

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

-----X  
EQUAL EMPLOYMENT OPPORTUNITY  
COMMISSION,

06 CV 5302 (ERK)(WDW)

Plaintiff,

INTERVENING COMPLAINT  
WITH JURY DEMAND

-Against-

GRACE EPISCOPAL CHURCH OF  
WHITESTONE, INC AND THE EPISCOPAL  
DIOCESE OF LONG ISLAND,

Defendants.

-----X  
MILDRED SPENCER,

Plaintiff-Intervener,

-Against-

GRACE EPISCOPAL CHURCH OF  
WHITESTONE, INC AND THE EPISCOPAL  
DIOCESE OF LONG ISLAND,

Defendants.

-----X

**NATURE OF THE ACTION**

This is an action under Title VII of the Civil Rights Act of 1964 and New York State Human Rights Law to correct unlawful employment practices on the basis of sex and to provide appropriate relief to Mildred Spencer affected by such unlawful practices. As alleged with greater specificity below, the Equal Employment Opportunity Commission charges that Spencer and other similarly situated female employees were sexually harassed by Defendants at Grace Episcopal Church during the time period from approximately July 2001 through approximately February 2004, and that Defendants unlawfully retaliated against Spencer and terminated her employment when she objected to the sexual harassment.

JURISDICTION AND VENUE

1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 451, 1331, 1337, 1343 and 1345. This action is authorized and instituted pursuant to Section 706(f)(1) and (3) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §§ 2000e-5(f)(1) and (3) and Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981a.

The alleged unlawful employment practices were committed within the jurisdiction of the United States District Court for the Eastern District of New York.

PARTIES

2. Plaintiff-Intervener, Mildred Spencer, was employed by defendants during the relevant time period and seeks monetary, compensatory and punitive damages together with costs and attorneys fees.

3. At all relevant times, Defendant Grace Episcopal Church of Whitestone, Inc. (Grace Church) is and has been a domestic religious corporation under the laws of the State of New York, has continuously been doing business in the State of New York, City of New York, County of Queens, has been located at 151-17 14<sup>th</sup> Road, Whitestone, Queens, New York, is a parish of Defendant The Episcopal Diocese of Long Island, and has continuously had at least 15 employees.

4. At all relevant times, Defendant The Episcopal Diocese of Long Island (Diocese) is and has been a voluntary association of churches, including Defendant Grace Episcopal Church of Whitestone, Inc., which abide by the Canons and Constitution of the Episcopal Church, has continuously been doing business in the State of New York, in the City of New York in the County of Queens, and in the Counties of Kings, Nassau and Suffolk, with its headquarters located in Garden City, Nassau County, and has continuously had at least 15 employees.

5. At all relevant times, Defendant Grace Episcopal Church of Whitestone, Inc. has been an employer engaged in an industry affecting commerce within the meaning of Sections

701(b), (g) and (h) of Title VII, 42 U.S.C. §§ 2000e(b), (g) and (h) and New York State Human Rights Law.

6. At all relevant times, Defendant The Episcopal Diocese of Long Island has been an employer engaged in an industry affecting commerce within the meaning of Sections 701(b), (g) and (h) of Title VII, 42 U.S.C. §§ 2000e(b), (g) and (h) and New York State Human Rights Law.

7. At least between July 2001 and February 2004, Grace Church and the Diocese have constituted an integrated enterprise.

8. From approximately June 1998 until August 2003, Defendants employed Mildred Spencer as Parish Secretary of Grace Church.

9. Throughout her employment as Parish Secretary at Grace Church, the Diocese offered Mildred Spencer various training and seminars, and the Parish Administrators' Network of the Diocese of Long Island invited her to various conferences, seminars and receptions.

10. As a lay employee of the Diocese, Mildred Spencer was eligible for health insurance and pension benefits provided by the Diocese.

11. In the course of her duties as Parish Secretary of Grace Church, Mildred Spencer was required to communicate frequently with the assistant to the Bishop of the Diocese regarding the activities of the Parish.

12. While working at Grace Church, Mildred Spencer attended a mandatory sexual harassment workshop given by the Diocese at the Diocese building in Garden City, Long Island.

13. Claimant Mildred Spencer reported directly to Interim Rector Powell.

14. From approximately July 2001 until February 2004, Defendants employed Reverend John Powell as Interim Rector of Grace Church.

15. To be hired as Interim Rector of Grace Church, Reverend John Powell had to be presented to and approved by the Bishop of the Diocese.

17. Before Reverend Powell's hire, to comply with diocesan policies, the Diocese directed a third party to conduct a background check on him.

18. Reverend Powell's license to officiate was issued and renewed by the Diocese.

19. When Reverend Powell was hired to work at Grace Church, his Church life insurance and health insurance were sponsored by the Diocese.

20. During his employment with Grace Church, Reverend Powell's salary was set pursuant to a Diocese-mandated schedule, and the maximum reimbursement for Reverend Powell's professional expenses was subject to the maximum set forth by the Diocese.

21. During his employment with Grace Church, Reverend Powell's continuing education was administered in accordance with the Diocese's Canons.

22. Rev. Powell's Position Description provides that he would be responsible for "[working] with the vestry, treasurer, and others to provide and maintain accurate and complete records, including the annual report to the parish, the annual Parochial Report to the diocese, an annual audit and other reports as needed." As Interim Rector of Grace Church, Rev. Powell also agreed to participate in Diocese committees.

23. The Letter of Agreement governing Rev. Powell's employment with Grace Church was required to be approved by the Bishop, as well as reviewed by two Diocese employees.

24. As Interim Rector of Grace Church, Rev. Powell remained "subject to the authority of the Bishop of Long Island and the Constitution and Canons of the Episcopal Church and the Diocese of Long Island."

25. The Canons promulgated by the Diocese constitute policies to which all its Parishes are subject.

26. The Diocese's Canons provide that it is the duty of the Bishop of the Diocese to appoint someone to fill in as Rector if a Parish does not have one.

27. The Diocese's Canons Provide that each Parish must prepare for the Diocese an annual report containing certain particular information: the number of baptisms, confirmations marriages and burials during the year, a summary of all receipts and expenditures, a statement of all property held by the Parish and its value, a summary of all Church School activities, and a summary of the racial and ethnic composition of the Parish. The Parishes are subject to a penalty if they fail to comply with this Canon.

28. The Diocese's Canons provide that each Parish must use the Manual of Standard Business Methods in Church Affairs.

29. The Diocese's Canons provide that each Parish must keep a Parish Register, in which it records all Baptisms, Confirmations, Marriages, Burials, and the names of all Communicants within the Minister's Cure.

30. The Diocese's Canons provide that the fiscal year for all Parishes shall be set by the Diocese.

31. The Diocese's Canons provide that Parishes must obtain permission of the Bishop of the Diocese to hold, manage, and administer the real property of the Parishes.

32. "Ecclesiastical Authority" is defined in the Canons as, in the absence of a Bishop, a Standing Committee, the duties of which are provided by the Diocese's Canons. The Diocese's Canons provide that the Diocese has ecclesiastic jurisdiction over its Parishes.

33. The Diocese maintains a policy and procedures applicable to all its Parishes governing sex harassment and abuse by ministers.

34. The Diocese requires four hours of training regarding sex harassment and abuse

by ministers for all employees of all Parishes.

35. The Diocese must approve all employees' training regarding sex harassment and abuse by ministers.

36. Employees must attend training regarding sex harassment and abuse by ministers at intervals set by the Diocese.

37. Should someone have a complaint of sex harassment or abuse by a minister, the Diocese's Policy and Procedures provide that (s)he "shall initially contact either the Archdeacons, the Deputy for Pastoral Care, or other Diocesan Ministers specifically designated by the Bishop."

38. The training regarding sex harassment and abuse by ministers that the Diocese requires of all Parish employees is offered by Mercer School, a Diocese-affiliated school.

39. The Diocese sets up court for trials of Priests/Deacons of its Parishes.

40. The Diocese appoints an attorney for trials of Priests/Deacons of its Parishes.

41. Should the need arise, the Bishop mediates all disputes between the Vestry of a Parish and the Rector of that Parish.

42. Parish employees are offered health insurance through the Diocese.

43. Should a Parish employee have a question regarding his/her health insurance, (s)he may contact the Plan Administrator, who is an employee of the Diocese.

44. The Diocese's website provides overviews of the health insurance plans offered to Parish employees.

45. The Diocese's Constitution provides for the Diocese's management of Church property.

46. All real and personal property held by or for the benefit of any parish is held in

trust for the Church and the Diocese.

47. Parishes must seek permission of the Bishop of the Diocese to hold, manage, or administer real property for the Parish.

48. If a Parish fails to operate in a certain way for a certain period of time, it may be declared extinct by the Ecclesiastical Authority and the Trustees (Diocese) shall take possession of and administer its property.

49. The Diocese's Canons provide that Parishes must pay a portion of the Diocesan budget.

50. Chancellor Fardella of the Diocese investigated Mildred Spencer's sex harassment allegations against Reverend Powell, and he reported the results to the Bishop of the Diocese.

#### **STATEMENT OF CLAIMS**

51. More than thirty days prior to the institution of this lawsuit, Mildred Spencer filed a dual charge with the EEOC Commission alleging violations of Title VII by Defendants Grace Episcopal Church of Whitestone, Inc. and The Episcopal Diocese of Long Island and with the New York State Division of Human Rights alleging violations of New York State Human rights Law. All conditions precedent to the institution of this lawsuit have been fulfilled. On September 28, 2006 the EEOC commenced the instant action.

52. During the time period from approximately July 2001 through approximately February 2004, Defendants engaged in unlawful employment practices in violation of Section 703, 704 and 706 of Title VII, 42 U.S.C. § 2000e-2, -3 and -5 and violations of New York State Human Rights Law §296 et seq. These practices have included, but are not limited to, the following:

- a Defendants subjected Mildred Spencer to sexual harassment by her supervisor, Defendants' Rector at Grace Episcopal Church of Whitestone, who grabbed Mildred Spencer, touched her breast and tried to kiss her,

and then took a tangible employment action and terminated Mildred Spencer's employment after she rebuffed his sexual harassment;

- b. Defendants created and maintained a sexually hostile work environment for Mildred Spencer and subjected her to severe or pervasive sexual harassment by her supervisor, Defendants' Rector at Grace Episcopal Church of Whitestone, including but not limited to making numerous unwelcome, off-color, sexual remarks to Mildred Spencer, telling her that she looked sexy when she changed her hairstyle, commenting on her shape, and making other inappropriate sexual remarks to her, and on one occasion, grabbing her, touching her breast and trying to kiss her;
- c. Defendants created and maintained a sexually hostile work environment for Mildred Spencer and her fellow female employees at Grace Episcopal Church of Whitestone and subjected them to severe or pervasive sexual harassment by their supervisor, Defendants' Rector at Grace Episcopal Church of Whitestone, including but not limited to making numerous unwelcome, dirty, crude and sexual jokes and comments to them or in their presence and inappropriately touching, kissing, or attempting to touch or kiss such female employees;
- d. Defendants failed to prevent or remedy the hostile work environment.

53. The effect of the practices complained of above has been to deprive Mildred Spencer of equal employment opportunities and otherwise adversely affect her status as an employee because of her sex.

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



55. The unlawful employment practices complained of above were done with malice or with reckless indifference to the federally protected rights of Mildred Spencer.

**PRAYER FOR RELIEF**

Therefore, the Plaintiff respectfully requests that this Court:

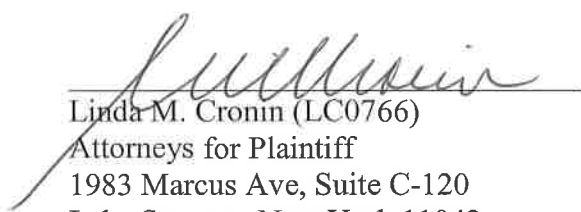
- A. Order Defendants to make whole Mildred Spencer by providing appropriate backpay with prejudgment interest, in amounts to be determined at trial, and other affirmative relief necessary to eradicate the effects of their unlawful employment practices, including, but not limited to, front monetary, compensatory and punitive damages, together with costs and attorneys fees.
  
- B. Order Defendants to make whole Mildred Spencer by providing compensation for past and future pecuniary losses resulting from the unlawful employment practices described above, in amounts to be determined at trial.
  
- C. Order Defendants to make whole Mildred Spencer by providing compensation for past and future non-pecuniary losses resulting from the unlawful practices complained of above, including pain, suffering and humiliation, in amounts to be determined at trial.
  
- F. Order Defendants to pay Mildred Spencer punitive damages for Defendants' malicious and reckless conduct described above, in amounts to be determined at trial.
  
- G. Grant such further relief as the Court deems necessary and proper in the public interest.
  
- H. Award the reasonable costs and attorneys fees.

**JURY TRIAL DEMAND**

Plaintiff requests a jury trial on all questions of fact.

Dated: Lake Success, New York  
September 13, 2011

Yours etc,  
Cronin & Byczek, LLP

  
Linda M. Cronin (LC0766)

Attorneys for Plaintiff

1983 Marcus Ave, Suite C-120  
Lake Success, New York 11042  
(516) 358-1700