

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

<b>ROBERT M. KINITZ,</b>	:	<b>CIVIL ACTION</b>
<b>Plaintiff,</b>	:	
	:	
v.	:	<b>No.: 20-cv-6013</b>
	:	
	:	
<b>CENTRAL ADMIXTURE PHARMACY :</b>		
<b>SERVICES, INC., B. BRAUN MEDICAL:</b>		
<b>INC., B. BRAUN OF AMERICA INC. :</b>	:	
<b>Defendants.</b>	:	<b>JURY TRIAL DEMANDED</b>

**COMPLAINT**

**I. PRELIMINARY STATEMENT**

This is an action for an award of damages, declaratory and injunctive relief, attorneys’ fees and other relief on behalf of Plaintiff, Robert M. Kinitz (hereinafter “Plaintiff”). Plaintiff is an employee of Central Admixture Pharmacy Services, Inc. (hereinafter “Central Admixture Pharmacy Services”) in Allentown, Pennsylvania, who has been harmed by sex discrimination, sexual orientation harassment, sexual harassment and retaliatory practices as well as other improper conduct by Central Admixture Pharmacy Services and its agents, servants, and representatives .

This action is brought under Title VII of the Civil Rights Acts of 1964 and 1991 (“Title VII”), as amended, 42 U.S.C. §2000e *et seq.*.

**II. JURISDICTION AND VENUE**

1. The original jurisdiction and venue of this Court is invoked in this District pursuant to Title 42 U.S.C. §2000e-5(f), 28 U.S.C. §1331 and 1391, 2201, 2202, 1343 and the claim

is substantively based on Title VII, 42 U.S.C. §2000e *et seq.*.

2. All conditions precedent to the institution of this suit have been fulfilled.
3. On or about December 18, 2019, Plaintiff filed a Charge of Discrimination with the Equal Employment Opportunity Commission (“EEOC”), which was jointly filed with the Pennsylvania Human Relations Commission (“PHRC”), against Central Admixture Pharmacy Services alleging, inter alia, sex-based employment discrimination, sexual harassment, and retaliation.
4. On September 2, 2020, a Notice of Right to Sue was issued by the United States Equal Employment Opportunity Commission.
5. This action has been filed within ninety (90) days of receipt of said Notice.

### **III. PARTIES**

6. Plaintiff is a 31-year-old male citizen and resident of the Commonwealth of Pennsylvania. Plaintiff at all times relevant herein was employed by Central Admixture Pharmacy Services.
7. Central Admixture Pharmacy Services is a corporation organized and doing business under the laws of the Commonwealth of Pennsylvania with registered offices at 824 Twelfth Avenue, Bethlehem, PA and a principle place of business at 6580 Snowdrift Road, Allentown, Pennsylvania.
8. Upon information and belief Defendant B. Braun Medical Inc. owns pharmacies that are operated under the name Central Admixture Pharmacy, Inc.
9. At all times relevant herein, Plaintiff was an “employee” as defined by the Title VII, 42 U.S.C. § 2000e, and is protected by the provisions of the Act.

10. At all times relevant herein, Central Admixture Pharmacy Services was an “employer” as defined by the Title VII, 42 U.S.C. § 2000e, and is subject to the provisions of the Act.
11. At all times relevant hereto, Central Admixture Pharmacy Services acted by and/or failed to act by and through the conduct of its officers, managers, agents, and employees, all acting within the scope and course of their employment.
12. Central Admixture Pharmacy Services has, acting through its agents, servants and representatives, on more than one occasion, met with Plaintiff, and has heard allegations from Plaintiff of sex and gender stereotyping, sexual orientation harassment, gender-based (male) harassment, sexual orientation discrimination, gender-based (male) discrimination, and retaliation.
13. At all relevant times herein, Central Admixture Pharmacy Services knew, or had reason to know, of the actions and inaction alleged herein and/or has personally participated in some of said actions and is ultimately responsible for same.

#### **IV. CAUSES OF ACTION**

14. Plaintiff is a 31-year-old male employee hired by Central Admixture Pharmacy Services on or about July 9, 2018 and worked most recently as an IV Tech 1.
24. At all times relevant hereto, Plaintiff was qualified for his position and performed his job duties in a proper and competent manner.
25. At all times relevant hereto, Plaintiff’s supervisors were Gregory D. Smith, Director of Pharmacy (hereinafter “Smith”), Eric Lee, Senior Pharmacist (hereinafter “Lee”), Rachel Schwartz, Assistant Director of Pharmacy (hereinafter “Schwartz”), David L.

- Cain, Manufacturing Operational Manager (hereinafter “Cain”), Tamara McEleney, Supervisor Technical Services (hereinafter “McEleney”), Marc Redding, Senior Human Resources Business Partner (hereinafter “Redding”), and Juanita A. Harris, Director of Human Resources (hereinafter “Harris”).
26. Shortly after Plaintiff started as a pharmacy technician trainee, he was subjected to hyper-scrutiny and hyper-criticism including, but not limited to, adverse actions by McEleney that Plaintiff behaved “unacceptably” and criticizing his “voice tone.”
27. McEleney stated that he reported Plaintiff for the above actions.
28. Plaintiff was trained for his position by an employee named \_\_\_\_\_ Finke (hereinafter “Finke”).
29. During his training, Finke told Plaintiff to bring in a prescription from home as part of his training
30. Plaintiff complied with Fine’s directive.
31. Finke and then proceeded to make reference to Plaintiff as medication as one used to prevent HIV.
32. Plaintiff objected to the implied assertion.
33. On or about \_\_\_\_\_ Plaintiff was summoned to meet with Smith and McEleney to discuss a warning about his conduct.
34. At the above referenced meeting, Plaintiff asked Smith and McEleney whether the warning was due to his sexual orientation and sex and gender stereotyping because of Finke’s comments.
35. At the above referenced meeting, Plaintiff acknowledged to Smith that he (Plaintiff) is

- homosexual.
36. At the above referenced meeting, after Plaintiff acknowledged that he was homosexual, Smith immediately referred Plaintiff to Harris, the Director of Human Resources.
37. On September 6, 2018, Plaintiff subsequently refuted the allegations and assertions in the above referenced warning in a written statement provided to Harris, the Director of Human Resources. In that statement, Plaintiff also reported his concerns regarding being targeted and harassed due to his sexual orientation and sex and gender stereotyping.
38. Following the above referenced written statement by Plaintiff denying the truth of the allegations, the “warning” was removed from Plaintiff’s file.
39. In or around November 2018, Travis Kern, a Quality Technician (hereinafter “Kern”), began blowing kisses at Plaintiff, making penis jokes, and making other offensive and uninvited sexual comments to Plaintiff.
40. Other employees, encouraged by Kern’s harassment and teasing of Plaintiff, joined in on the hostile and offensive behavior and comments toward Plaintiff.
41. Plaintiff felt threatened by the behavior of his co-workers.
42. All of the aforementioned occurred without any encouragement from Plaintiff and repeated requests that the harassment cease.
43. Instead, the teasing and harassment of Plaintiff continued.
44. In an effort to escape the harassing and threatening behavior on the first shift, Plaintiff transferred from first to second shift.
45. Plaintiff hoped that by changing shifts, Kern’s harassing behavior, as well as the

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