

**IN THE UNITED STATES DISTRICT COURT
SOUTHER DISTRICT OF TEXAS
HOUSTON DIVISION**

AUDREY TRUSSELL,	§	
	§	
Plaintiff,	§	
	§	
v.	§	
	§	
COMMONSPIRIT HEALTH		
ST. JOSEPH MANOR ASSISTED LIVING,	§	
ST. JOSEPH HEALTH SYSTEM, AND	§	
§		
	§	
Defendant.	§	
	§	

PLANTIFF’S ORIGINAL COMPLAINT

A. Parties

1. Plaintiff Audrey Trussell is a resident of Brazos County, Texas.
2. St. Joseph Manor Assisted Living, St. Joseph Health System, and CommonSpirit Health are Texas based entities, who may be served by serving its registered agent, C T Corporation System, at 1999 Bryan St., Ste. 900, Dallas, Texas, 75201-3136.

B. Jurisdiction and Venue

3. This Court has jurisdiction over the subject matter of this action under 42 U.S.C. §1983 and 28 U.S.C. §1331.
4. Venue is proper in this district under 42 U.S.C. §2000e-5(f)(3) because the alleged unlawful employment practice was committed in this district. Plaintiff was employed and

worked for Defendant in Brazos County, Texas and was discriminated against in violation of Title VII, 42 U.S.C. § 2000e-2(a) while employed with Defendant and working for it in Brazos County, Texas. It was here where the Plaintiff was subjected to the discriminatory and/or retaliatory actions that were described in her EEOC charge and set forth in this petition. Venue is proper in this district under 42 U.S.S. §2000e-5(f)(3) because based on information and belief the employment records relevant to the alleged unlawful employment practice are maintained and administered in this district.

C. Exhaustion of Administrative Remedies

5. Plaintiff timely filed a charge of discrimination against defendant with the Equal Opportunity Employment Commission (EEOC). Plaintiff files this complain within 90 days after receiving a notice of the right to sue from the EEOC. A copy of the notice of the right to sue is attached as Exhibit A.

6. All conditions precedent to the institution of this action have been fulfilled.

D. Statement of Facts

7. Plaintiff worked for St. Joseph Manor Assisted Living in 2016. Since that time, she never had any adverse performance or disciplinary actions. St. Joseph Manor Assisted Living is a part of the St. Joseph Health System and CommonSpirit Health.

8. The Plaintiff is a member of the Gathering of Christ Church in which one of their beliefs is that the body is a temple of the Holy Spirit and should not be contaminated with unclean animals.

9. The religion does not believe in placing foreign substances into their body that are

produced by unclean animals. Many vaccines are made from the blood of diseased animals, decomposed animal parts and are not clean or sterile.

10. The Defendant was aware of the Plaintiff's religion. The Plaintiff had a religious vaccine exemption with the Defendant since 2018. Furthermore, the Plaintiff's supervisor, Felicia Thomas, spoke to Plaintiff about her religion on several occasions.

11. The Plaintiff took her first COVID test for the Defendant on or around April 9, 2020, after being told that there was nothing on the cotton swab and therefore nothing was being placed into her body.

12. The Plaintiff was later informed there may be substances on the cotton swab when the test is performed.

13. On May 11, 2020, Governor Greg Abbott directed that 100 percent of staff and residents in Texas Nursing facilities be tested for SARS-CoV-2 (COVID), the virus that caused COVID-19.

14. The Defendant then put into place a policy which would require the Plaintiff to be retested.

15. On or about May 17, 2020, Plaintiff requested additional information from the Defendant about the test to ensure sure she was not committing sin in her religion due to possible substances being on the cotton swab.

16. On or about May 22, 2020, Kathryn Adams called the Plaintiff to discuss the issues. However, instead of giving the information to the Plaintiff for her to make an informed decision regarding the COVID test, she told her she would be terminated due to her refusal to take the COVID test and due to her religion.

17. Kathryn Adams then followed up with a very different email stating that the Plaintiff

refused to take the test and she had until May 27, 2020, to apply for another position, take the test or be terminated.

18. On or about May 25, 2020, before the deadline, the Plaintiff was escorted from the building during her shift and terminated.

19. Even after her termination, the Plaintiff received communications from a co-worker that the Defendant discussed the reason for the Plaintiff's termination was due to her religion.

20. The effect of St. Joseph's unlawful employment practices complained of herein has been to deprive the Plaintiff of equal employment opportunities and otherwise adversely affect her status as an employee based on religion, and because she engaged in activity protected by Title VII.

21. As a result of St. Joseph's unlawful actions, Plaintiff suffered pecuniary, non-pecuniary, and other losses and damages.

22. The unlawful employment practices complained of above were intentional.

23. The unlawful employment practices complained above were done with malice and/or reckless indifference to Plaintiff's federally protected rights.

Causes of Action

A. RELIGIOUS DISCRIMINATION

24. Plaintiff repeats and re-alleges all of the above paragraphs, the same as if fully set forth herein.

25. Defendant is an employer and Plaintiff is an employee within the meaning of Title VII of the Civil Rights Act of 1964, as amended ("Title VII").

26. Plaintiff is a member of the Gathering of Christ Church which does not allow certain medical procedures such as COVID testing.

27. Plaintiff was otherwise qualified to perform her position with the Defendant.

28. The Defendant discriminated against the Plaintiff because of Plaintiff's religious beliefs in violation of Title VII.

29. Defendant terminated Plaintiff from Plaintiff's position with Defendant because of Plaintiff's religion in violation of Title VII.

30. Defendant's discrimination was willful, malicious and made with reckless disregard for Plaintiff's rights.

31. Defendant's religious discrimination caused Plaintiff to suffer severe stress, mental anguish, emotional pain, suffering and loss of enjoyment of life.

32. Defendant is liable for back pay, front pay, punitive damages, compensatory damages, reasonable attorney's fees and costs.

B. RETALIATION

33. Plaintiff repeats and re-alleges all of the above paragraphs, the same as if fully set forth herein.

34. Defendant is an employer and Plaintiff is an employee within the meaning of Title VII.

35. Plaintiff engaged in activity protected by Title VII (opposing unlawful employment practices and making complaints of religious discrimination).

36. Plaintiff was subject to an adverse employment action in that the Defendant

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