

FILED

DEC 3 - 2003

CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY DEPUTY CLERK

y.

Civil Action No. A-03-CA-689-JN

JURY TRIAL DEMAND

Defendants.

PLAINTIFF'S FIRST AMENDED COMPLAINT

JURISDICTION AND VENUE

1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 451, 1331, 1337, 1343

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and 1345. This action is authorized and instituted pursuant to Section 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. § 1981a.

2. The employment practices alleged to be unlawful were committed within the jurisdiction of the United States District Court for the Western District of Texas, Austin Division.

PARTIES

3. Plaintiff, 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. § 2000e-5(f)(1) and (3).

4. At all relevant times, Defendants Doubletree have continuously been doing business in the State of Texas, and the City of Austin, and have continuously employed at least 15 employees.

5. At all relevant times, Defendants Doubletree have continuously been employers 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, Petra Ugarte filed a charge with the Commission alleging violations of Title VII by Defendants Doubletree.

7. All conditions precedent to the institution of this lawsuit have been fulfilled.

8. Since at least August 2001, Defendants Doubletree have engaged in unlawful employment practices at their Austin, Texas, facility in violation of Section 703(a)(1) of Title VII, 42 U.S.C. § 2000e-2(a)(1) by subjecting Petra Ugarte to sexual harassment, including, but not limited to, the following:

- a. More specifically, Petra Ugarte, a female, was sexually harassed by Andrew Saldana, her male supervisor, a Doubletree "Executive Manager," who subjected her to repeated and increasingly severe sexual harassment of a physical nature, escalating to incidents of forcible submission to sexual intercourse;
- b. During these incidents of physical sexual harassment, Andrew Saldana threatened, among other things, to fire Petra Ugarte in order to garner her submission and silence; and
- c. After being forced to submit to sexual intercourse, Petra Ugarte retained her employment with Doubletree for a period of time and did not report this criminal conduct to Doubletree because she feared losing her job as well as physical harm.

9. The effect of the practices complained of in paragraph eight above has been to deprive Petra Ugarte of equal employment opportunities and to otherwise adversely affect her status as an employee, because of her sex.

10. The unlawful employment practices complained of in paragraph eight above were intentional.

11. The unlawful employment practices complained of in paragraph eight above were done with malice or with reckless indifference to the federally protected rights of Petra Ugarte.

PRAYER FOR RELIEF

Wherefore, the Commission respectfully requests that this Court:

A. Grant a permanent injunction enjoining Defendants Doubletree, their officers, successors, assigns, and all persons in active concert or participation with them, from subjecting their female employees to sexual harassment and from any other employment practice which discriminates

on the basis of sex;

B. Order Defendants Doubletree to institute and carry out policies, practices, and programs which provide equal employment opportunities for females and which eradicate the effects of their past and present unlawful employment practices;

C. Order Defendants Doubletree to make whole Petra Ugarte, by providing compensation for past and future pecuniary losses resulting from the unlawful employment practices described in paragraph eight above, including, but not limited to, medical expenses, in an amount to be determined at trial;

D. Order Defendants Doubletree to make whole Petra Ugarte, by providing compensation for past and future nonpecuniary losses resulting from the unlawful employment practices complained of in paragraph eight above, including, but not limited to, emotional pain, suffering, humiliation, embarrassment, emotional distress, stress, anxiety, inconvenience, and loss of enjoyment of life, in an amount to be determined at trial;

E. Order Defendants Doubletree to pay Petra Ugarte punitive damages for their malicious and reckless conduct described in paragraph eight above, in an amount to be determined at trial;

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

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,


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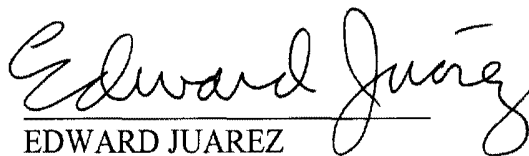
ATTORNEYS FOR PLAINTIFF

CERTIFICATE OF SERVICE

I certify that a true copy of the above and foregoing PLAINTIFF'S FIRST AMENDED COMPLAINT was served, via Certified Mail/Return Receipt Requested, on this 2ND day of December, 2003, to the following counsel of record:

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