



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 §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. §19981 A.

2. The employment practices alleged to be unlawful were and are now being committed within the jurisdiction of the United States for the Eastern District of Pennsylvania.

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. § 2000(e)-5(f)(1) and (3).

4. At all relevant times, Defendant, Big Way, Inc. t/a Valley Green Inn (the "Inn"), has been and is now doing business in the Commonwealth of Pennsylvania and the City of Philadelphia and has continuously had at least 15 employees.

5. 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. §§ 2000(e)(b), (g) and (h).

STATEMENT OF CLAIMS

6. More than thirty days prior to the institution of this lawsuit, Joyce Fishel filed a charge with the Commission alleging violations of Title VII by Defendant Employer. All conditions

precedent to the institution of this lawsuit have been fulfilled.

7. Since at least July 2002, Defendant Employer has engaged in unlawful employment practices at its Philadelphia, Pennsylvania facility in violation of Section 703(a)(1) of Title VII, 42 U.S.C. § 2000(e)-2(a)(1), by subjecting Charging Party, Joyce Fishel, and Claimants, Colleen Quinn and Alison McHale, to disparate treatment and a sexually hostile work environment based upon incidents which include, but are not limited to, the following:

(A) Joyce Fishel was employed with Defendant as both a server and a floor manager since July 2002. Colleen Quinn and Alison McHale were both employed with Defendant as servers since April 2003 and August 2000, respectively.

(B) All three female employees, Ms. Fishel, Ms. Quinn and Ms. McHale, were subjected to offensive sex-based comments and sexually explicit, vulgar, insulting and sexually derogatory comments and conduct by male managers and other male employees, including Kitchen Manager, Shing Dan, and Floor Manager, Ken Swope. Shing Dan regularly talked about his penis, openly discussed anal sex with the predominately male kitchen staff in the presence of the female staff and would harass female servers. Mr. Swope constantly made degrading comments about women, including statements that women are "conniving and spiteful", and calling women "Feminazi". Both Mr. Dan and Mr. Swope would repeatedly bash women in front of the female staff making comments like, "women are inferior to men" and "women should not be treated equally to men."

(C) In December 2003, Mr. Dan had occasion to speak with Ms. Fishel's boyfriend on the telephone and stated that he and others at the Inn had sex with Ms. Fishel and further stated, "we've all done her." While Mr. Dan was on the telephone, Mr. Swope yelled in the background, "Come back to bed, Joyce." Ms. Fishel complained to Defendant's Executive Manager, Jack Ott; however, neither Mr. Dan nor Mr. Swope were reprimanded.

(D) After Ms. Fishel was promoted to floor manager, Mr. Ott, would regularly yell at her and, in the presence of others, would speak to her in an offensive and degrading manner. Mr. Ott did not treat the male managers in the same fashion.

(E) Mr. Ott would make offensive sex-based comments to Ms. Fishel, including a comment about her "wonderbra". As a result of Mr. Ott's offensive, demeaning and degrading conduct, Ms. Fishel demoted herself from the position of floor manager in May 2003 and returned to the position of server so that she would have less contact with Mr. Ott.

(F) Ms. Fishel, Ms. Quinn and Ms. McHale complained to management and made them aware of the inappropriate conduct by Mr. Dan and Mr. Swope. However, their complaints were met with hostility and inaction thereby subjecting them to continual sexual harassment by the male managers and staff. Despite notice of the behavior and their authority to correct it, Defendant never took any disciplinary actions against Mr. Dan or Mr. Swope for having created, engaged in and perpetuated a sexually hostile work environment.

(G) As a result of sexually hostile work environment, Ms. Fishel, Ms. Quinn and Ms. McHale were constructively discharged from their positions.

8. The effect of the practices complained of in paragraphs 7 (A) through (G) above has been to deprive Joyce Fishel, Colleen Quinn and Alison McHale, as female employees, of equal employment opportunities and otherwise adversely affect their status as employees because of their sex.

9. The acts complained of in paragraphs 7 (A) through (G) above were intentional.

10. The unlawful employment practices complained of in paragraphs 7 (A) through (G) above were done with reckless indifference to the federally protected rights of Joyce Fishel, Colleen Quinn and Alison McHale, as female employees.

PRAYER FOR RELIEF

Wherefore, the Commission respectfully requests that this Court:

A. Grant a permanent injunction enjoining Defendant Employer, its officers, successors, assigns, and all persons in active concert or participation with it, from engaging in sexual harassment and any other employment practice which discriminates on the basis of sex.

B. Order Defendant Employer to institute and carry out policies, practices, and programs which provide equal employment opportunities for women, which eradicate the effects of its past and present unlawful employment practices.

C. Order Defendant Employer to make whole Joyce Fishel, Colleen Quinn and Alison McHale, 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.

D. Order Defendant Employer to make whole Joyce Fishel, Colleen Quinn and Alison McHale, by providing compensation for past and future pecuniary losses resulting from the unlawful employment practices described in paragraphs 7 (A) through (G) above, including, but not limited to out-of-pocket losses, in amounts to be determined at trial.

E. Order Defendant Employer to make whole Joyce Fishel, Colleen Quinn and Alison McHale, by providing compensation for past and future nonpecuniary losses resulting from the unlawful practices complained of in paragraphs 7 (A) through (G) above, including pain and suffering, humiliation, embarrassment, loss of life's enjoyment and pleasures, depression, anxiety and inconvenience, in amounts to be determined at trial.

F. Order Defendant Employer to pay Joyce Fishel, Colleen Quinn and Alison McHale, punitive damages for its malicious and reckless conduct described in paragraphs 7 (A) through (G)

above, in amounts to be determined at trial.

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

H. Award the Commission its costs of this action.

JURY TRIAL DEMAND

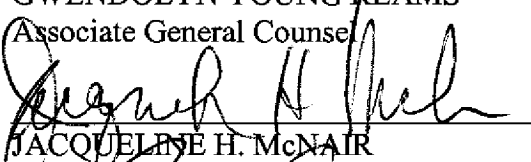
The Commission requests a jury trial on all questions of fact raised by its complaint.

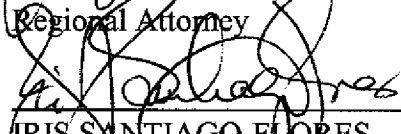
Respectfully submitted,

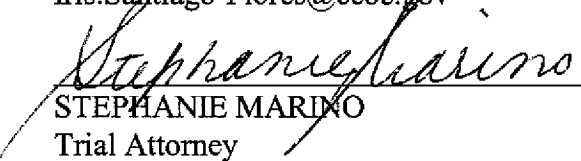
ERIC S. DREIBAND  
General Counsel

JAMES L. LEE  
Deputy General Counsel

GWENDOLYN YOUNG KEAMS  
Associate General Counsel

  
JACQUELINE H. McNAIR  
Regional Attorney

  
IRIS SANTIAGO-FLORES  
Supervisory Trial Attorney (Acting)  
Iris.Santiago-Flores@eeoc.gov

  
STEPHANIE MARINO  
Trial Attorney  
Stephanie.Marino@eeoc.gov  
PA Id. No. 77752

EQUAL EMPLOYMENT  
OPPORTUNITY COMMISSION  
Philadelphia District Office  
21 S. 5<sup>th</sup> Street, Ste. 400  
Philadelphia, PA 19106