

UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,

Plaintiff,

Case No. 01-40202

V.

ARAMARK SERVICES, INC.

Hon. Paul V. Gadola

Defendant.

1st AMENDED COMPLAINT
AND JURY DEMAND

NATURE OF THE ACTION

This is an action under Title VII of the Civil Rights Act of 1964 and Title I of the Civil Rights Act of 1991 to correct unlawful employment practices on the basis of sex, and to provide appropriate relief to Teralynn Gaither, and other similarly situated individuals, who were adversely affected by such practices. The EEOC alleges that Gaither's supervisor, Carlos Hernandez, sexually harassed her. The Defendant, having knowledge of the harassment, failed to take reasonable care to prevent the harassment and to take corrective action to end the harassment.

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 Sections 706(f)(1) and (3) and 707(e) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §§ 2000e-5(f)(1) and (3) and 42 U.S.C. § 2000e-6(e) ("Title VII"), and Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981(a).

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

3. Plaintiff, the Equal Employment Opportunity Commission (“EEOC” or “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) and 707(e) of Title VII, 42 U.S.C. §§ 2000e-5(f)(1) and (3), and 2000e-6(e).

4. At all relevant times, Defendant, Aramark Services, Inc., (“Employer” or “Aramark”), has continuously been a corporation doing business in the State of Michigan and the City of Livonia, 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. §§ 2000e(b), (g), and (h).

STATEMENT OF CLAIMS

6. More than thirty days prior to the institution of this lawsuit, Teralynn Gaither 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 April, 2000, Defendant Employer has engaged in unlawful employment practices at its Livonia, Michigan facility, in violation of Section 703(a), 42 U.S.C. § 2000e-2(a). The Defendant’s unlawful employment practices include the following:

- a. Gaither’s supervisor, Carlos Hernandez, created a hostile environment for her beginning on his first day of work in April, 2000, by making offensive

remarks.

- b. Hernandez crafted genitalia out of food products and napkins.
- c. Hernandez attempted to touch the breasts and buttocks of Gaither and other similarly situated employees beginning on his first day of work.
- d. Hernandez told Gaither and other similarly situated employees that they had better not stand that way, or they might get "poked" because he had not had sex in a few days.
- e. Hernandez told Gaither to "have it all greased up for him" when he came to her home, referring to having sexual intercourse.
- f. Hernandez committed several other harassing behaviors which were severe and pervasive and created a hostile work environment.

8. The effect of the pattern and practice of conduct complained of in paragraph 7 above has been to deprive Gaither and other similarly situated individuals of equal employment opportunities and otherwise adversely affect their status as employees because of their sex.

9. The unlawful employment practices complained of in paragraph 7 above were and are intentional.

10. As the result of the unlawful employment practices, Gaither and other similarly situated individuals have suffered emotional pain, suffering, inconvenience, mental anguish and loss of enjoyment of life.

11. The unlawful employment practices complained of in paragraph 7 above were and are done with malice or with reckless indifference to the federally protected rights of Gaither and other similarly situated employees.

PRAYER FOR RELIEF

Wherefore, the Commission respectfully requests that this Court:

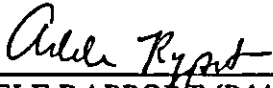
- a. Grant a permanent injunction enjoining Defendant Employer, its officers, successors, assigns, and all persons in active concert or participation with it, from engaging in sexual harassment and any other employment practices which discriminate on the basis of sex.
- b. Order Defendant Employer to institute and carry out policies, practices and programs which provide equal employment opportunities for women, and which eradicate the effects of its past and present unlawful employment practices, including the institution of a training program for each of its facilities.
- c. Order Defendant Employer to make whole Gaither and other similarly situated individuals, by providing compensation for past and future pecuniary losses resulting from the unlawful employment practices described in paragraph 7 above in amounts to be proven at trial.
- d. Order Defendant Employer to make whole Gaither by providing compensation for past and future nonpecuniary losses resulting from the unlawful practices complained of in paragraph 7 above, in amounts to be proven at trial.
- e. Order Defendant Employer to pay Gaither and other similarly situated individuals punitive damages for its malicious or reckless conduct described in paragraph 7 above, in amounts to be proven at trial.
- f. Grant such further relief as the Court deems necessary and proper in the public interest.
- g. 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,

GWENDOLYN YOUNG REAMS
Associate General Counsel


ADELE RAPPORT (P44833)
Regional Attorney

ROBERT K. DAWKINS (P38289)
Supervisory Trial Attorney

TAMMY C. KLEIN (P60256)
Trial Attorney

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION

DETROIT DISTRICT OFFICE
Patrick V. McNamara Bldg.
477 Michigan Avenue, Room 865
Detroit, Michigan 48226
Telephone: 313) 226-5673