United States District Court Southern District of Texas FILED

IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF TEXAS HOUSTON DIVISION

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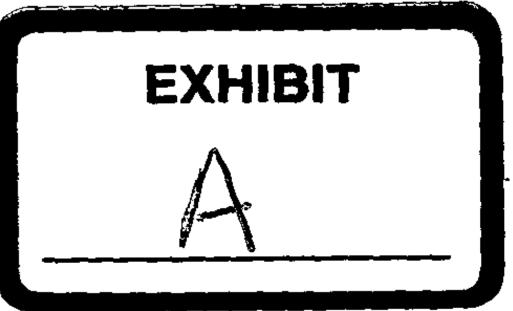
| | § | Michael N. Milby, Clerk of Court |
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| EQUAL EMPLOYMENT | § | Musumer in manny, orang or contr |
| OPPORTUNITY COMMISSION | § | |
| Plaintiff, | § | |
| | § | CIVIL ACTION NO. H-99-2936 |
| V. | § | |
| | § | |
| G. I. TRUCKING COMPANY | § | |
| Defendant. | § | JURY TRIAL DEMANDED |
| | § | |

FIRST AMENDED ORIGINAL COMPLAINT

1. This is an action under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §2000e, et seq. and Title I of the Civil Rights Act of 1991, as amended, 42 U.S.C. §1981 et seq. to correct unlawful employment practices on the basis of sex, and to provide appropriate relief to Dianna Essex, Kandie Bush and Deshandra Johnson, who were adversely affected by such practices. The Defendant, G. I. Trucking Company, unlawfully denied female employees equal employment opportunities by subjecting them to sexual harassment in violation of Title VII of the Civil Rights Act of 1964.

JURISDICTION AND VENUE

2. 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 of the Civil Rights Acts of 1964, as amended, 42 U.S.C. §2000e, et seq. ("Title VII") and Section 102 of the Civil Rights Act of 1991, 42 U.S.C. §1981A.



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3. Venue is proper in this Court because the unlawful employment practices alleged below were and are now being committed within the jurisdiction of the United States District Court for the Southern District of Texas, Houston Division.

PARTIES

- 4. Plaintiff, Equal Employment Opportunity Commission ("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), 42 U.S.C. §2000e-5 (f)(1) and (3).
- 5. Defendant G. I. Trucking Company ("G. I. Trucking") has continuously been and is now doing business in the State of Texas and the City of Houston and has continuously had more than 15 employees. G. I. Trucking has its principal place of business in Houston at 3801 Cherry Street, Houston, Texas. G. I. Trucking may be served with process by serving its registered agent in Texas, C.T. Corporation, 350 N. St. Paul Street, Dallas, Texas 75201.
- 6. At all relevant times, Defendant G. I. Trucking 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

7. More than thirty days prior to the institution of this lawsuit, Dianna Essex, Kandie Bush and Deshandra Johnson each filed a charge of discrimination with the Commission alleging violations of Title VII by G. I. Trucking, their former employer.

All conditions precedent to the institution of this lawsuit have been fulfilled. Each woman was, at various times in 1998, employed at G. I. Trucking.

- 8. Since at least 1998, G. I. Trucking has engaged in unlawful employment practices at 3801 Cherry Street, Houston, Texas, in violation of Section 703(a)(1) of Title VII of the Civil Rights Act of 1964.
- 9. G. I. Trucking, by and through its agent, Stan Tomscak subjected Ms. Essex, Ms. Bush and Ms. Johnson to sexual harassment by rubbing his penis and/or body against them, making sexual jokes and comments, discussing his desire to date them, discussing aspects of his sex life, using sexually explicit language and engaging in other inappropriate workplace behavior. The sexual harassment was reported to management at G. I. Trucking, yet no effective action was taken to halt the harassment. The complained of conduct was so sexually hostile and occurred with such frequency and severity that it affected the terms, conditions, benefits and privileges of their employment and created a hostile work environment. As a result of the sexually hostile work environment, Ms. Bush was compelled to resign from her position.
- 10. Mr. Tomscak's conduct was intentional and based on the gender of Ms. Essex, Ms. Bush and Ms. Johnson.
- 11. The effect of the practices complained of above has been to deprive Ms. Essex, Ms. Bush and Ms. Johnson of equal employment opportunities and otherwise adversely affect their status as employees, because of their gender by requiring them

to be subjected to sexual harassment in the workplace.

12. The conduct was committed with malice or the willful disregard for the federally protected civil rights of Ms. Essex, Ms. Bush and Ms. Johnson.

PRAYER FOR RELIEF

WHEREFORE, the Commission respectfully requests that this Court:

- 13. Grant a permanent injunction enjoining Defendant, its officers, successors, assigns and all persons in active concert or participation with it, from engaging in an employment practice which discriminates on the basis of gender;
- 14. Order Defendant to institute and carry out policies, practices and procedures which provide equal employment opportunities for women and which eradicate the sexually hostile work environment;
- 15. Order Defendant to make Ms. Bush whole by providing appropriate back pay, with prejudgment interests in amounts to be determined at trial, and other affirmative relief necessary to eradicate the effects of the unlawful employment practices she was subjected to.
- 16. Order reinstatement into a comparable position for Ms. Bush or award front pay in the amounts to be proven at trial if reinstatement is impractical;
- 17. Order Defendant to pay compensatory damages to Ms. Essex, Ms. Bush and Ms. Johnson for their future pecuniary losses, emotional pain, suffering, inconvenience, mental anguish, loss of enjoyment of life, and other nonpecuniary

losses they suffered as a result of the sexual harassment they were subjected to at G. I. Trucking in amounts to be proven at trial;

- 18. Award punitive damages to Ms. Essex, Ms. Bush and Ms. Johnson in amounts to be proven at trial;
- 19. Award pre-judgment and post-judgment interest on all amounts recovered as allowed by law;
- 20. Order all affirmative relief necessary to eradicate the effects of its unlawful employment practices;
 - 21. Award the Commission its costs in this action; and
- 22. Grant such other and further relief as the Court deems necessary and proper.

JURY TRIAL DEMAND

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

Respectfully submitted,

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

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ATTORNEYS FOR PLAINTIFF

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing instrument was served on all counsel of record as follows:

Paul Hash - Via Certified Mail, Return Receipt Requested Michael McCabe
Jackson, Lewis, Schnitzler & Krupman
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Dallas, Texas, 75219-4497

on November 17, 2000.

Kathy D. Boutchee