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U.S. DISTRICT COURT
EASTERN DISTRICT OF LA

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UNITED STATES DISTRICT COURT FOR
THE EASTERN DISTRICT OF LOUISIANA

LORETTA G. WHYTE
CLERK

Renee S. Hartz, M.D.

VERSUS

THE ADMINISTRATORS OF THE TULANE
EDUCATIONAL FUND, and
UNIVERSITY HEALTHCARE SYSTEM, L.C.
(COLUMBIA/HCA) D/B/A
TULANE UNIVERSITY HOSPITAL
AND CLINIC

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CIVIL ACTION

NO. 06:

06-2977

SECTION " " ()
JUDGE

MAGISTRATE

SECT. A MAG 5

COMPLAINT

1. This suit is authorized and instituted pursuant to 42
United States Code, Sections 2000e-2(a) and 2000e-3(a).
Jurisdiction of this Court is established under 28 United States
Code, Section 1331. Venue lies with this Court pursuant to 28
United States Code, Section 1391(b) as the acts giving rise to
the claims alleged herein occurred within this district, and
pursuant to 42 United States Code, Section 2000e-5(f)(3).

2. This is a civil action brought on behalf of the
plaintiff, Renee S. Hartz, M.D., a female, to redress the injury
caused to her by the deprivation of her rights and privileges as
secured by the laws of these United States as a result of the

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 Process _____
 Dktd _____
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Doc. No _____

intentional acts of the defendants.

3. Plaintiff, Dr. Hartz, ("Dr. Hartz"), a person of full age and majority, is a resident of Oak Park, Illinois.

4. Made defendants herein are The Administrators of the Tulane Educational Fund, ("Tulane"), which operates the Tulane University School of Medicine; and University Healthcare System, L.C. (Columbia/HCA) D/B/A Tulane University Hospital and Clinic ("TUHC").

5. Dr. Hartz is a physician who received Board Certification in Thoracic Surgery in 1982 with a Recertification in 1991 and 2001. Dr. Hartz holds medical licensure in Illinois and Louisiana. Dr. Hartz earned a Bachelor of Arts (B.A.) from Michigan University (1969), and the degree of Medical Doctor (M.D.) from Northwestern University Medical School (1974). She is a Fellow of the American Board of Thoracic Surgery.

6. During the time period relevant to this action, July, 1997 until June 30, 2003, Dr. Hartz was employed at Tulane University School of Medicine, as a Professor of Surgery, Department of Surgery, Division of Cardiothoracic Surgery, Tulane University School of Medicine, 1430 Tulane Avenue, New Orleans, Louisiana, 70112-2699. Also, during the time period relevant to this action, Dr. Hartz also practiced thoracic surgery at TUHC,

the Medical Center of Louisiana at New Orleans ("MCLNO" or "Charity Hospital Campus" and "University Hospital Campus").

7. For fifteen years prior to coming to Tulane, Dr. Hartz practiced as a cardiothoracic surgeon in the Chicago, Illinois area and served as a tenured Associate Professor of Surgery, Department of Surgery, Division of Cardiothoracic Surgery, Northwestern University Medical School, and as a Professor of Surgery, Department of Surgery, Division of Cardiothoracic Surgery, University of Illinois at Chicago College of Medicine, where she was also Program Director of the cardiothoracic training program and Chief of Cardiac Surgery.

8. Dr. Hartz began her employment at Tulane and TUHC in July, 1997. Dr. Hartz was on a three year tenure track with the understanding that she would be considered for tenure during the first year of her employment. However, Dr. Hartz was initially considered for tenure in 1999. In 1999, Tulane denied her tenure. After Tulane denied her tenure in 1999, Dr. Hartz filed a charge of sex discrimination with the Equal Employment Opportunity Commission ("EEOC") asserting sex discrimination based on discriminatory actions that had began within four months of her arrival at Tulane and TUHC and continued thereafter through the remainder of her employment.

9. During her employment at Tulane, her Chairman Dr.

Robert Hewitt ("Dr. Hewitt"), from the time he became interim Chairman of Tulane's Department of Surgery in the spring of 1999 until Tulane terminated Dr. Hartz's employment, discriminated against her on the basis of her sex and repeatedly misrepresented her clinical and academic performance. Also, Dr. Hewitt retaliated against Dr. Hartz because she had previously filed an EEOC charge in 1999. Additionally, Dr. Hewitt retaliated against Dr. Hartz for seeking redress of her claim of sex discrimination through the University's internal channels set up to address such matters. Dr. Hewitt's retaliation, among other matters, was accomplished by restricting Dr. Hartz from performing surgery at MCLNO University Hospital, preventing Tulane residents from assisting her at MCLNO, excluding her from Departmental activities, creating a hostile work environment, adversely affecting her surgical privileges at TUHC, and misrepresenting her clinical and academic performance to the administrators of TUHC and to the faculty and administration at Tulane. In 2000, Dr. Hewitt placed the blame for a male surgeon's error on Dr. Hartz. Dr. Hartz was required to take legal action as a result, and after an investigation was ultimately cleared of responsibility. Similarly, Dr. Hewitt was instrumental in adversely affecting her privileges at TUHC in 2002 in response to a patient's death. Again, a subsequent review was favorable to Dr. Hartz. Dr. Hewitt's retaliation and discrimination based on sex against Dr. Hartz continued throughout her employment at Tulane.

10. Dr. Hartz continued as a Professor of Surgery at Tulane, and was again considered for tenure May 20, 2002. The Personnel and Honors Committee, which, under the provisions of Tulane's Faculty Handbook, is the duly constituted faculty body charged with rendering a decision as to whether Dr. Hartz should be awarded tenure, voted in her favor 7-2 to award tenure. The Personnel and Honors Committee voted to award tenure in disregard of Dr. Hewitt's vigorous opposition. Dr. Hewitt had voted against tenure for Dr. Hartz when the Department took a tenure vote. Dr. Hewitt wrote a letter urging the Personnel and Honors Committee not to recommend Dr. Hartz be granted tenure. That letter did not accurately present Dr. Hartz's performance. Dr. Hewitt was not a member of the Personnel and Honors Committee.

11. Despite the recommendation of the duly constituted Personnel and Honors Committee, on June 20, 2002, an administrative committee, entitled the Executive Faculty Committee, vetoed the favorable tenure decision of the Personnel and Honors Committee. Tulane's Faculty Handbook contains no provision authorizing such an executive committee to veto a favorable tenure decision of a duly constituted senior faculty committee -- the Personnel and Honors Committee. In fact, according to Tulane's Faculty Handbook, the granting of tenure is appropriately a faculty decision.

12. Dr. Hewitt was a participating member of the Executive Faculty Committee, which vetoed the favorable tenure decision of the Personnel and Honors Committee. Dr. Hewitt did not abstain from the vote taken by the Executive Faculty Committee.

13. The Executive Faculty Committee informed Dr. Hartz of its decision June 21, 2002. Subsequently, the matter was returned to the Personnel and Honors Committee. Again, the Personnel and Honors Committee voted to award Dr. Hartz tenure on July 15, 2002.

14. However, the Executive Faculty Committee, including Dr. Hewitt, vetoed, a second time, the favorable tenure decision of the Personnel and Honors Committee on July 16, 2002. The Dean of Tulane University School of Medicine and Associate Senior Vice President for the Health Sciences, Ian Taylor, M.D., Ph.D., concurred with the Executive Faculty's decision and notified Dr. Hartz by letter of the July 16, 2002 decision on July 17, 2002. The July 17, 2002 letter also reminded Dr. Hartz that the 2002-2003 academic year would be her terminal year at Tulane.

15. Subsequently, on October 19, 2002, Dr. Hartz filed a grievance with Tulane over the decision of the Executive Faculty Committee to veto the recommended tenure. Dr. Hewitt was not a member of the Grievance Committee. The Grievance Committee voted to award tenure to Dr. Hartz on December 11, 2002.

16. On December 20, 2002, Dr. Taylor, Dean of the Tulane University School of Medicine and Associate Senior Vice President for the Health Sciences, appealed the Grievance Committee's decision in favor of Dr. Hewitt to the Senior Vice President for Academic Affairs of Health Sciences and Provost of the University, Lester A. Lefton. The Senior Vice President for Academic Affairs of Health Sciences and University Provost, Mr. Lefton, did not concur with the Grievance Committee. Thus, Tulane upheld the decision of the Executive Faculty Committee of the School of Medicine (in which the Dean of the School of Medicine and Associate Senior Vice President for the Health Sciences had concurred) that tenure not be awarded to Dr. Hartz. Tulane informed Dr. Hartz of this decision on March 19, 2003.

17. Subsequently, Dr. Hartz appealed to the Faculty, Tenure, Freedom, and Responsibility Committee ("FTFR"), which upheld the decision of the Executive Faculty Committee not to award tenure. Dr. Hartz's attorney and Dr. Hartz personally wrote letters to Ms. Mary Smith, Tulane's Equal Opportunity Officer regarding Dr. Hartz's sex discrimination complaint. On May 28, 2003, Scott Cowan, Ph.D., President of Tulane University, approved the FTFR decision, upholding the decision of the School of Medicine's Executive Faculty Committee not to award tenure. Tulane terminated Dr. Hartz's employment on June 30, 2003 (effective July 1, 2003).

18. At all times relevant to the matters asserted in this action, Tulane School of Medicine and Tulane University Hospital and Clinic acted in "concert", within the context of Title VII, to discriminate against Dr. Hartz on the basis of her sex and to retaliate against her for having previously engaged in protected activity by filing a charge with the Equal Employment Opportunity Commission and also pursuing redress for sex discrimination through the university's internal channels. The Dean of the Tulane School of Medicine and Associate Senior Vice President for the Health Sciences, Ian Taylor, M.D., Ph.D., reports to the Senior Vice President for the Health Sciences Center. The Senior Vice President for the Health Sciences Center reports to the President of Tulane University.

19. Tulane's discriminatory denial of tenure was because of Dr. Hartz's sex, female.

20. A duly constituted, senior faculty committee, the Personnel and Honors Committee, composed of her academic peers, twice voted to award Dr. Hartz tenure. These votes are a demonstration of her qualification for tenure at Tulane. Additionally, her credentials and her previous attainment of tenure at another accredited institution prior to joining Tulane's faculty is further evidence of her qualification.

21. The Executive Faculty Committee's decision, rendered

June 20, 2002 and again on July 16, 2002 adversely affected her continued employment at Tulane and ultimately resulted in the termination of her employment. (Tulane notified Dr. Hartz of the decisions on June 21, 2002 and July 16, 2002, respectively.)

22. Upon information and belief, no other male surgeon at Tulane has twice been recommended for tenure by a Personnel and Honors Committee and had such votes for the award of tenure vetoed by the Executive Faculty Committee of the School of Medicine. Thus, Tulane treated similarly situated males more favorably than it did Dr. Hartz. Such action was discrimination based on Dr. Hartz's sex (it was also retaliation for her previous protected activity discussed herein).

23. The discriminatory and retaliatory conduct about which Dr. Hartz complains was a continuing violation of Title VII. The discrimination began soon after Dr. Hartz's arrival in 1997 and continued throughout her Tulane employment until ultimate adverse employment action occurred on May 28, 2003 when Dr. Scott Cowan approved the decision upholding the Executive Faculty Committee's decision to veto the recommendation of an award of tenure for Dr. Hartz made by the Personnel and Honors Committee.

24. Tulane's discriminatory practices and retaliation against Dr. Hartz were made with malice and/or reckless indifference to her federally protected rights.

25. Tulane's denial of tenure is also a breach of contract. The Executive Faculty Committee's decision contradicted provisions of the Faculty Handbook. Additionally, pursuant to the Faculty Handbook, Dr. Hartz was de facto, or automatically, tenured. Such tenure arose based on the fact that Dr. Hartz had previously attained tenure at an accredited institution before she arrived at Tulane and continued as a Professor on a probationary track at Tulane for more than three years. However, Tulane refused to acknowledge such tenure and terminated her employment on June 30, 2003 (effective July 1, 2003).

26. On August 22, 2003 Dr. Hartz filed a charge (number 270-2003-02777) with the United States Equal Employment Opportunity Commission ("EEOC") alleging sex discrimination in the denial of tenure and retaliation for engaging in protected activity under Title VII of the Civil Rights Act of 1964 as amended, 42 United States Code Section 2000e et seq. ("Title VII"). Dr. Hartz's charge identified "Tulane Health Sciences Center", which encompasses Tulane University School of Medicine and Tulane University Hospital and Clinic, as the "employer" against whom the charge was filed.

28. Tulane's tenure denial action was discriminatorily based on sex. This action was in violation of 42 United States Code, Section 2000e-2(a). Also, this action was in retaliation for Dr. Hartz's previously protected activity in which she

complained about sex discrimination to the EEOC and internally at Tulane. This action was in violation of 42 United States Code, Section 2000e-3(a).

29. The Equal Employment Opportunity Commission issued Dr. Hartz a right to sue letter dated March 15, 2006.

30. As a result of the intentional acts of discrimination and retaliation by Tulane, Dr. Hartz has suffered damage to her reputation, loss of income, emotional distress, mental anguish, humiliation, and pain and suffering.

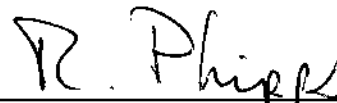
31. This claim is being filed within 90 days of receipt of the EEOC's "right to sue" notice for the charge numbered 270-2003-02777. Dr. Hartz has exhausted her administrative remedies and all jurisdictional prerequisites for claims under Title VII have now been met.

32. Dr. Hartz hereby requests a trial by jury on all issues triable by same.

33. Dr. Hartz seeks reinstatement to the rank of Professor of Surgery with tenure, recovery of actual damages - including back pay and (if reinstatement is not feasible) front pay, compensatory damages, punitive damages, costs, legal interest, and attorneys' fees.

WHEREFORE, plaintiff, Renee S. Hartz, prays that defendants, Tulane and Tulane University Hospital and Clinic be cited to appear and answer this complaint, and after due proceedings be had, there be judgment herein in her favor and against defendants, Tulane and Tulane University Hospital and Clinic, for damages as requested herein; and, for a permanent injunction prohibiting further discriminatory and retaliatory action against her by Tulane and Tulane University Hospital and Clinic; together with all costs and legal interest. Plaintiff, Renee S. Hartz, further prays for reasonable attorneys' fees, costs and expenses incurred in this matter; a trial by jury on all issues triable by same; and for all and any other such further relief as justice may deem appropriate and require.

Respectfully submitted,



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