

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MICHIGAN

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U.S. DISTRICT COURT
WESTERN DISTRICT MICH
BY *[Signature]*

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,

Plaintiff,

Civil Action No.

1:05 CV 0446

v.

SPECTRUM HEALTH WORTH
HOME CARE, INC.,

Defendant.

**COMPLAINT AND JURY
DEMAND**

**Gordon J. Quist
U.S. District Judge**

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 race, and to provide appropriate relief to Charging Parties Kisha Childrey and Diane Wilson, and other similarly situated individuals, who were adversely affected by such practices. Plaintiff United States Equal Employment Opportunity Commission (the "Commission" or "EEOC") alleges that Kisha Childrey and Diane Wilson, African American females, and other similarly situated individuals were sexually and/or racially harassed by Kyle Briggs, a patient under their care as home health care providers, and that Defendant Spectrum Worth Home Care ("Defendant" or "Employer"), having knowledge of the harassment, failed to take reasonable care to prevent the harassment, and failed to take effective corrective action reasonably calculated to end the harassment. The Commission further alleges that Kisha Childrey was constructively discharged

when she was unable to return to work after being raped at knife point by patient Kyle Briggs.

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) and 42 U.S.C. § 2000e-6(e) (“Title VII”), and Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981(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 Michigan.
3. Plaintiff EEOC, 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 has continuously been a corporation doing business in the State of Michigan and the City of Grand Rapids, and has continuously had at least fifteen (15) employees.
5. At all relevant times, Defendant 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, Kisha Childrey and Diane Wilson (“Childrey” and “Wilson”) filed a charge with the Commission alleging

violations of Title VII by Defendant. All conditions precedent to the institution of this lawsuit have been fulfilled.

7. Since at least February of 2004, Defendant has engaged in unlawful employment practices in its Grand Rapids, Michigan facility, in violation of Section 703(a), 42 U.S.C. §2000e-2(a). The unlawful employment practices include the following:

- a. Beginning in February of 2004, Kyle Briggs began making sexual comments to Childrey and Wilson such as:
 - 1) “Can I put my vanilla in your chocolate and make a milkshake?”
 - 2) “Have you ever had it in the booty”
 - 3) “Is the inside of your p—y pink even though you are black?”
- b. Beginning in February of 2004, Kyle Briggs made racially harassing comments to Childrey and Wilson, including, but not limited to:
 - 1) “Can you teach me to speak monkey too?”
 - 2) Continually referred too Childrey and Wilson as “n----rs.”
- c. Briggs grabbed Wilson’s head and pushed it into his erect penis.
- d. Briggs ran his hand up Wilson’s thigh and grabbed her vagina.
- e. On March 31, 2004, Briggs raped Childrey at knife point by penetrating her with his finger and penis and biting her vagina.
- f. Defendants, having knowledge of the harassment by Briggs, failed to take reasonable care to prevent the harassment and failed to take effective corrective action reasonably calculated to end the harassment.
- g. As a result of the rape, Childrey was constructively discharged from her

employment with Defendant.

8. Defendant was aware of Childrey's and Wilson's opposition to Kyle Briggs' unwelcome sexual conduct.
9. The effect of the conduct complained of in paragraphs 7, and 8, above, has been to deprive Childrey and Wilson, and other similarly situated individuals of equal employment opportunities and otherwise adversely affect their status as employees because of their sex and race.
10. As a result of the unlawful employment practices complained of in paragraphs 7 and 8, above, Childrey and Wilson, and other similarly situated individuals have suffered pecuniary compensatory damages and non-pecuniary compensatory damages in the nature of emotional pain, suffering, inconvenience, mental anguish, loss of enjoyment of life, and lost wages.
11. The unlawful employment practices complained of in paragraphs 7 and 8, above, were intentional.
12. The unlawful employment practices complained of in paragraphs 7 and 8, above, were done with malice or with reckless indifference to Childrey's and Wilson's, and other similarly situated individuals federally protected rights.

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 unlawful employment practices

which discriminate on the basis of sex and race.

- b. ORDER Defendant to provide mandatory training regarding Title VII and its prohibition against sexual and racial harassment to all management and non-management employees at its Grand Rapids facility.
- c. ORDER Defendant to institute and carry out policies, practices and programs which provide equal employment opportunities for women and African Americans, and which eradicate the effects of their past and present unlawful employment practices.
- d. Order Defendants to make whole Childrey and Wilson, and other similarly situated individuals, by providing the appropriate amount of back pay with prejudgment interest, in an amount to be proven at trial, and other affirmative relief necessary to eradicate the effects of its unlawful employment practices.
- e. ORDER Defendant to make whole Childrey and Wilson, and other similarly situated individuals by providing compensation for past and future pecuniary losses resulting from the unlawful employment practices described in paragraphs 7 and 8, above, in amounts to be proven at trial.
- f. ORDER Defendant to make whole Childrey and Wilson, and other similarly situated individuals by providing compensation for past and future non-pecuniary losses resulting from the unlawful practices complained of in paragraphs 7 and 8, above, in amounts to be proven at trial.
- g. ORDER Defendant to pay Childrey and Wilson, and other similarly situated individuals punitive damages for their malicious or reckless conduct described in

paragraphs 7 and 8, above, in amounts to be proven at trial.

- h. GRANT such further relief as the Court deems necessary and proper in the public interest.
- i. AWARD the Commission its costs of this action.

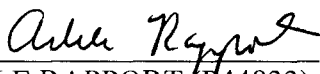
JURY TRIAL DEMAND

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

Respectfully submitted,

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