

FILED

**IN THE CIRCUIT COURT OF HINDS COUNTY, MISSISSIPPI
FIRST JUDICIAL DISTRICT**

APR 01 2011
BARBARA DUNN, CIRCUIT CLERK
PLAINTIFF D.C.

DR. JOSEPH BOOKER, JR.

VS.

CAUSE NO.: 251-10-973-CIV

**JACKSON WOMEN'S HEALTH ORGANIZATION, INC.; AND
ALL WOMEN'S HEALTHCARE OF JACKSON, INC.**

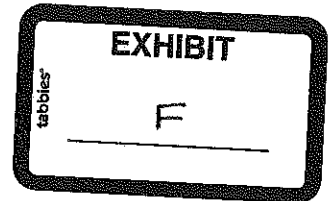
DEFENDANTS

**FIRST AMENDED COMPLAINT
JURY TRIAL DEMANDED**

COMES NOW the Plaintiff, Dr. Joseph Booker, by any through his counsel, Louis H. Watson, Jr., and files this action to recover damages for violations of his rights under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 1981 and pursuant to Mississippi common law for the tort of wrongful termination against the Defendants, Jackson Women's Health Organization, Inc., and All Women's Healthcare of Jackson, Inc. In support of this cause, the Plaintiff would show unto the Court the following facts to-wit:

PARTIES

1. The Plaintiff, Dr. Joseph Booker, Jr., is an adult male resident of Madison County, Mississippi.
2. The Defendant, Jackson Women's Health Organization, is a foreign corporation organized and existing pursuant to the laws of the State of Florida doing business in the State of Mississippi with its principal place of business located at 2903 North State Street, Jackson, MS 39216. Defendant may be served with process through one of its corporate officers at 2903 North State Street, Jackson, MS 39216.
3. The Defendant, All Women's Healthcare of Jackson, Inc., is a Mississippi corporation



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organized and existing pursuant to the laws of the State of Mississippi doing business in the State of Mississippi with its principal place of business located at 2903 North State Street, Jackson, MS 39216. Defendant may be served with process through its Registered Agent: Diane Derzis at 2903 North State Street, Jackson, MS 39216.

JURISDICTION AND VENUE

4. This Court has concurrent jurisdiction and venue is proper pursuant to 42 U.S.C. § 2000e-5(f)(3). A true and correct copy of Plaintiff's EEOC charge is attached as Exhibit "A," and a true and correct copy of the EEOC's Dismissal and Notice of Rights is attached as Exhibit "B."

STATEMENT OF THE FACTS

5. Plaintiff came to Mississippi, in 1984, from California where Plaintiff had full OB-GYN privileges from one of the best hospitals in Northern California.

6. Plaintiff had attended and graduated from University of California, San Francisco – one of the top five medical schools in the country.

7. Plaintiff joined a private practice OB-GYN group in Jackson from 1984-86.

8. Plaintiff opened his own Gynecology clinic in 1986 in Gulfport, Mississippi where Plaintiff did gynecological procedures, such as PAP smears, family planning, ultrasounds, copies, cryosurgery, insertion of IUDs and Norplants, cryosurgery and performance of first and second trimester abortions from 6 weeks – 16 weeks.

9. Plaintiff had his own clinic from 1986-1998, then relocated to Jackson. During the time frame of 1989-2002, Plaintiff performed abortion services and some family planning services in Jackson at the New Woman Medical Center, using the same safe and prudent surgical techniques Plaintiff always have used and had never been questioned by former employers.

10. From 1994-1996 Plaintiff was under U.S. Marshals protection after an abortion doctor was murdered in Pensacola by radical pro-life extremists, who then threatened Plaintiff's life.

11. One of those radical extremists is Roy McMillan, who pickets in front of the clinic everyday at JWHO now. Roy McMillan has also signed a "justifiable homicide" pact saying it "was justifiable homicide to murder doctors who performed abortions."

12. These threats from the pro-life radicals, including Roy McMillan, placing Plaintiff's picture on "wanted posters" and other credible threats led to my U.S. Marshals protections, since other doctors, who had been put on "wanted posters" and their "deadly dozen" list, have been murdered.

13. For this reason Plaintiff was so adamant about his security at Dianne Derzis' clinic here in Jackson, as she, not only hired the armed, licensed and bonded security service who had been provided by the previous owner, but she refused to replace them.

14. The security service consisted of black security guards.

15. One incident occurred while Dianne Derzis was in the process of buying the clinic where an unidentified white male who had been protesting outside the clinic burst through the side door into the waiting room and demanded to see the doctor stating he had "some questions" for the doctor. He had to be forcibly removed and he was not arrested, identified or taken to jail by Jackson Police Department.

16. Dianne Derzis' response was no hiring of a security company, but she did much to Plaintiff's chagrin contacted a feminist group (Feminist Majority) and had them illegally solicit funds for the defense of the Jackson clinic because "the security of her doctor (Plaintiff), staff and patients was in danger."

17. Plaintiff told her Plaintiff thought this was inappropriate because it brought attention to Plaintiff and compromised Plaintiff's safety by "broadcasting" online that the doctor's security was in danger since now the pro-life radicals would know and see Plaintiff as an easy target.

18. Dianne Derzis just shrugged it off and did not get security guards still.

19. Dianne Derzis told Plaintiff she had received at that time \$10,000 from the Feminist Majority, none of which went toward clinic security so essentially she scammed these people and endangered Plaintiff's life and safety.

20. Dianne Derzis had a buzzer installed in the front door, to buzz the patients in and that measure did not cost \$10,000.

21. Dianne Derzis should have been more security conscious since her own clinic in Birmingham (New Woman All Women Clinic) had been bombed in 1996 by Eric Rudolph and her nurse and another employee were critically injured.

22. Plaintiff had worked at Jackson Women's Health Organization from 2002 – July 30, 2010 when Plaintiff was abruptly terminated by Dianne Derzis who bought the clinic in June 2010 (final paper signed).

23. This termination was despite the fact that Dianne Derzis had given Plaintiff a letter of re-appointment to medical staff from June 2010 – June 2011. Plaintiff received this letter on July 14, 2010, less than two weeks before his abrupt termination.

24. During Plaintiff's time there before Dianne Derzis, Plaintiff used the same safe, sound surgical techniques and protocols which Plaintiff had discussed with numerous physicians at University Medical Center, including Dr. James Martin who Plaintiff have known and worked with since 1984.

25. These doctors thought Plaintiff's approach to evaluating patients at high risk for safety concerns was sound. The previous owner, Susan Hill, had no problems with them, only Dianne Derzis.

26. For the patients Plaintiff evaluate and determined were at an increased surgical risk or high risk Plaintiff have always referred the vast majority though small were to Dianne Derzis' clinic in Birmingham from 2002-2010 and she never complained about getting those patients just evaluating decisions which she is not medically qualified to do.

27. Dianne Derzis began to complain and criticize after she took over in Jackson not directly to Plaintiff's face but through the clinic administrator Shannon Brewer who is also not medically qualified, nor is she qualified to be the administrator of an ambulatory surgery center as she has only a high school diploma, no experience, no professional degree as required by the Health Department but Dianne Derzis has her there because she is cheap.

28. Plaintiff's protocols stress and demand the importance of an accurate ultrasound. The previous owner, Susan Hill, also recognized this so she had an LPN and an RN professionally trained by a certified ultrasonographer. Dianne Morgan who lives in Birmingham, she trained them and wrote them certificates stating they were proficient in doing the pre-operatives, intra-operative and post-op ultrasounds at the clinic.

29. When Dianne Derzis took over, she fired the black LPN who had been trained by the professional ultrasonographer to do accurate and precise ultrasound and stopped the black RN who had been professionally trained from doing the pre-operative ultrasound on Thursdays replacing them with people at the clinic with no professional training or instruction in doing ultrasounds and who only had a high school diploma and no medical training in doing and interpreting ultrasounds.

30. Dianne Derzis stated "[a]nyone can do an ultrasound." Plaintiff was not comfortable

with this and let her know as such but it made no difference to her because it was cheaper to have the inexperienced untrained people do them as opposed to a trained LPN and RN.

31. On numerous occasions the ultrasounds done by the untrained, inexperienced personnel were inaccurate and accuracy is vital to perform abortions both medically and surgically for the safety of the patients.

32. Upon arriving in Jackson, Dianne Derzis immediately fired the licensed and bonded black security company and did not replace them despite the fact that Plaintiff's life and safety were in danger everyday.

33. Dianne Derzis said in front of witnesses "If anyone is target by the pro-life radical it is Dr. Booker."

34. Dianne Derzis was unhappy that Plaintiff would not administer the non-FDA method of RU486 for medical abortions so she said she would bring in her doctors that would do it.

35. Dianne Derzis had even asked another black local doctor to do the non-FDA approved administration and she would not administer the non-FDA approved method of RU486 so she was not hired. Dianne was furious about this so she got her own doctors from out of state – all white – to come in.

36. The FDA guidelines say there should be a 75 mile radius from the clinic patients to receive RU486.

37. This is a problem because Dianne wants it to be given to patients throughout the whole state.

38. It is also a problem and dangerous because the FDA also says the doctors who administer it should be local, not out of state, because of the real risk of severe hemorrhage requiring

blood transfusion and hospitalization or a local doctor who has hospital admitting privileges and knowledgeable in the treatment of complications of RU486 which included also the risk of ectopic pregnancy.

39. Dianne Derzis does not have a local doctor as Plaintiff has talked to the one she claims she has. Dr Reddix denies being her back up local doctor.

40. Also in rural areas, one does not have hospitals or doctors experienced in treating the complications of RU486 and all her doctors are out of state.

41. It is also important that the doctor also give the patient in person both medications of RU486 protocol (RU486 then cytotec in 48 hours).

42. Dianne Derzis is not complying with this because her out of state doctors are not in Jackson or even in state to administer the second medication in person.

43. Dianne Derzis has a track record of racism.

44. For any patients who does not bring Kotex pads for their surgery she charges them \$1 per pad when the pads should be included in the total cost of the abortion and of course the majority of the patients are poor and black.

45. Dianne Derzis and her assistant, Shelly Abrams, talk to the staff -- 99% black -- in a demeaning manner like they are slaves.

46. Firing the black lab person and replacing her with a white young lady who quit after a short period to re-enter rehab because she had a crystal meth addiction.

47. Dianne Derzis accused the black RNs of "riding" the clock to get more hours when in fact it was her white RN who was riding the clock.

48. The parking lot is much too small and is always overcrowded and a fire hazard. The

parking is restricted around the clinic so it is hard to find a parking space on the street within 2 block of the clinic and have to walk through the protesters.

49. When one of the black RNs was denied entry to the parking lot at Dianne Derzis' instruction and told to park on the street she refused to have to park several blocks away and walk through the protesters – Dianne Derzis said “What makes that bitch think she is too good to park several block away and walk through the protesters.”

50. In May 2010, Plaintiff was given application to two insurance companies for malpractice insurance and Plaintiff still has not received proof of insurance from Dianne Derzis that she ever obtained it.

51. Dianne Derzis renewed Plaintiff's appointment to the medical staff for June 2010 – June 2011 – Plaintiff received a copy July 14, 2010, then on July 30, 2010 she terminated Plaintiff in breach of that agreement.

52. In July 2010 Dianne Derzis began to take Plaintiff's surgery days away giving them to two of her white doctors – Dr. Bruce Norm and Dr. Malcom Taylor with no explanation.

53. Dianne Derzis informed Plaintiff in July that she was cutting out Plaintiff's Wednesday surgery day because it was not profitable, then less than two weeks later she gave Plaintiff a schedule for August with Dr. Norman (white) working 2 Fridays and Dr. Malcom Jones (white) working 2 Mondays without letting Plaintiff know ahead of time even though Plaintiff was the medical director.

54. Plaintiff told Dianne Derzis that if she could not include Plaintiff in decisions involving the clinic schedule (supposedly Plaintiff was her primary physician there and the medical director) then there was no reason for Plaintiff to be her medical director and that he was

withdrawing his sponsorship of being the preceptor of her Nurse Practitioner and that Plaintiff was notifying the Nursing Board that Plaintiff was withdrawing my preceptorship. She told me Plaintiff was "threatening the clinic."

55. Plaintiff told Dianne Derzis that Plaintiff would have appreciated being involved in the scheduling of doctors coming to work in the clinic where Plaintiff was supposed to be the Medical Director and if Plaintiff could not be involved in the decision making then Plaintiff was resigning as her Medical Director.

56. Dianne Derzis then replaced Plaintiff with Dr. Bruce Norman (white) who purportedly was a co-owner of the clinic. Dr. Norman had been trying to take over as the primary doctor and Medical Director for at least five years but the previous owner Susan Hill had thwarted his subversive actions.

57. On July 30, 2010 Dianne Derzis wrongfully terminated Plaintiff.

CAUSES OF ACTION

COUNT ONE: VIOLATIONS OF TITLE VII and 42 U.S.C § 1981

58. Plaintiff incorporates the above paragraphs 1 through 57 as though specifically set forth herein and alleges as follows:

59. Plaintiff has been discriminated against in the terms and conditions of his employment on the basis of his race.

60. Plaintiff has suffered adverse employment action as a result of the Defendants' discriminatory harassment of Plaintiff.

61. Plaintiff has been harmed as a result of the Defendants' discrimination, and the Defendants are liable to the Plaintiff for the same.

COUNT TWO: WRONGFUL TERMINATION

62. Plaintiff incorporates the above paragraphs 1 through 61 as though specifically set forth herein and alleges as follows:

63. After Plaintiff made his first informal complaint regarding his refusal to perform abortion procedures not approved by the FDA, the Defendants unlawfully retaliated against him and ultimately terminated him.

64. Plaintiff has been harmed as a result of this retaliation, and the Defendants are liable to Plaintiff for the same pursuant to Mississippi common law and the specific employment at will exceptions created by the Mississippi Supreme Court.

65. The acts of the Defendants constitute a willful intentional violation of Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000(e) *et seq.*, and 42 U.S.C. § 1981 and other state and federal laws, and entitle Plaintiff to recovery of damages, both compensatory and punitive in nature.

WHEREFORE PREMISES CONSIDERED, Plaintiff respectfully prays that upon hearing of this matter by a jury, the Plaintiff be granted the following relief in an amount to be determined by the jury:

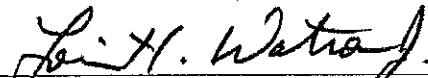
1. Reinstatement;
2. Back pay;
3. Compensatory damages;
4. Punitive damages;
5. Attorney's fees;
6. Costs and expenses; and
7. Any other relief to which he may be properly entitled.

THIS the 31st day of March, 2011.

Respectfully submitted,

DR. JOSEPH BOOKER, PLAINTIFF

By:



Louis H. Watson, Jr. (MB# 9055)

Nick Norris (MB#101574)

Attorneys for Plaintiff

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