

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

VALERIE DOWDS

Plaintiff,

v.

TOM LANGE COMPANY, INC. TOM  
LAW; PHILLIP GUMPERT.

Defendants.

: CIVIL ACTION NO: 05 0955

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:

: **COMPLAINT**

:

: Filed on behalf of Plaintiff:

:

: Counsel of record for this party:

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:

:

: FRANCIS M. MOORE, ESQUIRE

: PA I.D. #60039

:

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JURY TRIAL DEMANDED

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

|                             |   |                          |
|-----------------------------|---|--------------------------|
| VALERIE DOWDS               | : | CIVIL ACTION NO: 05 0955 |
|                             | : |                          |
| Plaintiff,                  | : |                          |
|                             | : |                          |
| v.                          | : |                          |
|                             | : |                          |
| TOM LANGE COMPANY, INC. TOM | : |                          |
| LAW; PHILLIP GUMPERT        | : |                          |
|                             | : |                          |
| Defendants.                 | : |                          |

**JURISDICTION**

Jurisdiction of this court is invoked pursuant to 28 U.S.C. §1331, 1337 and 1343. This action is authorized and instituted pursuant to 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"). This action is also authorized and instituted pursuant to Section 102 of Title I of the Civil Rights Act of 1991, 42 U.S.C. § 1981(a). Plaintiff is authorized to intervene in the action brought by the EEOC pursuant to section 706(f)(1) of Title VII, 42 U.S.C. § 2000e-5(f)(1). Further, this court has pendant jurisdiction to hear and decide claims under the laws of the Commonwealth of Pennsylvania pursuant to 28 U.S.C. § 1367.

**VENUE**

The employment practices alleged to be unlawful were committed within the Jurisdiction of the United States District Court for the Western District of Pennsylvania.

**CIVIL COMPLAINT**

AND NOW COMES the plaintiff, Valerie Dowds, by and through her attorneys, Francis M. Moore, Esquire and MANSMANN-MOORE, and files this Complaint, whereof the following is a statement:

**PARTIES**

1. Plaintiff, Valerie Dowds, an adult individual with a place of residence of 7097 Bennington Wood Drive, Pittsburgh, Pennsylvania 15237.

2. Defendant, Tom Lange Company, Inc. (the "Employer"), is a Missouri corporation, with headquarters in Illinois. It has a place of business located at 1000 Gamma Drive, Suite 604, Pittsburgh, PA 15238. Defendant's office in Pittsburgh had at least fifteen employees and at all times relevant hereto and Defendant Employer has continuously been an employer 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).

3. Defendant, Tom Law, Vice President of Sales for the Pittsburgh Division of Defendant Employer, with a place of business located at 1000 Gamma Drive, Suite 604, Pittsburgh, PA 15238.

4. Defendant Phillip Gumpert, CEO of Defendant Employer, with a place of business located at 1000 Gamma Drive, Suite 604, Pittsburgh, PA 15238.

**STATEMENT OF FACTS**

5. Valerie Dowds began working for the Tom Lange Company, Inc., in 1987. Mrs. Dowds was employed as a secretary or as an assistant to Tom Law, her supervisor.

6. Starting in February 1998, Tom Law began subjecting Mrs. Dowds to sexual harassment, in the form of unwanted touching and language

7. Mrs. Dowds complained about this unwanted harassment to Tom Law's supervisor, the CEO of employer, Phillip Gumpert.

8. As a result of that complaint, Tom Law, temporarily refrained from engaging in offensive conduct towards Mrs. Dowds.

9. In 2002, Tom Law resumed sexually harassing Mrs. Dowds. This harassment continued until Mrs. Dowds employment was terminated on May 12, 2004.

10. During this period, Tom Law harassed Ms. Dowds in the following ways:

- a) He repeatedly asked Mrs. Dowds, a married woman, to have sex with him;
- b) He repeatedly directed inappropriate comments at Mrs. Dowds;
- c) He repeatedly made derogatory jokes about Mrs. Dowds related to her sex;
- d) He repeatedly subjected Mrs. Dowds to unwanted backrubs. He accomplished this by sneaking up behind her while she was sitting and placing his hands on her back and attempting to massage her;
- e) He repeatedly restrained Mrs. Dowds movements, by placing her in headlocks, and holding her in her chair while he attempted to massage her back;
- f) He repeatedly rubbed Mrs. Dowds scalp with his knuckles while he confined her in a headlock;
- g) He repeatedly made lewd sexual noises in her presences;
- h) He repeatedly tried to look down her blouse;
- i) He repeatedly hugged Mrs. Dowds and placed his hands across her breasts;
- j) He repeatedly knocked Mrs. Dowds over when she was in his office looking for files.

11. Mrs. Dowds rebuffed all sexual advances made by Tom Law, told him this conduct was unwelcome, that she was uninterested and asked him to stop.

12. On or around March 22, 2004, Mrs. Dowds complained to Phillip Gumpert about being sexually harassed by Tom Law. Shortly thereafter, and in response thereto, Phillip Gumpert met with Tom Law. Together, they issued an email relating to the issue of workplace harassment.

13. In a letter dated April 22, 2004, Phillip Gumpert informed Mrs. Dowds that his investigation did not reveal any legal wrongdoing. Mr. Gumpert further stated that he alerted Mr. Law of the need to maintain a professional and legally appropriate work environment and notified him of Plaintiff's concerns. Phillip Gumpert also stated that Mrs. Dowds could call him with her concerns at any time, twenty four hours a day, seven days a week.

14. Thereafter, Mrs. Dowds was singled out and disciplined by Tom Law for arriving at work several minutes late. Significantly, male employees were not reprimanded for the same conduct.

15. On May 18, 2004, after eighteen years of employment, Tom Law, with the blessing and approval of Phillip Gumpert, terminated Plaintiff for "insubordination" and "failure to follow company policy."

**Count I**

**Valerie Dowds v. Tom Lange Company, Inc.**

**42 U.S.C. § 2000e-3: Unlawful Dismissal**

16. All previous paragraphs are incorporated by reference as if the same were set forth more fully at length herein.

17. On or around March 22, 2004, Plaintiff engaged in protected activity, by complaining to Defendant, Phillip Gumpert of workplace sexual harassment.

18. As a result of this complaint, Defendant Phillip Gumpert, met with Defendant, Tom Law and issued an email to all employees concerning harassment.

19. Thereafter, Plaintiff was unduly harassed for arriving at work several minutes late, though similarly situated males were not reprimanded for the same infraction.

20. On April 22, 2004, Defendant Phillip Gumpert informed Plaintiff that his investigation did not reveal any illegal conduct, though he told her to contact him at any time with any concerns.

21. Thereafter, Defendant's took adverse employment action against Plaintiff, by terminating her employment, in retaliation for complaining of sexual harassment.

22. The effect of the complained of practices has been to deny Plaintiff of equal employment opportunities and to otherwise adversely affect her status as an employee, because of her sex.

23. The unlawful employment practices, complained of above, were intentional. Indeed, Defendant dismissed Plaintiff within two months of making an internal complaint.

24. The unlawful employment practices complained of herein were done with malice or with reckless indifference to the federally protected rights of Plaintiff.

WHEREFORE, Plaintiff requests that this Court:

- a) Order Defendant Employer to pay Plaintiff past and future economics losses, including loss of wages, bonuses, and all benefits she would have received but for the illegal discharge.
- b) Order Defendant Employer to make Plaintiff whole by providing compensation for past and future non-pecuniary losses resulting from the unlawful practices complained of, including emotional pain, suffering, inconvenience, loss of enjoyment of life, and humiliation, in amounts to be determined at trial.
- c) Order Defendant Employer to pay Plaintiff punitive damages for its malicious an/or reckless conduct as described above, in amounts to be determined at trial.
- d) Award Plaintiff costs and reasonable Attorneys Fees.
- e) Grant a permanent injunction enjoining the Defendant Employer, its officers, successors, assigns and all persons in active concert or participation with it, from engaging in the creation and/or maintenance of a sexually hostile work environment and retaliating against employees who complain of such and in any other employment practice which discriminates on the basis of sex.
- f) Grant a permanent injunction enjoining the Defendant Employer, its officers, successors, assigns and all persons in active concert or participation with it, from discriminating within any of its establishments on the basis of sex.

- g) 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.
- h) Grant such other further relief as this Court deems necessary and proper.

JURY TRIAL DEMANDED

**Count II**

**Valerie Dowds v. Tom Lange Company**

**42 U.S.C. § 2000e-2: Employment Discrimination**

**Hostile Environment Sexual Harassment**

25. All previous paragraphs are incorporated by reference as if the same were set forth more fully at length herein.

26. Defendant Employer discriminated against Plaintiff because of her sex, so as to alter the terms and conditions of her employment, by requiring her to work in a discriminatory, hostile and abusive environment.

27. At all times pertinent hereto, Defendant Employer was aware that Plaintiff was subject to blatantly sexist behavior in the workplace, such as requests for sexual favors, back massages and involuntary touching, as well as those other incidents set forth in more detail above.

28. This discrimination, which took place over a period of months and years, was pervasive, regular and severe. Further, Defendant Tom Law structured Plaintiff's



assignments so as to get time alone with her, after Defendant Employer was made aware that Plaintiff was being sexually harassed by Defendant, Tom Law.

29. This discrimination detrimentally affected the plaintiff in the following ways:

- a) It impaired Plaintiff's ability to perform her job effectively during normal working hours, requiring her to work significant overtime;
- b) Defendant, Tom Law's conduct, towards Plaintiff, caused her Embarrassment;
- c) Defendant, Tom Law, told other employees that Plaintiff couldn't keep her hands off him, affecting the view other employees held of Plaintiff;
- d) Defendant's conduct caused Plaintiff to feel miserable;
- e) Plaintiff perceived herself to be subject to an abusive environment as manifested through her supervisor's interactions with her.

30. The complained of discrimination, being severe and pervasive, was such that it would have detrimentally affected a reasonable person of the same sex in Plaintiff's position. Accordingly, a reasonable person would find this work environment hostile or abusive.

31. Defendant Employer was first notified that Plaintiff was subject to sexual harassment in March, 1998. At all times pertinent hereto, Plaintiff was harassed by Employers agent, Vice President Tom Law, a management level employee who was Plaintiff's supervisor.

32. This conduct constituted an illegal and discriminatory condition of employment that poisoned Plaintiff's work environment and erected barriers to her full

participation in the work force, of the sort that Congress intended to sweep away by the enactment of Title VII.

33. The unlawful employment practices complained of herein were done with malice or with reckless indifference to the federally protected rights of Plaintiff.

WHEREFORE, Plaintiff requests that this Court:

- a) Order Defendant Employer to pay Plaintiff past and future economics losses, including loss of wages, bonuses, and all benefits she would have received but for the illegal discharge.
- b) Order Defendant Employer to make Plaintiff whole by providing compensation for past and future non-pecuniary losses resulting from the unlawful practices complained of, including emotional pain, suffering, inconvenience, loss of enjoyment of life, and humiliation, in amounts to be determined at trial.
- c) Order Defendant Employer to pay Plaintiff punitive damages for its malicious an/or reckless conduct as described above, in amounts to be determined at trial.
- d) Award Plaintiff costs and reasonable Attorneys Fees.
- e) Grant a permanent injunction enjoining the Defendant Employer, its officers, successors, assigns and all persons in active concert or participation with it, from engaging in the creation and/or maintenance of a sexually hostile work environment and retaliating against employees who complain of such and in any other employment practice which discriminates on the basis of sex.

- f) Grant a permanent injunction enjoining the Defendant Employer, its officers, successors, assigns and all persons in active concert or participation with it, from discriminating within any of its establishments on the basis of sex.
- g) 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.
- h) Grant such other further relief as this Court deems necessary and proper.

JURY TRIAL DEMANDED

**Count III**

**Valerie Dowds v. Tom Lange Company, Inc.**

**43 P.S. § 955 (2004): Unlawful Discriminatory Practices under the  
Pennsylvania Human Relations Act**

34. All previous paragraphs are incorporated by reference as if the same were set forth more fully at length herein.

35. At all times pertinent hereto, Defendant Employer was aware that Plaintiff was subject to blatantly sexist behavior in the workplace, such as requests for sexual favors, back massages and involuntary touching, as well as those other incidents set forth in more detail above.

36. Accordingly, Defendant Employer discriminated against Plaintiff because of her sex, so as to alter the terms and conditions of her employment, by requiring her to work in a discriminatory, hostile and abusive environment.

37. This discrimination, which took place over a period of months and years, was pervasive, regular and severe. Further, Defendant Tom Law structured Plaintiff's assignments so as to get time alone with her, after Defendant Employer was made aware that Plaintiff was being sexually harassed by Defendant, Tom Law.

38. On or around March 22, 2004, Plaintiff engaged in protected activity, by complaining to Defendant, Phillip Gumpert of workplace sexual harassment.

39. As a result of engaging in Protected Activity, and in retaliation therefore, Plaintiff suffered an adverse employment action and was terminated from her job.

40. This discrimination detrimentally affected the plaintiff in the following ways:

- a) It impaired Plaintiff's ability to perform her job effectively during normal working hours, requiring her to work significant overtime;
- b) Defendant, Tom Law's conduct, towards Plaintiff, caused her embarrassment and humiliation;
- c) Defendant, Tom Law, told other employees that Plaintiff couldn't keep her hands off him, affecting the view other employees held of Plaintiff;
- d) Defendant's conduct caused Plaintiff to feel miserable;
- e) Plaintiff perceived herself to be subject to an abusive environment as manifested through her supervisor's interactions with her.
- f) Plaintiff was terminated from her employment, with the resulting loss of economic benefits.

41. The complained of discrimination, being severe and pervasive, was such that it would have detrimentally affected a reasonable person of the same sex in

Plaintiff's position. Accordingly, a reasonable person would find this work environment hostile or abusive.

42. This conduct constituted an illegal and discriminatory condition of employment that poisoned Plaintiff's work environment and erected barriers to her full participation in the work force, of the sort that the State intended to sweep away by enacting the Pennsylvania Human Relations Act.

43. The unlawful employment practices complained of herein were done with malice or with reckless indifference to the rights protected by the Pennsylvania Human Relations Act.

WHEREFORE, Plaintiff requests that this Court:

- a) Order Defendant Employer to pay Plaintiff past and future economics losses, including loss of wages, bonuses, and all benefits she would have received but for the illegal discharge.
- b) Order Defendant Employer to make Plaintiff whole by providing compensation for past and future non-pecuniary losses resulting from the unlawful practices complained of, including emotional pain, suffering, inconvenience, loss of enjoyment of life, and humiliation, in amounts to be determined at trial.
- c) Order Defendant Employer to pay Plaintiff punitive damages for its malicious an/or reckless conduct as described above, in amounts to be determined at trial.
- d) Award Plaintiff reasonable Attorneys Fees.
- e) Award Plaintiff reasonable costs.

f) Award Plaintiff such other relief as this Court may find just or proper.

JURY TRIAL DEMANDED

**Count IV**

**Valerie Dowds v. Tom Lange Company, Inc.**

**Negligent Retention**

44. All previous paragraphs are incorporated by reference as if the same were set forth more fully at length herein.

45. At all times pertinent hereto, Defendant Tom Law was a servant of Defendant Employer.

46. Defendant Employer had been informed in 1998 that Defendant Tom Law, was sexually harassing Plaintiff.

47. Defendant Tom Law, resumed harassing Plaintiff in 2002, on the premises of Defendant Employer, while in the scope of his employ as Plaintiff's immediate supervisor.

48. Defendant Employer was aware of the severity of this conduct by its agent, but failed to exercise ordinary care to prevent such harm.

WHEREFORE, Plaintiff respectfully demands that the court:

- a) Award Plaintiff compensatory damages against defendant.
- b) Award Plaintiff punitive damages against defendant.
- c) Such other and further relief as is just and proper.

JURY TRIAL DEMANDED

**Count V**

**Valerie Dowds v. Tom Lange Company, Inc.**

**Vicarious Liability: Respondeat Superior**

49. All previous paragraphs are incorporated by reference as if the same were set forth more fully at length herein.

50. At all times pertinent hereto, Defendant Tom Law was a servant of Defendant Employer.

51. All torts committed by Defendant Tom Law against Plaintiff, complained of in this complaint, were committed in the scope of Defendant's employment, as Plaintiff's supervisor.

WHEREFORE, Plaintiff respectfully demands that the court:

- a) Award Plaintiff compensatory damages against defendant.
- b) Award Plaintiff punitive damages against defendant.
- c) Such other and further relief as is just and proper.

JURY TRIAL DEMANDED

**Count VI**

**Valerie Dowds v. Tom Law**

**False Arrest and Imprisonment and PA. Const. art. 1, § 8**

52. All previous paragraphs are incorporated by reference as if the same were set forth more fully at length herein.

53. At various times during the course of her employ, Defendant Tom Law acted with the intention of confining Plaintiff, Valerie Dowds within fixed boundaries, an

action proscribed by the Constitution of Pennsylvania, article 1, §8, and the Restatement (Second) of Torts §35 (1965). Defendant Tom Law engaged in this conduct by:

- a) Placing Plaintiff in a headlock on several occasions;
- b) Grabbing Plaintiff from behind, while she was seated, forcibly confining Plaintiff in her seat, while Defendant attempted to give her a massage or hug her so as to touch her breasts.

54. Defendant's acts were the direct cause of Plaintiff's confinement.

55. At all times pertinent hereto, Plaintiff, Valerie Dowds was conscious that she was being confined against her will by Defendant, Tom Law.

WHEREFORE, Plaintiff respectfully demands that the court:

- a) Award the Plaintiff compensatory damages against defendants jointly and severally.
- b) Award the individually named plaintiff punitive damages against defendants jointly and severally.
- c) Such other and further relief as is just and proper.

JURY TRIAL DEMANDED

**Count VII**

**Valerie Dowds v. Tom Law**

**Battery**

56. All previous paragraphs are incorporated by reference as if the same were set forth more fully at length herein.

57. During the course of her employment, Defendant Tom Law acted in a willful manner to cause harmful or offensive contact to Plaintiff. Such conduct included:



- a) Subjecting Plaintiff to unwanted back rubs;
- b) Repeatedly hugging Plaintiff so as to touch her breasts;
- c) Placing Plaintiff in a headlock;
- d) Running his knuckles along the top of her head;
- e) Driving his knees into her side when Plaintiff was filing in his office.

WHEREFORE, Plaintiff respectfully demands that the court:

- a) Award the Plaintiff compensatory damages against defendants jointly and severally.
- b) Award the individually named plaintiff punitive damages against defendants jointly and severally.
- c) Such other and further relief as is just and proper.

JURY TRIAL DEMANDED

**COUNT VIII**

**Valerie Dowds v. Tom Law**

**Intentional Infliction of Emotional Distress**

58. All previous paragraphs are incorporated by reference as if the same were set forth more fully at length herein.

59. In purposefully creating a hostile work environment, engaging in sexual harassment and inappropriate touching, Defendant acted in an extreme and outrageous manner, beyond the bounds of all decency, conduct proscribed by the Restatement (Second) of Torts §46 (1965).

60. The Defendant's knew or should have known that such unwarranted, unwelcome and offensive conduct would cause the Plaintiff severe emotional distress, embarrassment and humiliation.

WHEREFORE, Plaintiff respectfully demands that the court:

- a) Award the Plaintiff compensatory damages against defendants jointly and severally.
- b) Award the individually named plaintiff punitive damages against defendants jointly and severally.
- c) Such other and further relief as is just and proper.

JURY TRIAL DEMANDED

**COUNT IX**

**Valerie Dowds v. Tom Law**

**Slander**

61. All previous paragraphs are incorporated by reference as if the same were set forth more fully at length herein.

62. Defendant, Tom Law made defamatory statements to Nova Rizzo and Chris, that Plaintiff, a married women, could not keep her hands off of him, an action implying great moral turpitude.

63. Defendant, Tom Law, made these statements out of malice, as a jilted, rejected love interest.

64. The recipients of these statements, understood them to mean that Plaintiff, a married woman, was unfaithful to her husband, and hence of loose morals.

65. As a result of these communications, Plaintiffs reputation was damaged among her coworkers and her reputation suffered in that community.

WHEREFORE, Plaintiff respectfully demands that the court:

- a) Award the Plaintiff compensatory damages against defendants jointly and severally.
- b) Award the individually named plaintiff punitive damages against defendants jointly and severally.
- c) Such other and further relief as is just and proper.

JURY TRIAL DEMANDED

**COUNT X**

**Valerie Dowds v. Tom Law**

**Slander**

66. All previous paragraphs are incorporated by reference as if the same were set forth more fully at length herein.

67. On May 12, 2004, Defendant Tom Law, made defamatory statements about Plaintiff, after she had been dismissed, in the presence of her former coworkers.

68. Defendant Tom Law instructed Plaintiff's former coworkers to "watch Val as she packs up her stuff. Make sure she doesn't take anything that belongs in the office." Further, Defendant Tom Law watched Plaintiff and paced behind her desk as she gathered her personal effects.

69. The statements and actions of Defendant, Tom Law, amounted to an assertion that Plaintiff was dishonest, and would steal if not constantly watched.

70. Defendant, Tom Law, made these statements out of malice, as a jilted, rejected love interest.

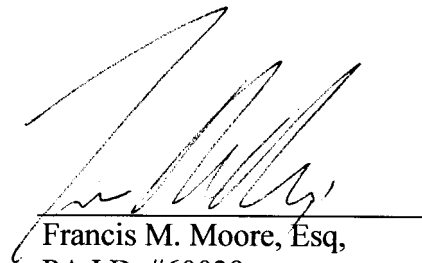
71. The recipients of this statement understood them to mean that Plaintiff could not be trusted, was dishonest, and either would steal, or had stolen, causing her to be dismissed.

72. As a result of these communications, Plaintiff's reputation was impaired among her former coworkers and her reputation suffered in that community.

WHEREFORE, Plaintiff respectfully demands that the court:

- a) Award Plaintiff compensatory damages against defendant.
- b) Award Plaintiff punitive damages against defendant.
- c) Such other and further relief as is just and proper.

JURY TRIAL DEMANDED




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CERTIFICATE OF SERVICE

Counsel for Plaintiff-Intervenor does hereby certify that on the 25<sup>th</sup> day of July, 2005, I mailed a true and correct copy of the within pleading, via First Class mail, postage prepaid, to the below named party of interest:

M. Jean Clickner, Trial Attorney  
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By:   
Francis M. Moore, Esquire  
Counsel for Plaintiff-Intervenor