporation doing business in the State of North Carolina and the City of Hickory and has continuously had at least fifteen employees.
5. At all relevant times, Defendant has continuously been an employer engaged in an industry affecting commerce under 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, Plaintiff-Intervenor Paula Thompson filed a charge with the Commission alleging violations of Title VII of the Civil Rights Act by Defendant. All conditions precedent to the institution of this lawsuit have been fulfilled.
7. On or about November 4, 2003, Defendant engaged in an unlawful employment practice at its Hickory, North Carolina automobile dealership in violation of Section 703(a)(1) of Title VII, 42 U.S.C. § 2000e-2(a)(1) by discharging Plaintiff-Intervenor Thompson because of her sex, female. Specifically, around October 15, 2003, Defendant hired Ms. Thompson as a sales manager at its Nissan of Hickory dealership. Approximately three weeks later, around November 4, 2003, Defendant discharged Ms. Thompson after Defendant's owner learned that a woman had been hired into the sales manager position occupied by Ms. Thompson.
8. The effect of the practices complained of in paragraph 7 above has been to deprive Plaintiff-Intervenor Thompson of equal employment opportunities and otherwise adversely affect her status as an employee because of her sex, female.
9. The unlawful employment practices complained of in paragraph 7 above were intentional.
10. The unlawful employment practices complained of in paragraph 7 above were done with malice or with reckless indifference to the federally protected rights of Plaintiff-Intervenor Thompson.
11. In addition, Defendants actions complained of in Paragraph 7 were in violation of the public policy of the state of North Carolina as expressed in the Equal Employment

Practices Act ("EEPA"), North Carolina General Statute § 143-422.1 *et seq.*

12. The unlawful employment practices complained of in paragraph 7 above were done with malice or with reckless indifference to the rights of Plaintiff-Intervenor Thompson as protected by EEPA.
13. Plaintiff is entitled to punitive damages under state law in an amount to be determined by the jury, in addition to the back pay, equitable relief, and compensatory and punitive damages allowed under Title VII and 42 U.S.C. § 1981a.

PRAYER FOR RELIEF

Wherefore, Plaintiff-Intervenor respectfully requests that this Court:

- A. Grant a permanent injunction enjoining Defendant, its officers, successors, assigns, and all persons in active concert or participation with it, from engaging in sex discrimination against women, including making employment decisions affecting women based on their sex.
- B. Order Defendant to institute and carry out policies, practices, and programs that provide equal employment opportunities for women and which eradicate the effects of its past and present unlawful employment practices.
- C. Order Defendant to make whole Plaintiff-Intervenor Paula Thompson 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 the reinstatement of Plaintiff-Intervenor Thompson or, in the alternative, an award of front pay.
- D. Order Defendant to make whole Plaintiff-Intervenor Thompson by providing compensation for past and future pecuniary losses resulting from the unlawful

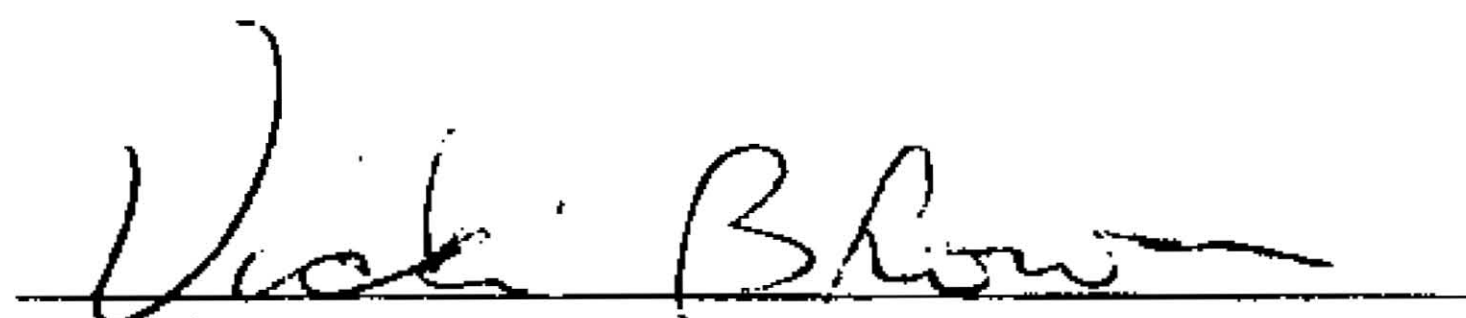
employment practices complained of above, including but not limited to job search expenses, in amounts to be determined at trial.

- E. Order Defendant to make whole Plaintiff-Intervenor Thompson by providing compensation for past and future non-pecuniary losses resulting from the unlawful practices complained of above, including but not limited to emotional pain, suffering, inconvenience, loss of earning capacity, loss of enjoyment of life, humiliation, loss of self-esteem and loss of civil rights, in amounts to be determined at trial.
- F. Order Defendant to pay Plaintiff-Intervenor Thompson punitive damages under state and federal law for its malicious and reckless conduct, as described 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.

This the ~~27~~²⁹th day of ~~June~~^{July}, 2005.



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PLAINTIFF-INTERVENOR DEMANDS TRIAL

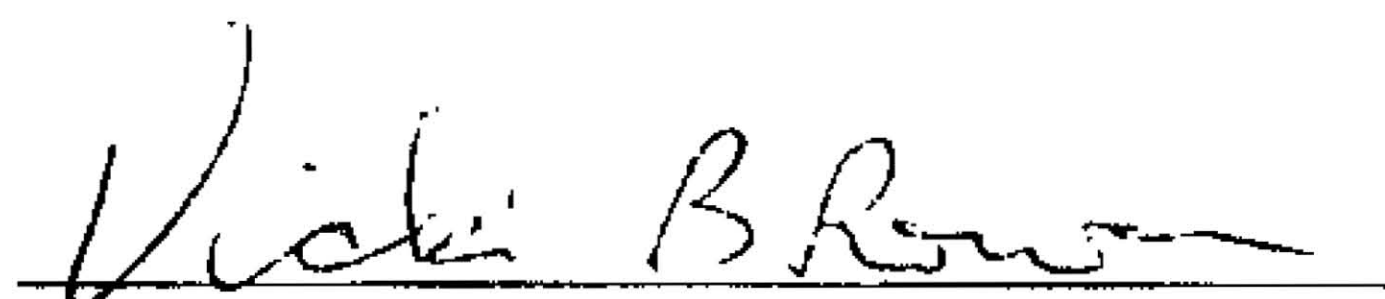
BY JURY OF ALL ISSUES OF FACT

CERTIFICATE OF SERVICE

I hereby certify that on July 27, 2005, I have served the foregoing document on all parties separately represented by mailing a copy by first-class mail to their attorneys at the following addresses:

Ms. Kerith Cohen
Equal Employment Opportunity Commission
1309 Annapolis Drive
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Ms. Maranda J. Freeman
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