

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF GENESEE

CARLOTTA ARMSTRONG,

Plaintiff,

13-99954
CASE NO: 13- -CZ

v

JUDGE

THE BOARD OF HOSPITAL MANAGERS
OF HURLEY MEDICAL CENTER AND/OR
HURLEY HOSPITAL AND/OR HURLEY
MEDICAL CENTER and MARY OSIKA, individually,
and SUE CONKWRIGHT, individually,

RICHARD B. YUILLE
P-22664

Defendants.

TOM R. PABST (P27872)
Representing Carlotta Armstrong
2503 S. Linden Road
Flint, MI 48532
(810) 732-6792

A TRUE COPY
Genesee County Clerk

There is a civil action between these parties or other parties arising out of the same transaction or occurrence as alleged in this complaint has been previously filed with this Court, where it was assigned docket number: 13-099763-CD, and was assigned to Judge Richard B. Yuille. The action was removed to Federal Court and assigned to Judge Duggan.

COMPLAINT
AND
JURY DEMAND

NOW COMES Tom R. Pabst, representing Carlotta Armstrong, Plaintiff, and for his Complaint and Jury Demand, shows unto this Honorable Court as follows:

(1) That at all times pertinent hereto, Carlotta Armstrong, Plaintiff, was/is an African-American woman and a resident of Genesee County, Michigan, as well as an employee of Defendant Hurley Medical Center.

(2) That at all times pertinent hereto, The Board of Hospital Managers of Hurley Medical Center and/or Hurley Hospital and/or Hurley Medical Center (hereinafter referred to as "Defendant Hurley") was/is a hospital dispensing hospital and medical services where it is located right here in Genesee County, Michigan.

(3) That at all times pertinent hereto, Defendant Mary Osika, upon information and belief, was/is a resident of Genesee County, Michigan, a duly appointed Nurse Manager of Defendant Hurley and a supervisor/boss over Carlotta Armstrong, Plaintiff.

(4) That at all times pertinent hereto, Defendant Sue Conkwright, upon information and belief, was/is a resident of Genesee County, Michigan, a duly appointed Charge Nurse of Defendant Hurley and a supervisor/boss over Carlotta Armstrong, Plaintiff.

(5) That since the acts and misconduct giving rise to this cause of action occurred in Genesee County, Michigan, this Court is a court of proper venue per MCLA §37.2801(2).

(6) That we have an employee victim protection law/statute in Michigan colloquially and benevolently called ELCRA, which provides that a person or two or more persons shall not do certain things, including -

- (a) Fail or refuse to hire, or recruit, or discharge, or otherwise discriminate against an individual with respect to employment, compensation, or a term, condition, or privilege of employment, because of religion, race, color, national origin, age, sex, height, weight, gender or marital status.
- (b) Limit, segregate, or classify an employee or applicant for employment in a way which deprives or tends to deprive the employee or applicant of an employment opportunity, or otherwise adversely affects the status of an employee or applicant because of religion, race, color, national origin, age, sex, height, weight, gender or marital status.
- (c) Segregate, classify, or otherwise discriminate against a person on the basis of race and/or color with respect to a term, condition, or privilege of employment, including a benefit plan or system.
- (d) Retaliate or discriminate against a person because the person has opposed a violation of this act, or because the person has made a charge, filed a complaint, testified, assisted, or participated in an investigation, proceeding, or hearing under this act.
- (e) Aid, abet, incite, compel, or coerce a person to engage in a violation of this act.
- (f) Attempt, directly or indirectly to commit an act prohibited by this act.
- (g) Ratifying the illegal misconduct of others.

See MCLA §37.2101, *et seq.* (emphasis added).

(7) That specifically under the circumstances of our case, Defendants' misconduct violated the ELCRA, specifically those things set forth in ¶6a-g, because it was based upon impermissible considerations of Carlotta Armstrong's race and/or color in connection with decisions made regarding the terms and conditions of her employment, specifically including but not limited to the limiting/segregating/classifying her because of her race and/or color.

(8) That at all relevant times, Plaintiff held the position of Registered Nurse in the Neo-Natal Intensive Care Unit (NICU).

(9) That on or about October 31, 2012, the white/Caucasian father of a white/Caucasian infant told the staff, specifically including but not necessarily limited to the Charge Nurse, that he did not want any African-Americans caring for his baby, and further, pulled up his sleeve and showed some type of tattoo which, upon information and belief, was a swastika of some kind.

(10) That after the father made the discriminatory request to not allow African-American nurses to care for his baby, instead of flatly denying the request, Defendant Osika was notified of this.

(11) That Defendant Osika had the Charge Nurse, Defendant Cronkwright, and/or other staff member(s) reassign the baby to a non-African-American nurse or nurses.

(12) That on or about November 1, 2012, Defendant Osika met with Defendant Hurley management and/or supervisors, including but not necessarily limited to the Director of Women and Children Services and Director of Nursing, and further, a decision was made to grant the father's request that no African-American employees would care for the baby. A staff meeting followed and was conducted by Defendant Osika when she informed those present of the policy decision of Defendant Hurley to not allow African-American employees such as Carlotta Armstrong, Plaintiff, to be assigned to the care of this baby in the NICU.

(13) That when Carlotta Armstrong, Plaintiff, reported to work, she learned that there was a note prominently posted on the assignment clipboard that read as follows:

“Please, no African-American nurses to care for (name of baby) baby per Dad's request. Thank you.”

(14) That upon information and belief, the aforementioned note was written by Defendant Conkwright.

(15) That the aforementioned discriminatory request was, in fact, followed and practiced for the balance of the time the baby was in the NICU, and at Defendant Hurley, and further, African-American employees/staff/registered nurses like Carlotta Armstrong, Plaintiff, were intentionally not assigned to the baby. African-American nurses like Carlotta Armstrong, Plaintiff, were not assigned to the baby for the next month because of their race and/or color.

(16) That Carlotta Armstrong, Plaintiff, was discriminated against based on her race and/or color with regard to work assignments, specifically including but not limited to limiting/segregating/classifying Plaintiff because of her race and/or color.

(17) That as a direct and proximate result of Defendants' violation of Michigan's law protecting employees/victims, Carlotta Armstrong, Plaintiff, suffered the following injuries and damages, amongst others:

(a) Outrage;

- (b) Extreme emotional distress and mental anguish, past and future;
- (c) Anxiety and embarrassment, past and future;
- (d) Worry, humiliation, insulted honor, and mortification, past and future;
- (e) Damage to her professional reputation;
- (f) Incurrence of attorney fees and costs for having to right the wrongs by Defendants herein; and
- (g) Actual attorney fees and costs allowed by law to be recovered under circumstances such as these.


(18) That Defendants herein aided and abetted each other and conspired with one another, to discriminate and/or retaliate against Carlotta Armstrong, Plaintiff, because of her opposition to discrimination based on race and/or color.

(19) That the damages attributable to the aforesaid injuries far exceed One Hundred Thousand (\$100,000.00) Dollars.

(20) That Defendant Hurley is directly and/or vicariously liable for the acts and/or omissions and/or misrepresentations and/or misconduct committed by persons who were then and there agents and/or employees and/or officers of Defendant Hurley, and acting within the course and scope of said employment and/or agency by reason of the facts hereinabove stated or otherwise known to Defendants herein; or acting in such a way as to bind Defendant Corporate Employer pursuant to the Restatement Second Agency, Section 219 (1 & 2).

WHEREFORE, and for all of which damages, Carlotta Armstrong, Plaintiff, demands judgment against Defendants herein in whatever amount in excess of One Hundred Thousand (\$100,000.00) Dollars the trier of fact finds to be fair and just, in accordance with the law and evidence, together with interest, costs and attorney fees allowed by law, including specifically actual attorney fees as provided by MCLA §37.2101, *et. seq.*

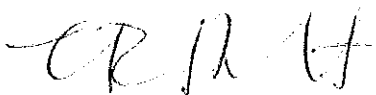
2-21-13
DATE


TOM R. PABST (P27872)
Representing Carlotta Armstrong

JURY DEMAND

Carlotta Armstrong, Plaintiff, hereby demands trial by jury.

2-21-13
DATE


TOM R. PABST (P27872)
Representing Carlotta Armstrong