

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

EQUAL EMPLOYMENT)	
OPPORTUNITY COMMISSION,)	
)	
Plaintiff,)	
)	
v.)	CIVIL ACTION NO.: 1:23-cv-539
)	
)	C O M P L A I N T
1901 SOUTH LAMAR, LLC,)	
REVELRY KITCHEN & BAR, LLC,)	<u>JURY TRIAL DEMAND</u>
AND REVELRY ON THE)	
BOULEVARD, LLC,)	
)	
Defendants.)	

NATURE OF THE ACTION

This is an action under Title VII of the Civil Rights Act of 1964 as amended by the Pregnancy Discrimination Act of 1978 (“PDA”), and Title I of the Civil Rights Act of 1991, to correct unlawful employment practices on the basis of sex (female), and to provide appropriate relief to Charging Party Kellie Connolly (“Connolly”), who was adversely affected by such practices. Plaintiff the U.S. Equal Employment Opportunity Commission (the “Commission”) alleges that the Defendants 1901 South Lamar, LLC, Revelry Kitchen & Bar, LLC, and Revelry on the Boulevard, LLC (collectively, “Defendants” or “Corner Bar”) discriminated against Connolly because of her pregnancy when Defendants reduced her work hours and then terminated her. In the alternative, EEOC pleads that the Defendants constructively discharged Connolly from her position as a bartender.

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) (“Title VII”), and Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981a.
2. The employment practices alleged to be unlawful were committed within the jurisdiction of the United States District Court for the Western District of Texas, Austin Division.

PARTIES

3. Plaintiff U.S. Equal Employment Opportunity Commission is the agency of the United States of America charged with the administration, interpretation, and enforcement of Title VII, and is expressly authorized to bring this action by Section 706(f)(1) and (3) of Title VII, 42 U.S.C. § 2000e-5(f)(1) and (3).
4. At all relevant times, Defendant 1901 South Lamar, LLC, has continuously been a limited liability company doing business in Austin, Texas.
5. At all relevant times, Defendant Revelry Kitchen & Bar, LLC, has continuously been a limited liability company doing business in Austin, Texas.
6. At all relevant times, Defendant Revelry on the Boulevard, LLC, has continuously been a limited liability company doing business in Austin, Texas.
7. At all relevant times, Defendant 1901 South Lamar, LLC has continuously 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).

8. At all relevant times, Defendant Revelry Kitchen & Bar, LLC has continuously 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).
9. At all relevant times, Defendant Revelry on the Boulevard, LLC has continuously 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).
10. At all relevant times, the three Defendants named in this action have operated as an integrated business enterprise and have collectively had at least fifteen (15) employees on a continual basis. Evidence of their operation as an integrated enterprise includes but is not limited to the following:
 - a. The Defendants share common ownership.
 - b. The Defendants share common management.
 - c. Labor relations for the Defendants is centrally controlled.
 - d. The Defendants jointly market their businesses to prospective customers.
 - e. Defendants utilize an employee disciplinary form that bears the logo of each of the Defendants.
 - f. All three Defendants share bartending staff, as well as inventory, including liquor.
 - g. Defendants' Director of Operations, Mohib Mir, provides human resources-related services for all three Defendants, including payroll, handling unemployment insurance matters, and hiring and firing decisions.

ADMINISTRATIVE PROCEDURES

11. More than thirty days prior to the institution of this lawsuit, Connolly filed Charges of Discrimination with the Commission alleging that the Defendants violated Title VII.
12. On May 6, 2022, the Commission issued a Letter of Determination to Defendants finding reasonable cause to believe that Title VII was violated and inviting Defendants to join with the Commission in informal methods of conciliation to endeavor to eliminate the unlawful employment practices and provide appropriate relief.
13. The Commission engaged in communications with Defendants to provide them the opportunity to remedy the discriminatory practices described in the Letter of Determination.
14. The Commission was unable to secure from Defendants a conciliation agreement acceptable to the Commission.
15. On October 21, 2022, the Commission issued to Defendants a Notice of Failure of Conciliation advising Defendants that the Commission was unable to secure from Defendants a conciliation agreement acceptable to the Commission.
16. All conditions precedent to the institution of this lawsuit have been fulfilled.

STATEMENT OF CLAIMS

17. Beginning in approximately March 2021, Defendants have engaged in unlawful employment practices in violation of Section 703(a)(1) of Title VII, 42 U.S.C. §2000e-2(a)(1) as amended by Section 701(k), 42 U.S.C. § 2000e(k). Specifically, Defendants reduced Connolly's work hours because she was pregnant. Defendants thereafter terminated Connolly's employment because she was pregnant.

18. In the alternative, Defendants have engaged in unlawful employment practices in violation of Section 703(a)(1) of Title VII, 42 U.S.C. §2000e-2(a)(1) as amended by Section 701(k), 42 U.S.C. § 2000e(k), forcing Connolly to take indefinite unpaid leave, resulting in her constructive discharge from the position of bartender.
19. Connolly was hired by Defendants as a bartender in approximately September 2020. She worked at Corner Bar, located at 1901 S. Lamar Boulevard in Austin, Texas.
20. Connolly notified Defendants that she was pregnant on or about January 31, 2021.
21. In or around March 2021, after Connolly became visibly pregnant, Defendants reduced Connolly's hours of work.
22. On or around June 20, 2021, Connolly was admitted to the hospital due to a virus.
23. Connolly notified Defendants of her hospitalization. On June 25, 2021, while Connolly was still in the hospital, Connolly's manager, Jared Hensley, called Connolly and terminated her employment.
 - a. During the phone call on June 25, 2021, Hensley expressed concern about Connolly's pregnancy, stating that the Defendants were "genuinely scared something bad is going to happen to you. That Saturday after you left, Josh and I had to throw out two dudes who were about to like fight."
 - b. Hensley told Connolly that the Defendants were not "trying to screw [her] over" but that she was becoming "too much of a liability."
 - c. Hensley concluded the call by telling Connolly that Defendants were "parting ways until after the baby is basically what I can say."

24. Defendants removed Connolly from the work schedule and filled her shifts with other employees following the phone call of June 25, 2021.
25. Understanding she had been fired, Connolly did not return to work after the June 25, 2021, call with Hensley and sought other employment after she gave birth in September 2021.
26. The effect of the practices described in paragraphs 17-25 above has been to deprive Connolly of equal employment opportunities and to otherwise adversely affect her status as an employee because of her sex.
27. The unlawful employment practices described in paragraphs 17-25 above were intentional.
28. The unlawful employment practices described in paragraphs 17-25 above were done with malice or with reckless indifference to the federally protected rights of Connolly.

PRAYER FOR RELIEF

Wherefore, the Commission respectfully requests that this Court:

- A. Grant a permanent injunction enjoining the Defendants, their officers, successors, assigns, and all persons in active concert or participation with them, from engaging in conduct which results in discrimination because of sex and pregnancy;
- B. Order Defendants to institute and carry out policies, practices, and programs which provide equal employment opportunities for pregnant employees and applicants, and which eradicate the effects of its past and present unlawful employment practices;
- C. Order Defendants to make Connolly whole by providing appropriate back pay with prejudgment interest, in an amount to be determined at trial, and other affirmative relief necessary to remedy the effects of its unlawful employment practices, including, but not limited to, the reinstatement of Connolly, or front pay in lieu thereof;

D. Order Defendants to make Connolly whole, by providing compensation for past and future pecuniary losses resulting from the unlawful employment practices described in paragraphs 17-25 above, including but not limited to job search expenses and medical expenses, in an amount to be determined at trial;

E. Order Defendants to make Connolly whole, by providing compensation for past and future non-pecuniary losses resulting from the unlawful employment practices described in paragraphs 17-25 above, including, but not limited to, emotional pain, suffering, inconvenience, humiliation, and loss of enjoyment of life, in amounts to be determined at trial;

F. Order Defendants to pay Connolly punitive damages for the malicious and reckless conduct described in paragraphs 17-25, in amounts to be determined at trial;

G. Grant such further relief as the Court deems necessary and proper in the public interest; and

H. Award the Commission its costs of this action.

JURY TRIAL DEMAND

The Commission requests a jury trial on all questions of fact raised by its complaint.

Respectfully submitted,

ATTORNEYS FOR PLAINTIFF

ROBERT CANINO
Regional Attorney
Oklahoma State Bar No. 011782

MEAGHAN L. KUELBS
Supervisory Trial Attorney
Texas Bar No. 24105277
E-mail: meaghan.kuelbs@eoc.gov

/s/ Philip Moss

PHILIP MOSS

Trial Attorney

Texas State Bar No. 24074764

E-Mail: philip.moss@eeoc.gov

**EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION**

San Antonio Field Office

5410 Fredericksburg Road, Suite 200

San Antonio, Texas 78229-3555

Telephone: (210) 640-7570

Facsimile: (210) 281-7669

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

(b) County of Residence of First Listed Plaintiff (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

DEFENDANTS

County of Residence of First Listed Defendant (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff, 2 U.S. Government Defendant, 3 Federal Question (U.S. Government Not a Party), 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, PTF DEF, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

Table with columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Includes codes like 110 Insurance, 310 Airplane, 365 Personal Injury, etc.

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding, 2 Removed from State Court, 3 Remanded from Appellate Court, 4 Reinstated or Reopened, 5 Transferred from Another District, 6 Multidistrict Litigation - Transfer, 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

Brief description of cause:

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE DOCKET NUMBER

DATE SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here. United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.
 Original Proceedings. (1) Cases which originate in the United States district courts.
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441.
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
 Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service.
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.