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FILED IN THE
UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII

SEP 28 2006

at 3 o'clock and 00 P.M.
SUE BEITIA, CLERK

**UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII**

U.S. EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION,

Plaintiff,

vs.

STRAUB HOSPITAL and
HAWAII PACIFIC HEALTH,

Defendant(s).

Case No.:

CV 06 00530 ACKLEK

**COMPLAINT-CIVIL RIGHTS
EMPLOYMENT
DISCRIMINATION**

JURY TRIAL DEMAND

NATURE OF THE ACTION AND JURISDICTION

This is an action under Title VII of the Civil Rights Act of 1964 and Title I of the Civil Rights Act of 1991 and under the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. §§ 621 et seq., (the "ADEA"), to correct unlawful employment practices on the basis of sex (female) and age (over 40), and

to provide appropriate relief to Helen Josypenko, Laureen Arashiro, Yvonne Lima, Candace Johnson, Jennifer Siemsen, Doris Faletoi, Ruth Jones, and to similarly situated persons who were not hired by Defendants Hawaii Pacific Health and Straub Hospital on the basis of their sex (female) or age (over forty (40)) or above, who were adversely affected by such practices. Plaintiff U.S. Equal Employment Opportunity Commission alleges that the defendants discriminated against “Charging Parties” and other similarly situated individuals based on their sex or age by failing to hire them for the positions that they applied for, namely security officers at Straub Hospital in June 2004.

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 and section 7 of the ADEA, 29 U.S.C. § 626(b), which incorporates by reference sections 16(c) and 17 of the Fair Labor Standards Act of 1938, as amended, 29 U.S.C. §§216(c) and 217.

2. The employment practices alleged to be unlawful were committed within the jurisdiction of the United States District Court for the District of Hawaii.

PARTIES

3. Plaintiff, the U.S Equal Employment Opportunity Commission (“EEOC” or “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 under Section 706(f)(1) and (3) and Section 707 of Title VII, 42 U.S.C. § 2000e-5(f)(1) and (3), § 2000e-6 and under Section 7(b) of the ADEA, 29 U.S.C. § 626(b), as amended by section 2 of

Reorganization Plan No. 1 of 1978, 92 Stat. 3781 and by Public Law 98-532 (1984) 98 Stat. 2705.

4. At all relevant times, Defendant Straub Hospital was and has continuously been a Hawaii corporation doing business in the City and County of Honolulu, State of Hawaii and has continuously had at least 15 employees.

5. At all relevant times, Defendant Hawaii Pacific Health has continuously been continuously been a Hawaii corporation doing business in the City and County of Honolulu and has continuously had at least 15 employees.

6. At all relevant times, Defendant Employers have continuously been employers 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).

7. All of the acts and failures to act alleged herein were duly performed by and attributable to all Defendants, each acting as a successor, agent, employee, or under the direction and control of the others, except as specifically alleged otherwise. Said acts and failures to act were within the scope of such agency and/or employment, and each Defendant participated in, approved and/or ratified the unlawful acts and omissions by the other Defendants complained of herein. Whenever and wherever reference is made in this Complaint to any act by a Defendant or Defendants, such allegations and reference shall also be deemed to mean the acts and failures to act of each Defendant acting individually, jointly, and/or severally.

STATEMENT OF CLAIMS

8. More than thirty days prior to the institution of this lawsuit, Helen Josypenko, Laureen Arashiro, Yvonne Lima, Candace Johnson, Jennifer Siemsen, Doris Faletoi, and Ruth Jones filed a charge with the Commission alleging violations of Title VII by Defendant Employers. All conditions precedent to the institution of this lawsuit has been fulfilled.

9. Since at least June 1, 2004, Defendant Employers individually and collectively engaged in unlawful employment practices at their Honolulu, Hawaii location in violation of Section 703 of Title VII, 42 U.S.C. § 2000e-2, by failing to hire Helen Josypenko, Laureen Arashiro, Yvonne Lima, Candace Johnson, Jennifer Siemsen, Doris Faletoi, Ruth Jones, and similarly situated individuals because of their sex, female.

10. The effect of the practices complained of in paragraphs 8 and 9 above has been to deprive the Helen Josypenko, Laureen Arashiro, Yvonne Lima, Candace Johnson, Jennifer Siemsen, Doris Faletoi, Ruth Jones, and similarly situated individuals of equal employment opportunities and otherwise adversely affect their status as applicants for employment, because of their sex.

11. The unlawful employment practices complained of above were done with malice or with reckless indifference to the federally protected rights of Helen Josypenko, Laureen Arashiro, Yvonne Lima, Candace Johnson, Jennifer Siemsen, Doris Faletoi, Ruth Jones, and similarly situated individuals.

12. In addition to the foregoing, more than thirty days prior to the institution of this lawsuit, Helen Josypenko, Laureen Arashiro, Yvonne Lima, filed a charge with the Commission alleging violations of the ADEA by Defendant Employers. All conditions precedent to the institution of this lawsuit has been fulfilled.

13. Since at least in or about June 2004, Defendant has engaged in unlawful employment practices in violation of ADEA. The unlawful employment practices include Defendants' decision not to hire Charging Parties Helen Josypenko, Laureen Arashiro, Yvonne Lima, and other similarly situated individuals who were age forty (40) or above at the time Defendants refused to hire them.

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14. The effect of the practices complained of above has been to deprive equal employment opportunities to persons who were age forty (40) or above at the time Defendants refused to hire them.

15. The unlawful employment practices complained of above were and are willful within the meaning of section 7(b) of the ADEA, 29 U.S.C. §626(b).

PRAYER FOR RELIEF

Wherefore, the Commission respectfully requests that this Court:

A. Grant a permanent injunction enjoining Defendant Employers, their officers, successors, assigns, and all persons in active concert or participation with it, from engaging in sex discrimination and any other employment practices which discriminates on the basis of sex and age.

B. Order Defendant Employers to institute and carry out policies, practices, and programs which provide equal employment opportunities for women and workers over the age of forty (40), and which eradicate the effects of their past unlawful employment practices.

C. Order Defendant Employers to make whole Helen Josypenko, Laureen Arashiro, Yvonne Lima, Candace Johnson, Jennifer Siemsen, Doris Faletoi, Ruth Jones, and similarly situated individuals by providing appropriate backpay with prejudgment interest, in amounts to be determined at trial, and other affirmative relief necessary to eradicate the effects of their unlawful employment practices, including but not limited to rightful-place hiring, plus prejudgment interest.

D. Order Defendant Employers to make whole Helen Josypenko, Laureen Arashiro, Yvonne Lima, Candace Johnson, Jennifer Siemsen, Doris Faletoi, Ruth Jones, and similarly situated individuals by providing compensation for past and future pecuniary losses resulting from the unlawful employment practices described above, in amounts to be determined at trial.

E. Order Defendant Employers to make whole Helen Josypenko, Laureen Arashiro, Yvonne Lima, Candace Johnson, Jennifer Siemsen, Doris Faletoi, Ruth Jones, and similarly situated individuals by providing compensation for past and future nonpecuniary losses resulting from the unlawful practices complained of above, including emotional pain, suffering, inconvenience, loss of enjoyment of life, and humiliation, in amounts to be determined at trial.

F. Order Defendant Employers to pay Helen Josypenko, Laureen Arashiro, Yvonne Lima, Candace Johnson, Jennifer Siemsen, Doris Faletoi, and Ruth Jones, and similarly situated individuals punitive damages for their malicious and reckless conduct described above, in amounts to be determined at trial.

G. Grant a permanent injunction enjoining Defendants, and their officers, successors, assigns and all persons in active concert or participation with them, from engaging in any employment practices which discriminate on the basis of age.

H. Order Defendants to institute and carry out policies, practices and programs which provide equal employment opportunities for persons forty (40) years of age and older, and which eradicate the effects of their past and present unlawful employment practices;

I. Grant a judgment requiring Defendants to pay persons on whose behalf the EEOC seeks relief who were over age forty (40) when they were refused to be hired by Defendants the appropriate back pay, front pay and benefits in an amount to be determined at trial, an equal sum as liquidated damages, and prejudgment interest on the lost pay and benefits.

J. Grant such further relief as the Court deems necessary and proper in the public interest.

K. Award the Commission its costs of this action.

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