

FILED

IN THE IOWA DISTRICT COURT FOR BLACKHAWK COUNTY

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ROBIN L. MEEKS (DOB: 10-19-75), on)
Behalf of Herself and Others Similarly)
Situating,)

Plaintiff,)

v.)

ALLEN MEMORIAL HOSPITAL)
CORPORATION,)

Defendant.)

CASE NO.

LACV 114860

CLERK OF DISTRICT COURT
BLACK HAWK COUNTY, IOWA

CLASS ACTION PETITION

COMES NOW the Plaintiff, Robin L. Meeks, for her Class Action Petition, by and through counsel and on Behalf of Herself and All Others Similarly Situated, and for her causes of action against Defendant Allen Memorial Hospital Corporation alleges as follows:

SUMMARY OF THIS ACTION

1. Plaintiff brings this class action under the Iowa Civil Rights Act of 1965, Iowa Code Chapter 216, for damages sustained as a result of Defendant's employment discrimination. Specifically, Plaintiff challenges those practices that Defendant used, and continues to use, to discriminate against African American employees at Allen Memorial Hospital Corporation ("Allen Hospital"). Defendant engaged in continuing violations of the law and in a pattern and practice of discrimination, harassment and retaliation against African American applicants and employees on the basis of race resulting in substantial harm both to Plaintiff and to members of the Class. The specific class included in this action is set forth below.

2. These claims are prosecuted by one class, the former, current and future African American employees of Allen.

3. The purpose and effect of Defendant's illegal conduct has been to enforce a comprehensive employment policy or practice which discriminates and retaliates against African American employees on the basis of their race. As a result of Defendant's illegal conduct, the Plaintiff and members of the Class are entitled to equitable relief and recovery of money damages for their injuries.

JURISDICTION AND VENUE

4. This court has jurisdiction pursuant to the Iowa Civil Rights Act of 1965, Iowa Code Chapter 216 ("ICRA").

5. This Petition is not based upon federal law or any federal question. No claim for relief is made under federal law. Additionally, this action does not satisfy the elements of the Class Action Fairness Act of 2005, Pub. L. No. 109-2, 119 Stat. 4 (2005) (codified at 28 U.S.C. §§ 1332(d), 1335(a)(1), 1453, 1603(b)(3), 1711-15), because the matter in controversy does not exceed, exclusive of interest and costs, the sum or value of \$5,000,000 when the claims of individual members of the Class are aggregated to determine the amount in controversy and because there may be less than 100 potential members in the putative Class. As the federal courts do not have subject matter jurisdiction over the claims asserted herein, this action is not subject to removal to federal court.

6. Pursuant to Iowa Code § 616.17 venue is proper in Blackhawk County because the Defendant does business in this county.

THE PARTIES

7. At all times material hereto, Plaintiff Robin L. Meeks ("Meeks") was a citizen and resident of Waterloo, Blackhawk County, Iowa. Meeks is African-American and therefore protected from discriminatory practices under the ICRA.

8. At all times material hereto, Defendant Allen Memorial Hospital Corporation was an Iowa corporation with its principal place of business located at 1825 Logan Avenue in Waterloo, Blackhawk County, Iowa.

PROCEDURAL REQUIREMENTS

9. On September 23, 2009, within 300 days of the acts of which she complains, Plaintiff Meeks filed charges of employment discrimination with the Iowa Civil Rights Commission against Defendant.

10. On September 20, 2010, less than 90 days prior to the filing of this Petition, the Iowa Civil Rights Commission issued to Plaintiff, pursuant to Iowa Code Chapter 216.16, a Notice of Right-to-Sue with respect to such charges of discrimination.

CLASS ACTION ALLEGATIONS

11. Plaintiff Meeks brings this action pursuant to Iowa Rule of Civil Procedure 1.261 on behalf of the Class identified below.

12. The Class consists of all former, current and future African-American applicants and employees from the State of Iowa who applied for employment or were employed by Allen Hospital, and who suffered from, or are currently suffering from, or in the future may suffer from, Allen Hospital's continuing policies and practices of racial discrimination, harassment and retaliation.

13. The named Plaintiff, as a person discriminated against by Allen Hospital due to her race, is representative of an ascertainable class that is comprised of Iowa applicants and employees of Allen Hospital who suffered from, or will suffer from, race discrimination, harassment or retaliation by Allen Hospital.

14. Plaintiff is informed, and believes (and on that basis alleges), that the membership of the Class likely includes less than 100 individuals, the exact number of past and current applicants and employees being known to Defendants. The Class is so numerous that joinder of all members is impracticable. Joinder is also impractical because potential Class members reside in different counties and judicial sub districts within the State of Iowa.

15. There are questions of law and facts common to each member of the Class. Such common questions include, but are not limited to:

- a) Whether Defendant has, at all relevant times, engaged in a pattern and practice of discrimination and harassment on the basis of race with respect to hiring, promotion, discipline and discharge;
- b) Whether Defendant has engaged in a pattern and practice of retaliating against employees who complain of racial discrimination and/or harassment;
- c) Whether the Defendant's conduct violates the Iowa Civil Right Act of 1965, Iowa Code Chapter 216;
- d) Whether Defendant's racial discrimination, harassment and retaliation caused legally cognizable injury to Plaintiff and members of the Class;
and
- e) Whether Plaintiff and members of the Class are entitled to declaratory and injunctive relief, monetary damages and, if so, the appropriate measure of such damages.

16. There is a common interest among members of the Class with respect to questions of law and fact. The named Plaintiff's claims are typical of the claims of absent members of the

Class. The named Plaintiff's claims also fairly encompass the claims of absent members of the Class. Moreover, the named Plaintiff and absent members of the Class are similarly situated and have been harmed by the same course of unlawful conduct alleged herein.

17. It is further appropriate to proceed with this action on behalf of the Class members because:

- a) The prosecution of separate actions by individual members of the Class would create a risk of inconsistent or varying adjudications with respect to individual members of the Class which would establish incompatible standards of conduct for Defendant;
- b) As a practical matter, adjudications with respect to the individual members of the Class, would be dispositive of the interests of other members not parties to the adjudications, and/or would substantially impair or impede their ability to protect their interests; and
- c) The questions of law and fact common to the members of the Class predominate over any questions affecting only individual members, and a class action is superior to other available methods for the fair and efficient adjudication of this action.

18. Plaintiff has retained lawyers who are experienced litigators with very substantial class action experience and expertise. The lawyers have agreed to advance the costs of the out-of-pocket expenses of this litigation and have the ability to do so.

FACTUAL BACKGROUND

19. Meeks earned a Bachelor of Science in Nursing Degree (B.S.N.) at Allen College of Nursing in 1999. In 2003, Meeks received her Master of Science in Nursing Degree (M.S.N.) also from Allen College of Nursing.

20. Meeks was initially employed at Allen Hospital in June 1997 as a student nurse. She voluntarily resigned from that position and was later rehired in May 1999 as a Graduate Nursing Student. She remained employed in that position until her graduation in February 2000.

21. Meeks then worked for Allen Hospital as a registered nurse from February 2000 until her resignation on July 30, 2003.

22. On November 20, 2002, Meeks filed a complaint with the Equal Employment Opportunity Commission ("EEOC") alleging that she had been unlawfully denied a position on the basis of race.

23. The parties mediated the claim with the EEOC, but the matter had not been resolved at the time Meeks resigned her employment at Allen Hospital.

24. In August 2009, Meeks returned to Waterloo, Iowa and sought re-employment at Allen Hospital.

25. On or about August 5, 2009, Meeks applied for several positions at Allen Hospital including, but not limited to the following: Part-Time House Supervisor, Staff Nurse MICU (Medical Intensive Care Unit) and Staff Nurse FTE (Full-Time Equivalent).

26. On August 10, 2009, Meeks applied for a second Staff Nurse MICU position, a Staff Nurse Cardiac Rehabilitation position and a Staff Nurse-Skilled Nursing Floor position.

27. On September 9, 2009, Meeks applied for a position as a Staff Nurse Operating Room.

28. Meeks was interviewed for the position as a Staff Nurse-Skilled Nursing Floor and the House Supervisor position by Jan Erpelding, Tammy Jones, Kim Lodge and Andrea Frencher.

29. At the first interview, Tammy Jones (Clinical Director) asked Meeks if she was interested in a second level interview for the House Supervisor position. Meeks indicated she was and a second interview for the House Supervisor position was scheduled for August 21, 2009.

30. In the first interview, one or more of the decision makers referenced the 2002 EEOC Complaint filed by Meeks and characterized her as a "troublemaker."

31. A second interview was conducted on August 21, 2009 by Jan Erpelding, Tammy Jones, Kim Lodge, Andrea Frencher and several nursing managers. The second interview only last 20 minutes and very few questions were asked. Meeks was told that she would be contacted after s decision was made.

32. Meeks did not hear back regarding either the Skilled Nursing Floor or House Supervisor positions. On or about August 31, 2009, Meeks telephoned Jan Erpelding who told her that they had chosen someone for the House Supervisor position that had management experience.

33. The House Supervisor and Skilled Nursing positions were given to less qualified whites.

34. On September 8, 2009, Meeks was interviewed a third time for three positions; Staff Nurse MICU, Staff Nurse Cardiac Rehabilitation and Staff Nurse FTE.

35. At the September 8, 2009 interview, Jan Erpelding asked Plaintiff "Have you ever thought about applying at Covenant?" Following the interview, Erpelding gave Meeks the name and phone number of the Human Resources Director at Covenant.

36. The three Staff Nurse positions were given to less qualified white applicants.

VIOLATION OF IOWA CODE CHAPTER 216

37. Meeks realleges paragraphs 1 through 36 of this Class Action Petition as if fully set forth herein.

38. Defendant has engaged in a continuing pattern and practice of race discrimination, harassment and retaliation with respect to hiring, promotion, discipline and discharge all in violation of the ICRA.

39. Plaintiff and members of the Class have been damaged as a direct and proximate result of the Defendant's race discrimination, harassment and retaliation aforesaid.

40. Defendant's actions perpetrated against the Plaintiff and members of the Class were willful and wanton, and done with malice or in reckless disregard of the rights of the Plaintiff and members of the Class, entitling them to punitive damages.

41. Furthermore, as a proximate result of Defendant's acts aforesaid, Plaintiff and members of the Class are entitled to the relief set forth in the prayer below.

PRAYER FOR RELIEF

WHEREFORE Plaintiff, individually and on behalf of the members of the Class, pray for judgment and relief against Defendant Allen Hospital as follows:

- a) That an Order of this court be set forth certifying this action to proceed as a Class Action with Plaintiff as a proper class representative;

- b) That Defendant's conduct complained of herein be declared in violation of Plaintiff's rights, and the rights of the Class, as secured by Iowa Code Chapter 216;
- c) That Defendant Allen Hospital's officers, employees, agents, attorneys, successors and assigns, and those acting in concert therewith be enjoined from any conduct violating Plaintiff's rights or the rights of the Class as secured by the ICRA and order such other injunctive relief as will prevent Defendant from continuing their discriminatory practices and protect others similarly situated;
- d) That Plaintiff and members of the Class be awarded compensatory damages and any other form of relief to which they are entitled to, including equitable, declaratory, monetary or other relief due individual class members or to the Class in a lump sum or installments pursuant to Iowa Rule of Civil Procedure 1.274;
- e) That Plaintiff and members of the Class be made whole by providing appropriate lost earnings and benefits with pre-judgment interest and other affirmative relief;
- f) That Plaintiff and members of the Class be awarded punitive damages in an amount sufficient to punish the Defendant and to deter the Defendant and others from engaging in illegal conduct;
- g) That Plaintiff and members of the Class be awarded reasonable attorneys' fees and costs incurred in pursuing this action; and
- h) That Plaintiff and members of the Class be awarded such additional and further relief as is just and proper.



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Original filed.