

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

FILED-EDM  
BY JIMMY S. NEWHO  
U.S. DISTRICT COURT

EQUAL EMPLOYMENT OPPORTUNITY  
COMMISSION,

Plaintiff,

v.

BICE OF CHICAGO, INC., BICE  
RESTAURANT GROUP, LLC, DA ECIB  
USA, INC., D/B/A THE BICE GROUP,  
ITALIAN, RG, INC.

Defendants.

DOCKETED  
APR 16 2004

CIVIL ACTION NO.

Jury Trial Demanded

JUDGE MANNING

040 2708

MAGISTRATE JUDGE BOBRICK

NATURE OF THE ACTION

This is an action under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e et seq. ("Title VII"), and Title I of the Civil Rights Act of 1991 to correct unlawful employment practices on the basis of sex and national origin and to provide appropriate relief to a class of current and former employees who were adversely affected by such practices. Plaintiff Equal Employment Opportunity Commission ("EEOC") alleges that Bice of Chicago, Inc., and Bice Restaurant Group, LLC, Da Ecib USA, Inc., d/b/a The Bice Group, Italian RG Inc. (collectively "Bice") subjected Hugo Gonzalez, Victor Gonzalez, Javier Padilla, Carlos Hernandez, Deidre Fennessy, Jose Labra, Alejandro Padilla, Fernando Munoz, Uriel Porcayo, Felix Marquez, Heladio Gonzalez, Jesus Gonzalez, Luis Arcos and Juan Vasquez (collectively referred to hereafter as "Charging Parties") and a class of employees to different terms and conditions of employment because of their national origin, non-Italian and/or Hispanic. EEOC also alleges that Bice subjected some Charging Parties

11

and a class of male employees to sexual harassment. EEOC further alleges that Bice retaliated against Charging Parties and a class of employees by subjecting them to different terms and conditions of employment, constructively discharging them and/or discharging them, in violation of Title VII.

### **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, 42 U.S.C. § 2000e-5(f)(1) and (3) and § 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981A.

2. The employment practices hereafter alleged to be unlawful were and are now being committed within the jurisdiction of the United States District Court for the Northern District of Illinois, Eastern Division.

### **PARTIES**

3. Plaintiff, the Equal Employment Opportunity Commission, is an 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. Section 2000e-5(f)(1) and (3).

4. At all times relevant, Defendants Bice of Chicago, Inc.; Bicc Restaurant Group, LLC; Da Ecib USA, Inc., d/b/a The Bice Group; and Italian RG Inc. (collectively "Bice"), have continuously been doing business in the Northern District of Illinois and have continuously had at least fifteen employees.

5. At all times relevant, Bice 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. Sections 2000e(b), (g) and (h).

#### **STATEMENT OF CLAIMS**

6. More than thirty days prior to the institution of this lawsuit, Charging Parties filed charges with the Commission alleging violations of Title VII by Bice. All conditions precedent to the institution of this lawsuit have been fulfilled.

7. Since at least January 1998, Bice has engaged in unlawful employment practices at its Chicago, Illinois restaurant, in violation of Sections 701(k) and 703(a) of Title VII, 42 U.S.C. Sections 2000e(k) and 2(a). Such unlawful employment practices have included: 1) subjecting Charging Parties and a class of employees to different terms and conditions of employment because of their national origin, non-Italian and/or Hispanic; 2) subjecting some Charging Parties and a class of male employees to sexual harassment; 3) retaliating against Charging Parties and a class of employees by subjecting them to different terms and conditions of employment, constructively discharging them and/or

discharging them, in violation of Title VII because they complained about national origin harassment and/or sexual harassment by their supervisor.

8. The effect of the practices complained of above has been to deprive Charging Parties, and a class of employees adversely affected by the discriminatory actions, of equal employment opportunities and otherwise adversely affect their status as employees because of their sex and national origin.

9. The unlawful employment practices complained of in paragraphs 7 and 8 above were intentional.

10. The unlawful employment practices complained of in paragraphs 7 and 8 above were done with malice or with reckless indifference to the federally protected rights of Charging Parties and a class of employees because of their sex (male) and national origin (non-Italian and/or Hispanic).

#### **PRAYER FOR RELIEF**

WHEREFORE, the Commission respectfully requests that this Court:

A. Grant a permanent injunction enjoining Defendants, their officers, successors, assigns, and all persons in active concert or participation with them, from engaging in any employment practice which discriminates because of sex and national origin.

B. Order Defendants to institute and carry out policies, practices and programs which eradicate the effects of its past and present unlawful practices.

C. Order Defendants to make whole Charging Parties and the affected classes by providing appropriate back pay 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 reinstatement where appropriate.

D. Order Defendants to make whole Charging Parties and the affected classes, by providing compensation for past and future pecuniary losses resulting from the unlawful employment practices described in paragraphs 7 and 8 above, including medical expenses, in amounts to be determined at trial.

E. Order Defendants to make whole Charging Parties and the affected classes by providing compensation for past and future non-pecuniary losses resulting from the unlawful practices complained of in paragraphs 7 and 8 above, including emotional pain, inconvenience, and humiliation, in amounts to be determined at trial.

F. Order Defendants to pay Charging Parties and the affected classes punitive damages for their malicious and reckless conduct described in paragraphs 7 and 8 above, 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 in this action.

**JURY TRIAL DEMAND**

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

Respectfully submitted,

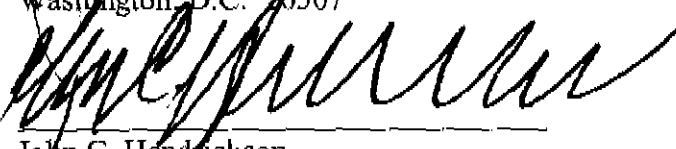
Eric S. Dreiband  
General Counsel

James Lee  
Deputy General Counsel


Gwendolyn Young Reams  
Associate General Counsel

EQUAL EMPLOYMENT OPPORTUNITY  
COMMISSION

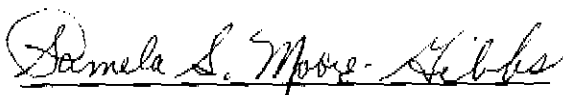
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Regional Attorney



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Supervisory Trial Attorney



Pamela S. Moore-Gibbs  
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COMMISSION  
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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS

FILED  
APR 16 2004

*Cut I*

**Civil Cover Sheet**

This automated JS-44 conforms generally to the manual JS-44 approved by the Judicial Conference of the United States in September 1974. The data is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. The information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is authorized for use only in the Northern District of Illinois.

**Plaintiff(s): EQUAL EMPLOYMENT  
OPPORTUNITY COMMISSION**

**Defendant(s): BICE OF CHICAGO, INC., BICE  
RESTAURANT GROUP, LLC, DA ECIB USA,  
INC., D/B/A THE BICE GROUP, ITALIAN,  
RG, INC.**

County of Residence:

County of Residence: Cook

Plaintiff's Atty: Pamela S. Moore-Gibbs  
Equal Employment Opportunity  
Commission  
500 W. Madison Street., Suite  
2800 Chicago, IL 60661  
(312) 886-9120

Defendant's Atty: James B. Noonan, Patrick J.  
McCann  
Noonan & Lieberman, Ltd.  
105 W. Adams, Suite 3000,  
Chicago, IL 60603  
(312) 431-1455

II. Basis of Jurisdiction:

1. U.S. Gov't Plaintiff

III. Citizenship of Principal  
Parties (Diversity Cases Only)

Plaintiff: - N/A  
Defendant: - N/A

JUDGE MANNING  
**04C 2708**

MAGISTRATE JUDGE BOBRICK

FILED-EDA  
APR 15 9 18 AM '04  
U.S. DISTRICT COURT

IV. Origin :

1. Original Proceeding

V. Nature of Suit:

442 Employment

VI. Cause of Action:

This is an action under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e et seq. ("Title VII"), and Title I of the Civil Rights Act of 1991 to correct the unlawful employment practices on the basis of sex and national origin.

VII. Requested in Complaint

Class Action:  
Dollar Demand:  
Jury Demand: Yes

VIII. This case **IS NOT** a refiling of a previously dismissed case.

Signature: *Pamela S. Moore-Gibbs* - 4/15/04

1-2

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS**

In the Matter of

EASTERN DIVISION

JUDGE MANNING

Equal Employment Opportunity Commission  
v.  
Bice of Chicago, Inc., Bice Restaurant Group, LLC, DA  
FCIB USA, Inc., D/B/A The Bice Group, Italian, RG, Inc.

Case No. 04C 2708

**04C 2708**

APPEARANCES ARE HEREBY FILED BY THE UNDERSIGNED AS ATTORNEY(S) FOR:

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

MAGISTRATE JUDGE DOBRICK

(A)		(B)	
SIGNATURE <i>Pamela S. Moore-Gibbs</i>		SIGNATURE <i>Diane I. Smason</i>	
NAME Pamela S. Moore-Gibbs		NAME Diane I. Smason	
FIRM Equal Employment Opportunity Commission		FIRM Equal Employment Opportunity Commission	
STREET ADDRESS 500 W. Madison, Suite 2800		STREET ADDRESS 500 W. Madison, Suite 2800	
CITY/STATE/ZIP Chicago, IL 60661		CITY/STATE/ZIP Chicago, IL 60661	
TELEPHONE NUMBER 312-886-9120	FAX NUMBER 312-353-8555	TELEPHONE NUMBER 312-353-7526	FAX NUMBER 312-353-8555
E-MAIL ADDRESS		E-MAIL ADDRESS	
IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE) ARDC No. 06197710		IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE) ARDC No. 06226130	
MEMBER OF TRIAL BAR? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>		MEMBER OF TRIAL BAR? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	
TRIAL ATTORNEY? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>		TRIAL ATTORNEY? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>	
		DESIGNATED AS LOCAL COUNSEL? YES <input type="checkbox"/> NO <input type="checkbox"/>	
(C)		(D)	
SIGNATURE <i>John C. Hendrickson</i>		SIGNATURE	
NAME John C. Hendrickson		NAME	
FIRM Equal Employment Opportunity Commission		FIRM	
STREET ADDRESS 500 W. Madison, Suite 2800		STREET ADDRESS	
CITY/STATE/ZIP Chicago, IL 60661		CITY/STATE/ZIP	
TELEPHONE NUMBER 312-353-8551	FAX NUMBER 312-353-8555	TELEPHONE NUMBER	FAX NUMBER
E-MAIL ADDRESS		E-MAIL ADDRESS	
IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE) ARDC No. 01187589		IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE)	
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TRIAL ATTORNEY? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>		TRIAL ATTORNEY? YES <input type="checkbox"/> NO <input type="checkbox"/>	
DESIGNATED AS LOCAL COUNSEL? YES <input type="checkbox"/> NO <input type="checkbox"/>		DESIGNATED AS LOCAL COUNSEL? YES <input type="checkbox"/> NO <input type="checkbox"/>	

U.S. DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
CHICAGO, ILLINOIS  
CLERK OF COURT  
JULY 10 2004

1-3