



U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Houston District Office

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460-2017-00783

Charge Number

Myrna Melissa Nieto
1703 E. Martha Lane
Pasadena, Texas 77502

Charging Party

Ortega Medical Clinic
Dr. Juan Ortega
3313 Orlando Street
Houston, Texas 77093

Respondent

DETERMINATION

Under the authority vested in me by the Commission, I issue the following determination as to the merits of the above cited charge.

Respondent is an employer within the meaning of Title VII of the Civil Rights Act of 1964, as amended (Title VII). Timeliness and all other requirements for coverage have been met.

Charging Party alleged that she and a class of female employees were subjected to egregious verbal and physical harassment of a sexual nature by Respondent's owner, Dr. Juan Ortega, including asking her out, making inappropriate sexual comments, groping her breast, mocking gestures, grabbing her, and forcibly trying to kiss her. Charging Party further alleged she reported the sexual harassment to the two Office Managers and also to the owner's son, who is also a physician. However, no action was taken to stop the harassment. Charging Party amended her charge to allege retaliation and constructive discharge.

Respondent denies Charging Party's allegations of sexual harassment, retaliation and constructive discharge.

The Commission's investigation obtained witness testimony to support the Charging Party's allegations. I have considered all the evidence obtained during the investigation and find that there is reasonable cause to believe that there is a violation of Title VII in that the Charging Party and at least one other similarly situated employee was sexually harassed and subjected to a hostile work environment because of their gender by Respondent's owner.

I have considered all the evidence obtained during the investigation and find that there is reasonable cause to believe that there is a violation of Title VII in that Respondent is vicariously or strictly liable for the sexual harassment of the Charging Party and other female employees engaged in by its owner and medical director. Additional evidence obtained during the investigation reveals that Respondent retaliated against Charging Party, after her attorney

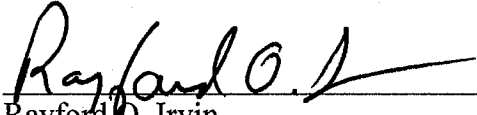
submitted the October 2016 letter, resulting in her constructive discharge from employment for engaging in protected activity under Title VII.

This determination is final. Upon finding that there is reason to believe that violations have occurred, the Commission attempts to eliminate the alleged unlawful practices by informal methods of conciliation. Therefore, the Commission now invites the parties to join with it in reaching a just resolution of this matter. The confidentiality provisions of Title VII and Commission regulations apply to information obtained during conciliation.

If the Respondents decline to discuss settlement or when, for any other reason, a settlement acceptable to the office Director is not obtained, the Director will inform the parties and advise them of the court enforcement alternatives available to aggrieved persons and the Commission. A Commission representative will contact each party in the near future to begin conciliation.

On Behalf of the Commission:

2/8/18
Date


Rayford O. Irvin
District Director

cc:

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Alicia Dulia
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Austin, Texas 78701

Respondent's Counsel

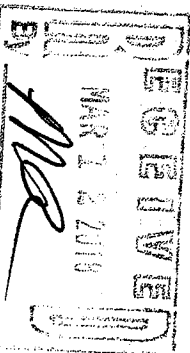
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Charging Party's Counsel

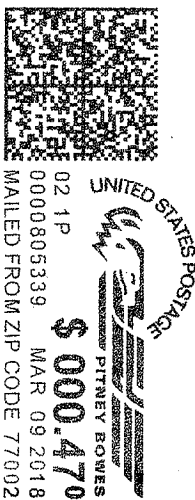
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