

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 that discriminate on the basis of race, and to provide appropriate relief to Joyce Johnson-Clayter, who was adversely affected by such practices. As alleged with greater particularity in Paragraph 7 below, the Commission alleges that Defendant Employer, *Allstate Insurance Company* (hereinafter referred to as “Allstate” or “Defendant Employer”), discriminated against Ms. Johnson-Clayter when it failed to address her complaints of discrimination and subsequently terminated her employment because of her race, Black. The Commission contends that Defendant Employer subjected Ms. Johnson-Clayter to disparate treatment by highly criticizing and scrutinizing her work, while failing to subject similarly-situated White employees to the same treatment. As a result of the discrimination, Ms. Johnson-Clayter suffered monetary damages as well as emotional distress.

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 Eastern District of Pennsylvania.

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, *Allstate Insurance Company* (the "Employer"), has continuously been doing business in the State of Pennsylvania and the City of Reading, and has continuously had at least fifteen 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, Ms. Johnson-Clayter 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. Since at least January 2001, Defendant Employer has engaged in unlawful employment practices at its Reading, Pennsylvania facility in violation of Section 703 (a)(1) of Title VII, 42 U.S.C. § 2000e-2(a)(1). These practices include, but are not limited to, the following:

(a) Ms. Johnson-Clayter began her employment in or about July 1987 with CNA Personal Insurance. On or about January 1, 2000, Defendant Employer acquired CNA Personal Insurance, and later renamed the company Encompass Insurance.

(b) From January 1, 2000, until her discriminatory discharge on May 7, 2002, Ms. Johnson-Clayter held the position of Senior Customer Service Representative with Encompass Insurance.

(c) In or about January 2000, David Hugenbrach became Ms. Johnson-Clayter's supervisor. Soon after reporting to Hugenbrach, he began subjecting Ms. Johnson-Clayter to disparate treatment by excessively scrutinizing her performance, criticizing her work, threatening to fire her on a regular basis, and restricting her lunch schedule. White co-workers were not treated in this manner.

(d) In early 2001, Hugenbrach told Ms. Johnson-Clayter that she was "too ethnic" and "too animated." Ms. Johnson-Clayter believed these comments referenced her race because she was the only Black employee in her department.

(e) In January 2001, Hugenbrach demanded that Ms. Johnson-Clayter not verbally express herself at the staff meetings because she was "too frightening," "too loud," "too negative," and "too scary." Ms. Johnson-Clayter believed that Hugenbrach made these comments because of her race.

(f) Throughout 2000-2002, Defendant subjected Ms. Johnson-Clayter to disparate treatment when Hugenbrach repeatedly counseled her for her performance and subsequently issued her Performance Improvement Notifications. Similarly situated White employees who failed to achieve

Defendant's expectations were neither counseled, nor issued Requires Improvement Performance Notifications.

(g) On January 29, 2001, Ms. Johnson-Clayter received a performance evaluation of "Meets Expectations." Nonetheless, two weeks later, on February 12, 2001, Defendant issued Ms. Johnson-Clayter a Requires Improvement Notification, citing performance incidents from 2000, even though she had just received a satisfactory performance evaluation for her performance in 2000.

(h) On April 12, 2001, Defendant Employer notified Ms. Johnson-Clayter that she successfully met the requirements of the Requires Improvement Notice and that her performance was again rated as "Meets Expectation."

(i) On July 3, 2001, Ms. Johnson-Clayter received a merit increase. However, less than one month after the merit increase, Defendant issued her another Requires Improvement Notification.

(j) On October 9, 2001, Defendant Employer placed Ms. Johnson-Clayter on a Job in Jeopardy Notice for sixty (60) days. Ms. Johnson-Clayter successfully completed the sixty (60) day period on December 10, 2001. Defendant Employer again stated that Ms. Johnson-Clayter's performance "Meets Expectation."

(k) On February 8, 2002, Ms. Johnson-Clayter received her annual performance rating for the 2001 calendar year with a rating of "Meets Expectation."

(l) Prior to reporting to Defendant's Supervisor Manager David Hugenbrach, Ms. Johnson-Clayter never experienced the type of scrutiny she experienced under Hugenbrach, nor received any Requires Improvement Notifications or Job in Jeopardy Notices.

(m) Due to continuous scrutiny and disparate treatment by Hugenbrach, Ms. Johnson-Clayter complained to Defendant Employer's Human Resource Manager, Wayman Clark, that she

believed that she was being subjected to race discrimination by Hugenbrach. Clark responded that he was “tired of Black employees thinking that he would agree with them.” Despite Defendant’s anti-discrimination policy, which mandated that complaints of discrimination be investigated, Clark failed to initiate or conduct any investigation into Ms. Johnson-Clayter’s complaints.

(n) As a result of Defendant’s refusal to address Ms. Johnson-Clayter’s complaints of discrimination, she was forced to remain under Hugenbrach’s supervision and continued to be subjected to disparate treatment and excessive scrutiny by Hugenbrach because of her race.

(o) Ms. Johnson-Clayter repeatedly requested of both Hugenbrach and Clark that she be transferred to another department. Hugenbrach allowed two white employees with performance concerns to transfer to different departments, but refused to permit Ms. Johnson-Clayter to transfer to another department, despite the availability of positions for which she was qualified.

(p) On May 7, 2002, Defendant terminated Ms. Johnson-Clayter’s employment because of her race. Defendant Employer alleged she was terminated for performance problems.

8. The effect of the practices complained of in paragraphs 7 (a) through (p) above has been to deprive Ms. Johnson-Clayter 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 paragraphs 7 (a) through (p) above were intentional.

10. The unlawful employment practices complained of in paragraphs 7 (a) through (p) above were done with malice or with reckless indifference to the federally protected rights of Ms. Johnson-Clayter.

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 employment practices which discriminate on the basis of race.

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

C. Order Defendant Employer to make whole Ms. Johnson-Clayter, 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 rightful- place reinstatement of Ms. Johnson-Clayter, or frontpay in lieu thereof if reinstatement is not feasible.

D. Order Defendant Employer to make whole Ms. Johnson-Clayter, by providing compensation for past and future pecuniary losses resulting from the unlawful employment practices described in paragraphs 7(a) through (p) above, in amounts to be determined at trial.

E. Order Defendant Employer to make whole Ms. Clayter by providing compensation for past and future nonpecuniary losses resulting from the unlawful practices complained of in paragraphs 7(a) through (p) above, including emotional pain and suffering, humiliation, embarrassment and loss of life's pleasures, in amounts to be determined at trial.

F. Order Defendant Employer to pay Ms. Johnson-Clayter punitive damages for its malicious and reckless conduct described in paragraphs 7(a) through (p) 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 in this action.

JURY TRIAL DEMAND

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

Respectfully submitted,

ERIC S. DREIBAND
General Counsel

JAMES L. LEE
Deputy General Counsel

GWENDOLYN YOUNG REAMS
Associate General Counsel

JACQUELINE H. MCNAIR
Regional Attorney

MARY M. TIERNAN
Acting Supervisory Trial Attorney

DME 3496
DAWN M. EDGE
Trial Attorney

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Philadelphia District Office
21 South 5th Street, Suite 400
Philadelphia, PA 19106
(215) 440-2687
(215) 440-2848 (FAX)