

COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss.

**SUPERIOR COURT
Civil Action No.**

JOAN MORAN and MARY CHICHESTER,

Plaintiffs,

v.

**GRAND AERIE OF THE FRATERNAL
ORDER OF EAGLES, a Washington
corporation, and FRATERNAL ORDER
OF EAGLES, LAKEVILLE AERIE NO. 3994,
a Massachusetts corporation,**

Defendants.

COMPLAINT AND DEMAND FOR JURY TRIAL

Introduction

1. This is a complaint filed on behalf of Plaintiffs Joan Moran and Mary Chichester (together, “Plaintiffs”), seeking relief from the unlawful discrimination against women instigated and directed by the Grand Aerie of the Fraternal Order of Eagles (“Grand Aerie”) and, in conformance with such direction, practiced by a local chapter of the Fraternal Order of Eagles, Lakeville Aerie No. 3994 (“Lakeville Aerie”). The Grand Aerie prohibits women, including Plaintiffs, from becoming members of the Fraternal Order of Eagles, and has accordingly directed the Lakeville Aerie and other Massachusetts local aeries not to admit women as members. As a result of the incitement and coercion of the Grand Aerie, the Massachusetts local aeries, including the Lakeville Aerie, prohibit women from participating in the Fraternal Order of Eagles as full and equal members. Plaintiffs allege that this prohibition constitutes unlawful discrimination

in a place of public accommodation, as that phrase is defined in G.L. c. 272, § 92A, and violates their rights under the Massachusetts Equal Rights Act and the Massachusetts Civil Rights Act. As persons aggrieved by such discrimination, Plaintiffs assert claims under G.L. c. 272, § 98; G.L. c. 93, § 102; and G.L. c. 12, §§ 11H and 11I, and also invoke the Court's jurisdiction pursuant to G.L. c. 151B, § 9.

PARTIES

2. Plaintiff Joan Moran ("Moran"), a woman, resides at 19 DeWolf Street, Boston, Massachusetts.

3. Plaintiff Mary Chichester ("Chichester"), a woman, resides at 33 Cheverus Road, Boston, Massachusetts.

4. Defendant Grand Aerie is a corporation organized under the laws of the State of Washington, with headquarters located at 1623 Gateway Circle, South, Grove City, Ohio 43123.

5. Defendant Lakeville Aerie is a non-profit corporation organized under the laws of the Commonwealth of Massachusetts, with principal offices located in Plymouth County at 217 County Street, Lakeville, Massachusetts 02347.

ALLEGATIONS

The FOE Constitution and the Grand Aerie

6. The Fraternal Order of Eagles ("FOE") is a fraternal membership organization with more than 1.25 million members in the United States and Canada. It is organized pursuant to common objectives, described in the preamble to its written constitution as follows:

To unite fraternally for mutual benefit, protection, improvement, social enjoyment and association, all persons of good moral character who believe in a

Supreme Being to inculcate the principles of liberty, truth, justice and equality, to perpetuate itself as a fraternal organization and to provide for its government as its Constitution, Laws, Rituals, By-Laws or other rules and regulations may from time to time provide, and to promote the general welfare, the Fraternal Order of Eagles ordains this Constitution.

To promote and raise funds for duly authorized Fraternal Order of Eagles charities and contribute to worthwhile charitable causes.

7. The constitution of the FOE is its “Supreme Law” and, according to such constitution, the Grand Aerie acts as “the governing body of the Fraternal Order of Eagles.”

8. The Grand Aerie is divided into executive, legislative, and judicial branches. The executive department functions are entrusted to the Grand Worthy President and the Board of Grand Trustees. The Grand Aerie’s judicial department functions are delegated to the Grand Tribunal. The Grand Aerie’s legislative department functions “are vested in a Grand Aerie” (the “Legislative Grand Aerie”), consisting of all “present and future Past Worthy Presidents who are in good standing in their respective Aeries” and those “who have served their respective Aeries as Secretary for a period of not less than ten (10) years, while they remain in good standing in their Aerie.” In short, all governing functions associated with the FOE are carried out by persons who are official “members” of the FOE.

9. The constitution of the FOE further provides that “[a]ll Laws enacted by the Grand Aerie shall be of general application, and shall be called statutes.”

10. The activities of the Grand Aerie are financed in considerable part by membership initiation fees and annual dues paid by the members of Local Aeries, and by the semi-annual per capita tax assessed upon each Local Aerie.

Local Aeries

11. Individual persons may join the FOE through membership in local chapters of the FOE, called Local Aeries.

12. Among the powers assigned to the Legislative Grand Aerie by the terms of the FOE's constitution is "[t]o provide for the creation and institution of State, Provincial and Local Aeries and Ladies Auxiliary units, to enact Laws for their government, to adopt rules and regulations for their conduct, and to levy and collect a per capita tax from the Local Aeries and Local Ladies Auxiliaries."

13. The FOE constitution further provides that "[e]ach Local Aerie shall have general jurisdiction over its members, and such other power and authority as may be incident to conducting the business of the Local Aerie, not in conflict with the Laws of the Order."

The Lakeville Aerie

14. The Lakeville Aerie is chartered by the Grand Aerie as a Local Aerie subject to the constitution and statutes of the FOE.

15. The Lakeville Aerie owns and operates the premises located at 217 County Street, Lakeville, Massachusetts, consisting of a building, parking lot and dock extending into Long Pond. The Lakeville Aerie's organizational business, such as semi-monthly meetings of the membership, is conducted on the County Street premises.

16. The Lakeville Aerie's building includes a licensed drinking establishment, a full commercial kitchen, and a large function room.

17. The Lakeville Aerie's licensed establishment is open to spouses of members and to non-members whose attendance is sponsored by a member.

18. The kitchen and function room facilities are available for rental by non-members, and such facilities are often rented by non-members for weddings, event receptions and parties.

19. The Lakeville Aerie derives substantial revenue from the use and/or rental of its premises and facilities by non-members.

Membership in the FOE

20. The constitution of the FOE provides that membership “is open to all persons of good moral character, who believe in a Supreme Being, and subject to such other requirements as may be provided by statute.” Such constitution further provides that “[t]here shall be no degrees of membership in the [FOE].”

21. Upon notice from a Local Aerie of the election of a new member of the FOE, the Grand Aerie adds such new member to its rolls, assigns to such new member a unique Member’s Number, by which such new member is identified as a member of the FOE, and adds such new member to the list of persons to receive the FOE’s magazine, The Eagle Magazine.

22. The constitution of the FOE also provides that “[e]ach Local Aerie shall be the sole judge of the persons who may be admitted as guests or members[,]” and that neither the Legislative Grand Aerie nor any state, provincial or local aerie “shall pass any law in conflict with ... the Laws of the United States ... or of any State, Territory or Province in which a Local Aerie is located”

23. The Legislative Grand Aerie has enacted a statute, § 70.2, which provides, in pertinent part, that “[n]o person shall be eligible to be elected to membership in any Local Aerie unless such person is a male, is of good moral character, and believes in the

existence of a Supreme Being” (emphasis added), has attained the age of twenty-one (21) and does not belong to the Communist Party or other anti-government organization.

With these stated exceptions, membership in the FOE and its Local Aeries is essentially non-selective.

24. Notwithstanding FOE’s statute § 70.2, on November 27, 1995, the FOE’s Grand Tribunal issued Opinion No. 750, which stated in pertinent part as follows:

Our review of recent civil cases, involving not only the Fraternal Order of Eagles, but other private organizations confirms that the Courts have consistently upheld legislation designed to prevent discriminatory membership policies in private clubs when such policies are based solely on gender. Given these interpretations, our fraternal laws must then yield to prevailing civil law.

It is the opinion of the Grand Tribunal that the use of the word “male” appearing in Section 70.2 of the Statutes is no longer consistent with prevailing law. This prevailing law takes precedent [sic] over our laws on this subject. The Grand Aerie will impose no restrictions upon membership in the Local Aerie, on the basis of gender. To the extent that prior Opinions ... are inconsistent herewith, they are expressly overruled.

25. After Opinion No. 750 was issued, the Lakeville Aerie elected to membership several female candidates who became official members of the FOE.

26. On or about July 30, 1998, the Grand Tribunal withdrew its Opinion No. 750.

27. On or about March 1, 1999, the Grand Aerie notified the Lakeville Aerie by letter that § 70.2 of the FOE statutes limits membership to males only, that all applications for membership must comply with § 70.2, and that any application failing to comply with § 70.2 would not be processed by the Grand Aerie.

28. On or about September 5, 1999, the Massachusetts State Aerie reiterated in a letter to the Lakeville Aerie that no person is eligible for membership in any Local Aerie unless such person is a male. However, in that letter the Massachusetts State Aerie

stated that female members who were elected before July 29, 1998, would retain their membership status.

29. On or about July 30, 1998, as a consequence of § 70.2 and the directives issued by the Grand Aerie and State Aerie, the Lakeville Aerie ceased selecting women for official membership in the FOE and ceased sending any information regarding women's applications to the Grand Aerie.

30. Instead, the Lakeville Aerie began to voluntarily allow women to become members of the Lakeville Aerie only, without admitting them as members of the FOE or sending the women's membership application information to the Grand Aerie.

The Plaintiffs

31. On July 28, 2000, Plaintiffs Moran and Chichester attended a Meat Raffle on the premises of the Lakeville Aerie. They were approached by a member of the Lakeville Aerie and encouraged to join the Local Aerie.

32. Each Plaintiff filled out a membership application and paid an initiation and key fee of \$30, and pro-rated dues in the amount of \$8.

33. In August 2000, each Plaintiff received a membership card from the Lakeville Aerie. In place of a Member's Number, a stamp bearing the legend "Patron" was affixed to such cards.

34. On September 7, 2000, Plaintiffs participated in an initiation ceremony at the Lakeville Aerie.

35. However, in January 2001, the Secretary of the Lakeville Aerie informed Plaintiff Moran that neither she nor Plaintiff Chichester was an official member of the FOE. On that occasion, the Secretary of the Lakeville Aerie informed Plaintiff Moran of

§ 70.2, the Grand Aerie's withdrawal of Opinion No. 750, and the Lakeville Aerie's policy of accepting women as members of only the Local Aerie, while deferring to the Grand Aerie and State Aerie's rules by excluding women from full membership in the FOE.

36. Since joining the Lakeville Aerie, Plaintiffs have paid all of the fees and dues required to be paid by members of the Lakeville Aerie, and have enjoyed the benefits and responsibilities attendant to membership in the Lakeville Aerie. For example, Plaintiffs have frequently attended and participated in its meetings and functions. Plaintiffs have also volunteered their time to serve senior citizens at breakfasts and dinners sponsored by the Lakeville Aerie and have participated in fund-raising events sponsored by the Lakeville Aerie.

37. At the same time, Plaintiffs have been denied the benefits available only to official members of the FOE.

38. Because neither Plaintiff is a member of the FOE, Plaintiffs are ineligible for election as officers of the Lakeville Aerie, of the Massachusetts State Aerie, and of the Grand Aerie.

39. Because neither Plaintiff is a member of the FOE, Plaintiffs are not eligible to participate as members of the Legislative Grand Aerie.

40. Because neither Plaintiff is a member of the FOE, Plaintiffs were prohibited from representing the Lakeville Aerie in an annual pool tournament sponsored by the Massachusetts State Aerie.

41. Accordingly, Plaintiffs are denied the opportunity to participate fully in the activities and governance of the very organization to which they have paid their fees and dues and to which they have devoted their time and efforts.

42. As of the date of this Complaint, neither Plaintiff Moran nor Plaintiff Chichester has been admitted and recognized as a member of the FOE by the Grand Aerie, and the discrimination alleged herein continues.

CLAIMS

Count I - Discrimination in Place of Public Accommodation G.L. c. 272, § 98

43. Plaintiffs incorporate herein by reference each of the allegations contained in paragraphs 1 through 42 above.

44. The premises of the Lakeville Aerie is a place of public accommodation, as that phrase is used in G.L. c. 272, § 92A.

45. As a result of the actions of the Grand Aerie and the Lakeville Aerie, Plaintiffs have been aggrieved by discrimination on account of sex in violation of G.L. c. 272, § 98.

46. The Grand Aerie's notice and directive to Massachusetts Local Aeries, including the Lakeville Aerie, stating that women are ineligible for membership and that, subsequent to July 30, 1998, it will not process any application, nor recognize the election to membership, of any person who is not male, constitutes the incitement of, or aiding in, sex discrimination in a place of public accommodation in violation of G.L. c. 272, § 98.

47. The violations described in paragraphs 45 and 46 above are continuing in nature.

48. On or about November 19, 2002, Plaintiffs filed with the Massachusetts Commission Against Discrimination a verified complaint seeking relief from the unlawful practices alleged herein. More than ninety (90) days have passed since the filing of that verified complaint.

Count II – Massachusetts Equal Rights Act
G.L. c. 93, § 102

49. Plaintiffs incorporate herein by reference each of the allegations contained in paragraphs 1 through 48 above.

50. By the above-described actions of the Grand Aerie, as enforced by the Lakeville Aerie, Plaintiffs have been deprived of the full and equal benefit of all laws for the security of persons, as those rights are protected by the Massachusetts Equal Rights Act, G.L. c. 93, § 102.

51. The violations of the Massachusetts Equal Rights Act described herein are continuing in nature.

Count III – Massachusetts Civil Rights Act
G.L. c. 12, §§ 11H, 11I

52. Plaintiffs incorporate herein by reference each of the allegations contained in paragraphs 1 through 51 above.

53. The Grand Aerie, by its above-described actions, interfered by coercion with the exercise by Plaintiffs of rights secured by the Commonwealth, namely, (a) the right to be free from discrimination on the basis of sex in places of public accommodation, and (b) the rights enjoyed by white male citizens to the full and equal benefit of all laws for the security of persons.

54. The violations of the Massachusetts Civil Rights Act described herein are continuing in nature.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully request the following relief:

A. A permanent injunction prohibiting the Grand Aerie from taking any action, or failing to take any action that has the consequence of, depriving Plaintiffs, solely on the basis of sex, the same rights of full membership in the FOE as are enjoyed by those members of the Massachusetts Local Aeries who are male;

B. A permanent injunction prohibiting the Lakeville Aerie from taking any action, or failing to take any action that has the consequence of, depriving Plaintiffs, solely on the basis of sex, the same rights of full membership in the FOE as are enjoyed by those members of the Lakeville Aerie who are male;

C. An award of compensatory and exemplary damages;

D. An award of costs and reasonable attorneys' fees; and

E. Such other relief as this Court may deem to be just and equitable.

PLAINTIFFS DEMAND A JURY TRIAL ON ALL ISSUES SO TRIABLE.

Respectfully submitted,
For the Plaintiffs

Edward D. Rapacki, BBO # 411910
Fredric L. Ellis, BBO # 542075
Joseph M. Makalusky, BBO # 631240
ELLIS & RAPACKI LLP
85 Merrimac Street, Suite 500
Boston, MA 02114
(617) 523-4800

Of counsel:

Rebecca Epstein

Adele Kimmel

TRIAL LAWYERS FOR PUBLIC JUSTICE

1717 Massachusetts Ave., N.W., Suite 800

Washington, DC 20036

(202) 797-8600

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