

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,

Plaintiff,

DONNA STEPHENS, as TRUSTEE OF THE
AIMEE A. AND DONNA STEPHENS TRUST,

Proposed Plaintiff-Intervenor,

v.

R.G. & G.R. HARRIS FUNERAL HOMES,
INC.,

Defendant.

Case No. 14-cv-13710

Hon. Sean F. Cox

**MOTION TO
INTERVENE**

John A. Knight
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Counsel for Proposed Plaintiff-Intervenor

MOTION TO INTERVENE

Proposed Plaintiff-Intervenor, Donna Stephens, as Trustee of the Aimee A. and Donna Stephens Trust, by her attorneys from the American Civil Liberties Union Foundation and the American Civil Liberties Union Fund of Michigan, in support of her Motion to Intervene, says as follows:

1. This action was initiated by the Equal Employment Opportunity Commission (“EEOC”), to redress Defendant’s unlawful employment practices with regard to Aimee A. Stephens.

2. The United States Court of Appeals for the Sixth Circuit granted Aimee Stephens leave to intervene as Plaintiff-Intervenor while this case was on appeal before that court.

3. The United States Supreme Court affirmed a ruling by the Sixth Circuit that Defendant unlawfully discriminated against Aimee Stephens because of her sex, in violation of Title VII of the Civil Rights Act of 1964.

4. Shortly before the Supreme Court issued its ruling, Aimee Stephens died.

5. Prior to her death, Aimee Stephens transferred her interest in this litigation to the Aimee A. and Donna Stephens Trust (the “Trust”), whose sole trustee is now Donna Stephens.

6. Now that this case is back before this Court, Donna Stephens moves to intervene in this action to protect the Trust's interests.

7. Proposed Plaintiff-Intervenor's right to intervene is supported by the brief filed in support of this Motion.

8. Proposed Plaintiff-Intervenor's proposed Complaint in Intervention is attached to the Declaration of John A. Knight as Exhibit 3.

9. In accordance with E.D. Mich. L.R. 7.1, Proposed Plaintiff-Intervenor's counsel sought concurrence in the requested relief from counsel for Defendant and counsel for the EEOC on August 7, 2020. The EEOC has conditioned its consent on Proposed Plaintiff-Intervenor's providing it with certain information related to possible settlement and Defendant has told Proposed Plaintiff-Intervenor that it "is considering" whether to consent.

PRAYER FOR RELIEF

Wherefore, pursuant to Fed. R. Civ. P. 24(a), (b) and 42 U.S.C. §2000e-5(f)(1), Donna Stephens respectfully requests that this Court enter an order allowing her to intervene in this action as Plaintiff-Intervenor by filing her proposed Complaint in Intervention.

Dated: August 11, 2020

John A. Knight
American Civil Liberties Union

Respectfully submitted,

By: /s/ Daniel S. Korobkin
Daniel S. Korobkin (P72842)
Jay D. Kaplan (P38197)

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BRIEF IN SUPPORT OF
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Counsel for Proposed Plaintiff-Intervenor

BRIEF IN SUPPORT OF MOTION TO INTERVENE

Proposed Plaintiff-Intervenor, Donna Stephens, as Trustee of the Aimee A. and Donna Stephens Trust, by her attorneys from the American Civil Liberties Union Foundation and the American Civil Liberties Union Fund of Michigan, files this brief in support of her Motion to Intervene.

The EEOC has conditioned its consent to the relief sought by Proposed Plaintiff-Intervenor in this motion on her providing it with certain information related to potential settlement of this matter. Defendant has told Proposed Plaintiff-Intervenor that it is considering whether to consent to the relief sought in this motion.

FACTUAL AND PROCEDURAL BACKGROUND

The EEOC brought suit in its own name against Defendant R.G. & G.R. Harris Funeral Homes, Inc. (the “Funeral Home”), alleging that it discriminated against Aimee A. Stephens (“Ms. Stephens”) based on her sex. Ms. Stephens had a statutory right to intervene in that action as a plaintiff, but did not do so because she believed at the time that the EEOC would adequately represent her interests.

After this Court granted summary judgment to the Funeral Home and the EEOC appealed to the United States Court of Appeals for the Sixth Circuit, Ms. Stephens moved to intervene as Plaintiff-Intervenor. The Sixth Circuit observed that, “[u]ntil recently, Stephens had no reason to question whether the EEOC

would continue adequately to protect her interests,” which is why she did not move to intervene before the District Court. Order at 3, *EEOC v. R.G. & G.R. Harris Funeral Homes, Inc.*, No. 16-2424 (6th Cir. Mar. 27, 2017) (Dkt. 82) (“Sixth Circuit Intervention Order”). Holding that Ms. Stephens reasonably feared that the EEOC, under the then-newly elected Trump Administration, would “less aggressively pursue transgender rights” cases such as hers, and that “the EEOC [would] not support her case or [would] withdraw from her case,” the Sixth Circuit granted Ms. Stephens’s motion to intervene. *Id.*

Alongside the EEOC, Ms. Stephens litigated her case before the Sixth Circuit, winning a reversal of this Court’s summary judgment ruling. The Funeral Home filed a petition for certiorari, which the United States Supreme Court granted.

Once the case was before the Supreme Court, Ms. Stephens’s fears about the federal government forcing the EEOC to abandon her interests were realized. Before the Supreme Court, the United States Department of Justice, representing the EEOC, switched sides in the case and argued that the EEOC should never have brought the case for Ms. Stephens in the first place because, in the view of the Department of Justice, Title VII’s ban on sex discrimination in the workplace did not cover discrimination against transgender people. *See* Brief for Respondent EEOC, *R.G. & G.R. Harris Funeral Homes, Inc. v. EEOC*, No. 18-107 (U.S. Aug.

16, 2019). Thus, the federal government, which originally brought this case to vindicate the rights of transgender people under Title VII, argued against such protections – and directly against the interests of Ms. Stephens, the party whose interests they purported to represent – before the Supreme Court. Indeed, Ms. Stephens was the only party before the Supreme Court to assert that anti-transgender discrimination is a form of sex discrimination that violates Title VII.

On June 15, 2020, the Supreme Court ruled for Ms. Stephens and against the Department of Justice and the Funeral Home, holding that Ms. Stephens was fired because she is transgender, which is necessarily a form of sex discrimination and a violation of Title VII.

On May 12, 2020, Ms. Stephens died. Shortly before that, Ms. Stephens transferred her interest in this lawsuit to the Aimee A. and Donna Stephens Trust (the “Trust”), of which Donna Stephens (Aimee Stephens’s wife) is now the sole trustee. *See* Declaration of John A. Knight, Exhibit 1 (Certificate of Trust); Exhibit 2 (Assignment of Rights and Interests in Causes of Action). After Ms. Stephens’s death, the Supreme Court granted Donna Stephens’s motion to substitute herself, as trustee of the Trust, as a Respondent before the Supreme Court in place of Aimee Stephens. Order, *R.G. & G.R. Harris Funeral Homes, Inc. v. EEOC*, No. 18-107 (U.S. May 26, 2020).

Currently, the only parties to this proceeding before the District Court are the EEOC and the Funeral Home, which both have argued against Ms. Stephens's interests in this litigation. Donna Stephens now moves to intervene formally in this case before the District Court to continue to protect the interests of Ms. Stephens in this litigation.

ARGUMENT

The Court should grant Donna Stephens party status as Plaintiff-Intervenor under 42 U.S.C. § 2000e-5(f)(1) and Fed. R. Civ. P. 24(a) and (b) both a) because she has a statutory right to intervene and b) because Aimee Stephens, who is now deceased and whose interests Donna now carries forward, was formally a party to the case since it was before the Sixth Circuit and was the only party that advocated for her interests before the United States Supreme Court, while both the EEOC and the Funeral Home advocated against her interests. Equity demands that Donna Stephens be allowed to continue the litigation that Aimee Stephens, her now-deceased wife, pursued until her dying day.

A. Donna Stephens, as successor in interest to Aimee Stephens, has a statutory right to intervene.

Rule 24(a) of the Federal Rules of Civil Procedure governs motions to intervene as of right and provides that intervention “shall be permitted . . . when a statute of the United States confers an unconditional right to intervene.” Title VII of the Civil Rights Act of 1964, in turn, specifically provides that, where the EEOC

brings a civil action against a respondent on behalf of an employee who has suffered discrimination, “[t]he person or persons aggrieved shall have the right to intervene in [the] civil action brought by the Commission” 42 U.S.C. § 2000e-5(f).

As the person about whose employment situation the EEOC brought suit in the first place, Aimee Stephens had a statutory right to intervene in this case when it was before this Court originally. The Sixth Circuit recognized that Ms. Stephens had good reason not to intervene before the District Court at a time when the EEOC was protecting her interests. Sixth Circuit Intervention Order at 3. It also recognized that she had a right to intervene on appeal when it became clear that the EEOC might not be able to continue protecting her interests, noting that Ms. Stephens “unquestionably possesses a substantial legal interest in this case,” and that Ms. Stephens “has met [the] minimal burden” of showing that “representation of her interest ‘may be’ inadequate.” *Id.* at 4.

Now that Ms. Stephens’s interest in the litigation has been transferred to Donna Stephens, and the case is back before this Court after the Sixth Circuit allowed Aimee Stephens to intervene on appeal and the Supreme Court ruled that Aimee Stephens’s firing violated Title VII, Donna Stephens should be allowed to intervene as Plaintiff-Intervenor.

B. Equity demands that Donna Stephens be allowed to intervene.

Simply put, Aimee Stephens is the only party that advocated for her interests before the Supreme Court, and the only party that kept her case alive. The EEOC joined the Funeral Home in arguing against Ms. Stephens's interests before the high court even though the EEOC filed the case in the first place. It would be monumentally unjust not to allow her wife, who holds her interests in this litigation through the Trust, to continue Ms. Stephens's case before this Court and to force her instead to rely on the EEOC to advance her interests.

CONCLUSION

Accordingly, Donna Stephens respectfully requests that this Court enter an order allowing her to intervene in this action as Plaintiff-Intervenor by filing her proposed Complaint in Intervention, which is attached to the Declaration of John A. Knight as Exhibit 3.

Dated: August 11, 2020

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Respectfully submitted,

By: /s/ Daniel S. Korobkin
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Counsel for Proposed Plaintiff-Intervenor

CERTIFICATE OF SERVICE

I hereby certify that on August 11, 2020, I electronically filed this document and its attachments with the Clerk of the Court using the ECF system which will send notification of such filing to all counsel of record.

/s/ Daniel S. Korobkin
Daniel S. Korobkin (P72842)

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
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EQUAL EMPLOYMENT OPPORTUNITY
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R.G. & G.R. HARRIS FUNERAL HOMES,
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Defendant.

Case No. 14-cv-13710

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**DECLARATION OF JOHN A. KNIGHT IN SUPPORT OF PROPOSED
PLAINTIFF-INTERVENOR'S MOTION TO INTERVENE**

1. I, John A. Knight, am an attorney licensed by the state of Illinois and admitted to practice before this Court.
2. I am an attorney at American Civil Liberties Union Foundation and make the following declaration based upon my own personal knowledge.
3. Attached as Exhibit 1 is a true and correct copy of the Certificate of Trust for the Aimee A. and Donna Stephens Trust Agreement Dated May 7, 2020.
4. Attached as Exhibit 2 is a true and correct copy of the Assignment of Rights and Interests in Causes of Action.

5. Attached as Exhibit 3 is a true and correct copy of the proposed Complaint in Intervention for Plaintiff-Intervenor Donna Stephens, as Trustee of the Aimee A. and Donna Stephens Trust.

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

Dated: August 11, 2020

/s/ John A. Knight
John A. Knight

INDEX OF EXHIBITS

- EXHIBIT ONE: Certificate of Trust for the Aimee A. and Donna Stephens Trust Agreement
- EXHIBIT TWO: Assignment of Rights and Interests in Causes of Action
- EXHIBIT THREE: Complaint in Intervention

Exhibit One:
Certificate of Trust for the Aimee A. and Donna
Stephens Trust Agreement

CERTIFICATE OF TRUST

AIMEE A. AND DONNA STEPHENS TRUST AGREEMENT DATED MAY 7, 2020

The undersigned, being duly sworn, hereby certifies as follows:

1. Trust Title, Date, and Date of Amendments. A trust known as the Aimee A. and Donna Stephens Trust (the "Trust") was formed under that certain Aimee A. and Donna Stephens Trust Agreement dated May 7, 2020 (the "Trust Agreement"). The Trust Agreement remains in full force and effect and has not been revoked, modified or amended in any manner that would cause any of the representations set forth in this Certificate to be incorrect.
2. Names and Address of Grantors. The Grantors are AIMEE A. STEPHENS, deceased, and DONNA STEPHENS, who is the surviving spouse of AIMEE A. STEPHENS, presently of 17730 Lennane, Redford, Michigan 48240.
3. Name and Address of Trustee. The name and address of the current Trustee of the Trust (the "Trustee") is DONNA STEPHENS, presently of 17730 Lennane, Redford, Michigan 48240.
4. Revocability. The Trust is revocable. DONNA STEPHENS may at any time amend or revoke this Agreement through a written instrument that is delivered to the Trustee.
5. Trustee's Powers. The provisions of the Trust Agreement that specify the Trustee's powers relating to the purpose for which this Certificate is being offered are reproduced in Exhibit A attached hereto.
6. The Trust has not been revoked, modified, or amended in any manner that would cause the representations included in this Certificate of Trust to be incorrect.

This document constitutes a Certificate of Trust under section 7913 of the Estates and Protected Individuals Code; Act No. 386 of 1998, Public Acts of the State of Michigan, as amended.

I declare that this certificate has been examined by me and its contents are true and correct.



MICHAEL G. CUMMING, Attorney for
DONNA STEPHENS, Grantor and Trustee of the
Aimee A. and Donna Stephens Trust Agreement
Dated May 7, 2020
Dykema Gossett PLLC
39577 Woodward Avenue, Suite 300
Bloomfield Hills, MI 48304

STATE OF MICHIGAN)
)SS.
COUNTY OF OAKLAND)

The foregoing instrument was acknowledged before me on May 13, 2020, by MICHAEL G. CUMMING, Attorney for DONNA STEPHENS, Grantor and Trustee of the Aimee A. and Donna Stephens Trust Agreement Dated May 7, 2020.

Debra Ann Cumming
DEBRA ANN CUMMING
Notary Public
Oakland County, Michigan
My Commission Expires: February 11, 2025
Acting in Oakland County

PREPARED BY:

MICHAEL G. CUMMING
Dykema Gossett PLLC
39577 Woodward Avenue, Suite 300
Bloomfield Hills, MI 48304

CERTIFICATE OF TRUST

AIMEE A. AND DONNA STEPHENS TRUST AGREEMENT DATED MAY 7, 2020

EXHIBIT A

TRUSTEE POWERS

“3.1 Powers. During the Grantors’ lifetimes, the Grantors reserve the right to exercise all of the Trustee’s powers or to direct their exercise. The powers described in this section are in addition to the powers and authority that are contained in other sections of this Agreement and that are conferred upon the Trustee by law. The Trustee may exercise the following powers and apply the following rules of administration without the prior leave or subsequent confirmation of any court but may do so only in a fiduciary capacity and in the interests of the beneficiaries in accordance with the general standards of trust administration imposed upon trustees. In general, from the date this Agreement is executed until the final distribution of the assets of each trust created by this Agreement, the Trustee shall have the power to perform every act which a prudent investor would perform to accomplish the purposes of the trust, including, but not limited to, the power to:

(a) [Retain Property] Retain any property transferred to the trust, even though such property includes an asset in which the trustee is personally interested or stock in a bank or trust company that is acting as Trustee or in a corporation that is a parent of or affiliated with such a bank or trust company, unless the Trustee considers the retention of such property clearly inadvisable;

(b) [Invest] Invest and reinvest the principal of the trust in securities and other property, real or personal, tangible or intangible, without regard to the proportion such property or property of a similar character may bear to the entire amount of the trust, and without being limited to the classes of investments in which trustees are or may be authorized by statute or other rule of law to invest trust funds, and to deposit funds in a bank, including a bank operated by or affiliated with the Trustee, or in a savings and loan association, including a temporary deposit not at interest if considered desirable by the Trustee to facilitate distributions or reinvestment;

(c) [Securities] Vote any corporate stock belonging to the trust either in person or by proxy; exercise any option or privilege to convert any security belonging to the trust into other securities, like or unlike; exercise any privilege to subscribe for additional securities and to make payment for the same; participate, unite or join in any plan for consolidation, merger, dissolution, liquidation or reorganization of any kind with respect to any corporate stock which belongs to the trust and to do all things necessary and incidental thereto;

(d) [Borrow; Pledge; Guaranty] Borrow money, renew existing loans, or guaranty the debts of a Grantor, a Trustee, a beneficiary, or third parties, and secure such loans and/or guarantees by pledge or mortgage of trust property;

(e) [Claims] Compromise, abandon, submit to arbitration, sue on or defend all claims in favor of or against the trust;

(f) [Sell] Sell, exchange, convey, partition, lease for terms longer or shorter than the trust, with or without option to purchase or renew, grant options to purchase or to lease, or otherwise dispose of any property at any time held by the Trustee, publicly or privately, upon such terms and conditions, including extension of credit in whole or in part, as the Trustee may deem proper, and the purchaser thereof shall not be required to see to the application of the proceeds;

(g) [Insure] Insure the assets of the trust against damage or loss, and the Trustee against liability with respect to third persons;

(h) [Administration Expenses] Incur and pay from the income or principal of the trust all reasonable expenses in connection with the administration of this trust, including a reasonable compensation for the Trustee and for any advisors and agents;

(i) [Advisors] Employ or appoint attorneys, accountants, investment advisors and other advisors and agents, including persons associated with the Trustee, to advise or assist the Trustee in the performance of the Trustee's administrative duties; act without independent investigation on their recommendations; and, instead of acting personally, employ or appoint one or more agents to perform any act of administration, whether or not discretionary;

(j) [Unproductive Property] If a trust for which a marital deduction has been allowed, in whole or in part, consists substantially of unproductive property, the Trustee shall have the authority to take one or more of the following steps: to make the property productive, or to convert it within a reasonable time, or to provide out of other assets of that trust the amount such property would produce if it were productive; the spouse may require the Trustee to exercise this authority, but the Trustee shall decide which step or combination of steps shall be taken;

(k) [Real Property] Deal with, manage and develop all or any part of any real property that may be owned by the trust (improved or unimproved), and any other property associated with it, in every way that an individual who owned the same property might lawfully deal with it, including (in addition to all other powers granted elsewhere in this instrument that are applicable to such real estate), but not limited to, the power to plat or subdivide (including the dedication of parks, easements, streets, or highways, with or without consideration), or to obtain the vacation of a plat, and to adjust boundaries; to submit property to a condominium project and do all acts necessary in connection therewith; to grant options to purchase or to lease; to construct buildings or to alter or remove buildings, and make such improvements to real property as the Trustee determines to be appropriate (including improvements not situated directly on the particular real property); to grant easements or charges of any kind, and to release any interest in the property; to abandon or demolish any property deemed by the Trustee to be worthless or of insufficient value to keep or protect; to abstain from the payment of taxes, assessments, repairs, maintenance or upkeep; to permit any interest in the property to be lost by tax sale or other proceedings or to convey any such interest in the property for a nominal consideration or without consideration;

(l) [Specific Devises] Distribute any property specifically devised in a Grantor’s Last Will and Testament or specifically distributed by any list referred to in that Will, regardless of whether the Will is admitted to probate, if a Grantor’s probate estate is insufficient to satisfy the specific devise or distribution and if the property referenced in the Will or list is a part of the trust property;

(m) [Litigation] Continue, pursue, defend, or otherwise represent the interests of either or both Grantors in any lawsuit, cause of action, or other legal, administrative, or other proceeding in which one or both Grantors have assigned all rights and interests to this Trust, including, but not limited to: (i) *R.G. & G.R. Harris Funeral Homes, Inc. v. EEOC and Aimee Stephens*, U.S. Supreme Court No. 18-107; (ii) *EEOC and Aimee Stephens v. R.G. & G.R. Harris Funeral Homes, Inc.*, U.S. Court of Appeals for the Sixth Circuit No. 16-2424; and (iii) *EEOC v. R.G. & G.R. Harris Funeral Homes, Inc.*, United States District Court for the Eastern District of Michigan. No. 2:14-cv-13710; and,

(n) [Divide Trusts] Divide any trust into two or more trusts for any reason the Trustee considers desirable in carrying out the provisions of this Agreement.”

* * * * *

“3.4 Securities Transactions; Margin Accounts. The Trustee is authorized to buy, sell and trade in securities of any nature (including commodities, option contracts and “short” sales) for cash or on margin, and to maintain and operate margin accounts with brokers.”

025775.000001 4811-9202-1948.1

Exhibit Two:
Assignment of Rights and Interests in Causes
of Actions

**ASSIGNMENT OF RIGHTS AND INTERESTS
IN CAUSES OF ACTION**

I, AIMEE A. STEPHENS, individually, hereby assign and transfer, effective upon my death, any and all rights and interests I may have in any lawsuits, causes of action, or other legal, administrative or other proceedings to which I am a party, or may become a party in the future, to DONNA STEPHENS, or her successor, as Trustee under the Aimee A. and Donna Stephens Trust Agreement dated May 7, 2020, including, but not limited to, (i) *R.G. & G.R. Harris Funeral Homes, Inc. v. EEOC and Aimee Stephens*, U.S. Supreme Court No. 18-107; (ii) *EEOC and Aimee Stephens v. R.G. & G.R. Harris Funeral Homes, Inc.*, U.S. Court of Appeals for the Sixth Circuit No. 16-2424; and (iii) *EEOC v. R.G. & G.R. Harris Funeral Homes, Inc.*, United States District Court for the Eastern District of Michigan. No. 2:14-cv-13710.

I further assign any rights or interests I may have in the proceeds from any judgment or settlement obtained from any currently pending or future lawsuit, cause of action, or other legal, administrative or other proceeding to DONNA STEPHENS, or her successor, as Trustee under the Aimee A. and Donna Stephens Trust Agreement dated May 7, 2020.

This Assignment is effective only upon my death.

Dated: May 7, 2020



TYLER J. KEMPER



AIMEE A. STEPHENS



STEPHANIE ELMS FLORES

STATE OF MICHIGAN)
) ss.
COUNTY OF WASHTENAW)

This instrument was acknowledged before me on May 7, 2020, by AIMEE A. STEPHENS.



STEPHANIE ELMS FLORES, Notary Public,
State of Michigan, County of Washtenaw
My Commission Expires: 06-22-2026
Acting in the County of Washtenaw
Notarized using electronic/remote technology

Exhibit Three:
Complaint in Intervention

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

EQUAL EMPLOYMENT OPPORTUNITY
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Plaintiff,

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v.

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INC.,

Defendant.

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Hon. Sean F. Cox

COMPLAINT IN INTERVENTION

NATURE OF THE ACTION

This is an action under Title VII of the Civil Rights Act of 1964 to correct unlawful employment practices on the basis of sex and to provide appropriate relief to Aimee Stephens who was adversely affected by such practices. As alleged with greater particularity in paragraphs 8 through 16 below, Defendant R.G. & G.R. Harris Funeral Home, Inc., fired Aimee Stephens, a transgender woman, because of sex.

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 Eastern District of Michigan, Southern Division.

PARTIES

3. Plaintiff, the Equal Employment Opportunity Commission (the “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. Plaintiff-Intervenor, Donna Stephens, is Trustee of the Aimee A. and Donna Stephens Trust (the “Trust”), and was married to Aimee Stephens. Defendant fired Aimee Stephens because of her sex, which led to the EEOC filing this case. Aimee Stephens was a party to this litigation since she intervened in the case while it was before the United States Court of Appeals for the Sixth Circuit,

and she continued as a party before the United States Supreme Court. Before Aimee Stephens died on May 12, 2020, she transferred her interest in this litigation to the Trust.

5. At all relevant times, Defendant, R.G. & G.R. Harris Funeral Home, Inc. (the “Employer”), a Michigan Corporation, has continuously been doing business in the State of Michigan and the Cities of Detroit, Livonia, and Garden City, and has continuously had at least 15 employees.

6. At all relevant times, Defendant Employer 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).

CONDITIONS PRECEDENT

7. More than thirty days prior to the institution of this lawsuit, Aimee Stephens filed a charge with the Commission alleging violations of Title VII by Defendant Employer.

8. All conditions precedent to the institution of this lawsuit have been fulfilled.

STATEMENT OF FACTS

9. Aimee Stephens had been employed by Defendant as a Funeral Director/Embalmer since October 2007.

10. Aimee Stephens adequately performed the duties of her position.

11. Aimee Stephens is a transgender woman. On or about July 31, 2013, Aimee Stephens informed Defendant Employer and her co-workers in a letter that she was undergoing a gender transition from male to female and intended to dress in appropriate business attire at work as a woman from then on, asking for their support and understanding.

12. On or about August 15, 2013, Defendant Employer's owner fired Aimee Stephens, telling her that what she was "proposing to do" was unacceptable.

STATEMENT OF CLAIMS

13. Paragraphs 9 through 12 are fully incorporated herein.

14. Defendant engaged in unlawful employment practices at its Garden City, Michigan facility, in violation of Section 703(a)(1) of Title VII, 42 U.S.C. § 2000e-2(a)(1), by terminating Aimee Stephens because of sex.

15. Defendant Employer's decision to fire Aimee Stephens was motivated by sex-based considerations. Specifically, Defendant Employer fired Stephens because Stephens is transgender, because of Stephens's transition from male to female, and/or because Stephens did not conform to the Defendant Employer's sex- or gender-based preferences, expectations, or stereotypes.

16. The effect of the practices complained of in paragraphs 9 through 12 and 14 through 15 above has been to deprive Aimee Stephens of equal employment opportunities and otherwise adversely affect her status as an employee because of

her sex.

17. The unlawful employment practices complained of in paragraphs 9 through 16 above were intentional.

PRAYER FOR RELIEF

Wherefore, Donna Stephens respectfully requests that this Court:

A. Order Defendant Employer to make Stephens whole by providing appropriate backpay with prejudgment interest, in amounts to be determined at trial, and other affirmative relief necessary to eradicate the effects of its unlawful employment practices, including but not limited to front pay for Stephens.

B. Order Defendant Employer to make Stephens whole by providing compensation for past and future pecuniary losses resulting from the unlawful employment practices described in paragraphs 9 through 16 above, including medical losses, job search expenses, and lost clothing allowances, in amounts to be determined at trial.

C. Order Defendant Employer to make Stephens whole by providing compensation for past and future nonpecuniary losses resulting from the unlawful practices complained of in paragraphs 9 through 16 above, including emotional pain, suffering, inconvenience, loss of enjoyment of life, and humiliation, in amounts to be determined at trial.

D. Grant such further relief as the Court deems necessary and proper in

the public interest.

E. Award Plaintiff-Intervenor costs and attorney's fees.

JURY TRIAL DEMAND

Donna Stephens requests a jury trial on all questions of fact raised by her complaint.

Dated: August 11, 2020

Respectfully submitted,

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