

City of Gainesville
Office of the City Attorney

Memorandum

334-5011; Fax 334-2229

Box No. 46

TO: The Mayor and City Commission

DATE: July 27, 1998

FROM: City Attorney

CITY ATTORNEY
CONSENTSUBJECT: Kathryn Elkins v. City of Gainesville
FCHR Case No. 98-1863

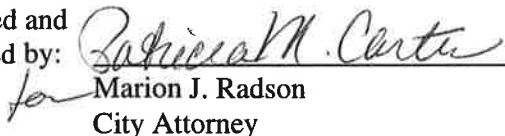
RECOMMENDATION: The City Commission authorize the City Attorney and/or special counsel, if insurance coverage is available, to represent the City in the case titled Kathryn Elkins v. City of Gainesville, FCHR Case No. 98-1863.

On July 9, 1998, the City Attorney's office received a Notice of Filing of Complaint of Discrimination against the City of Gainesville from the Florida Commission on Human Relations. Ms. Elkins, a former city employee who is currently on disability retirement, generally alleges race, color, sex, and disability discrimination.

Prepared by:



Richard R. Whidden, Jr.
Assistant City Attorney

Approved and
submitted by:
for Marion J. Radson
City Attorney

RRWjr:jw

CHARGE OF DISCRIMINATION

This form is affected by the Privacy Act of 1974; See Privacy Act Statement before completing this form.

AGENCY

FEPA
 EEOC

CHARGE NUMBER

3

or EEOC

State or local Agency, if any

NAME (Indicate Mr., Ms., Mrs.)

Ms Kathryn ELKINS

HOME TELEPHONE (Include Area Code)

(352) 486-6099

STREET ADDRESS

CITY, STATE AND ZIP CODE

11450 N.E. SR #24, Archer, FL 32618

DATE OF BIRTH

11-14-53

NAMED IS THE EMPLOYER, LABOR ORGANIZATION, EMPLOYMENT AGENCY, APPRENTICESHIP COMMITTEE, STATE OR LOCAL GOVERNMENT AGENCY WHO DISCRIMINATED AGAINST ME (If more than one list below.)

NAME

City of Gainesville

NUMBER OF EMPLOYEES, MEMBERS

UNKNOWN

TELEPHONE (Include Area Code)

(352) 334-5010

STREET ADDRESS

CITY, STATE AND ZIP CODE

200 E University Avenue Gainesville, Florida

COUNTY

Alachua

NAME

TELEPHONE NUMBER (Include Area Code)

STREET ADDRESS

CITY, STATE AND ZIP CODE

COUNTY

CAUSE OF DISCRIMINATION BASED ON (Check appropriate box(es))

RACE COLOR SEX RELIGION AGE
 RETALIATION NATIONAL ORIGIN DISABILITY OTHER (Specify)

DATE DISCRIMINATION TOOK PLACE
EARLIEST (ADEA/EPA) LATEST (ALL)

5-11-98

CONTINUING ACTION

THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)):

SEE ATTACHED 2 pgs.

RECEIVED
COMMUNICATIONS SECTION
MAY 13 1998
1998 MAY 13 PM 1:00

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or telephone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

NOTARY - (When necessary for State and Local Requirements)

Dianne D. Clark

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

I declare under penalty of perjury that the foregoing is true and correct.

SIGNATURE OF COMPLAINANT

Kathryn D. Elkins

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE
(Day, month, and year) Eleven Day May, 1998

Date May 11, 1998

Kathryn D. Elkins
Charging Party (Signature)

EEOC FORM 5 (Test 10/94)



Dianne Dailey Clark
Commission # CC 730653
Expires April 5, 2002
BONDED THRU
ATLANTIC BONDING CO., INC.

Statement Of Harm:

In February of 1995 I filed a complaint because I was discriminated against. I have continued to be retaliated against since I raised the VII concerns. The acts of retaliation has resulted me having permanent injuries. I was terminated from my job. I was denied a work performance evaluation and I was subjected to a hostile and unsafe work environment. Due to the no fault findings in my first investigation by your department.

Respondent's Reason For Adverse Action:

My Charge I filed with The Florida Commission On Human Relations was unfounded.

Statement Of Discrimination

I believe that I was discriminated against because of my race, sex, gender, and I am being retaliated against for bringing VII violations to the attention of my superiors. I base my belief on the following facts:

1. I had been employed with the Respondent since June 21, '93 having an outstanding employee record, always performing my job in a safe, competent, and professional matter.
2. I was assigned to job duties and paid for only one. I was allowed to work under medication after my on the job injury, for about 2 years. I was told that I could no longer work under those conditions because my supervisor was having problems with a White male employee who was not allowed in the facility alone therefore, she would not have time to assign me jobs. Because this White male was giving her problems; and my Charge was unfounded. Therefore, I would not be able to continue working under medication Yet the White male works under medication daily.
3. I was not given an annual work performance evaluation; nor a raise. Yet I worked with one hand since May 22, 1995.
4. I was told because Fla. Commission Of Human Relations and EEOC results I would be assigned to work under the perpetrators of the deviant behavior that I was a victim of. She said she couldn't deal with supervising him therefore he would supervise me. I was told this is the only way it will work. I was told that he had a lot of mental problems and about a lot of his personal business.
5. Employer and management failed to follow their own policies when dealing with the perpetrators of the deviant behavior which I am a victim of. [Recently he has been moved to another area of the recently merged department].
6. Employer allowed a racial and sexual hostile environment to continue after they were aware of the deviant behavior

Kathryn Elders May 11, 1998

and after I had filed Charges with FLA. Commission On Human Relations. Another punishment for my filing was I was ordered by management to get on a tractor that had been previously wrecked by another employee. Even when my supervisor told Management that the tractor was not safe and had not been used or fixed. I am suffering a permanent injury, forced to leave my job, benefits cut off prematurely, 4 surgeries and I am still fighting for my benefits. I was told because the City Statue is not clear on what percentage of disability I must get at their discretion I am given 40 yet the rule clearly states 80 percent. I was told I would not get my sick leave pay; I had to fight for it. Retaliation is still continuing. I was told that because I have other issues that I could not get my money from the Contribution Fund. This is not standard procedure.

7. Examples of experiences:

White male employee, who's parents work for the City is hired at the facility. He asked my co-workers, "Do you like niggers? He acted out having sexual relations with a Black ratty Ann doll using profanity describing sexual relations. Management is informed by co-workers and myself and persons witnessing the sexual acts. This White male was rewarded by transferring him to the golf course with more pay.

Never forcing White males to get on unsafe equipment.

Causing hardship on me for adequate living expenses due to disability retirement.

Allowing false police reports and untruths told by Whites accusing me before investigation is done. When the truth is founded no punishment or apology. Denial. Being denied medical attention when injured on the job. White male wrecking City truck and lying to say I did it. Forging City insurance checks, threaten my job performance because I would not attend a party at a White males house.

I believe I would not have been discriminated and retaliated against if I were not an Black American Female and if I had not raised The Title VII concerns.

Kathryn Elkins
May 11, 1998

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

CITY OF GAINESVILLE
 RONALD D. COMBS, ESQ.
 P.O. BOX 1110
 GAINESVILLE, FL 32602

PERSON FILING CHARGE

MS. KATHRYN ELKINS

THIS PERSON (check one)

- CLAIMS TO BE AGGRIEVED
 IS FILING ON BEHALF OF ANOTHER

DATE OF ALLEGED VIOLATION

Earliest: / / Most Recent: / /

PLACE OF ALLEGED VIOLATION

EEOC CHARGE NUMBER

15D980532

FEPA CHARGE NUMBER

98-1863

NOTICE OF CHARGE OF DISCRIMINATION IN JURISDICTIONS WHERE A FEP AGENCY WILL INITIALLY PROCESS
(See attached information sheet for additional information)

YOU ARE HEREBY NOTIFIED THAT A CHARGE OF EMPLOYMENT DISCRIMINATION UNDER

- Title VII of the Civil Rights Act of 1964
 The Age Discrimination in Employment Act of 1967 (ADEA)
 The Americans with Disabilities Act

HAS BEEN RECEIVED BY

- The EEOC and sent for initial processing to _____ (FEP Agency)
 Florida Commission on Human Relations
 The 325 John Knox Road and sent to the EEOC for dual filing purposes.
 Suite 240, Buwalda Agency
 Tallahassee, Florida 32303-4140

While EEOC has jurisdiction (upon the expiration of any deferral requirement if this is a Title VII or ADA charge) to investigate this charge, EEOC may refrain from beginning an investigation and await the issuance of the Agency's final findings and orders. These final findings and orders will be given weight by EEOC in making its own determination as to whether or not reasonable cause exists to believe that the allegations made in the charge are true.

You are therefore encouraged to cooperate fully with the Agency. All facts and evidence provided by you to the Agency in the course of its proceedings will be considered by the Commission when it reviews the Agency's final findings and orders. In many instances the Commission will take no further action, thereby avoiding the necessity of an investigation by both the Agency and the Commission. This likelihood is increased by your active cooperation with the Agency.

- As a party to the charge, you may request that EEOC review the final decision and order of the above named Agency. For such a request to be honored, you must notify the Commission in writing within 15 days of your receipt of the Agency's final decision and order. If the Agency terminates its proceedings without issuing a final finding and order, you will be contacted further by the Commission. Regardless of whether the Agency or the Commission processes the charge, the Recordkeeping and Non-Retaliation provisions of Title VII and the ADEA as explained in the "EEOC Rules and Regulations" apply.

For further correspondence on this matter, please use the charge number(s) shown.

- An Equal Pay Act investigation (29 U.S.C. 206(d)) will be conducted by the Commission concurrently with the Agency's investigation of the charge.
 Enclosure: Copy of Charge

BASIS OF DISCRIMINATION

- RACE COLOR SEX RELIGION NAT. ORIGIN AGE DISABILITY RETALIATION OTHER

CIRCUMSTANCES OF ALLEGED VIOLATION

Harassment, Benefits, Team & Conditions

DATE

7-1-98

TYPED NAME/TITLE OF AUTHORIZED EEOC OFFICIAL

Federico Costales
 Director

SIGNATURE

Federico Costales