

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

FILED
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U.S. DISTRICT COURT
FORT MYERS, FLORIDA
AW

**UNITED STATES EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION,**

Plaintiff,

CIVIL ACTION NO.

2:00-CV-409-FTM-29D

v.

COMPLAINT
JURY TRIAL DEMAND
INJUNCTIVE RELIEF SOUGHT

**KRONBERG BAGEL COMPANY D/B/A
BAKIN' BAGELS**

Defendant.

_____ /

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 Victoria Briggs, Resa Gaston, and Jackie Speaker and any other similarly situated females,(hereinafter the "Claimants"), who were adversely affected by such practices. The Commission alleges that the Claimants were sexually harassed by a co-worker. Further, that the harassment persisted despite their complaint(s) to the Defendant. As a result of the sexual harassment and the Defendant's failure to take prompt, remedial action, the employment conditions of the Claimants, were so intolerable that they were forced to resign their positions. As alleged with greater particularity in paragraph seven below, the Claimants were subjected to unwelcome sexual comments and physical contact because of their sex which created a hostile work environment.

Despite their complaints to Defendant, Defendant failed to take prompt remedial action and thus, they were forced to resign.

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 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 and are now being committed within the jurisdiction of the United States District Court for the Middle District of Florida, Fort Myers Division.

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. § 2000e-5(f)(1) and (3).

4. At all relevant times, Defendant, Kronberg Bagel Company d/b/a Bakin’ Bagels (the “Employer”), has continuously been a Florida corporation doing business in the State of Florida and the City of Cape Coral, 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, Victoria Briggs, Resa Gaston, and Jackie Speaker filed charges with the Commission alleging violations of Title VII by Defendant Employer. All conditions precedent to the institution of this lawsuit have been fulfilled.

7. On or about August 1999, Defendant Employer engaged in unlawful employment practices at its Cape Coral facility, in violation of Section 703(a)(1) of Title VII, 42 U.S.C. § 2000e-2(a) which included the following:

- a) The Claimants were regularly subjected to vulgar language, abusive behavior and sexual remarks of a personal nature by a co-worker. Moreover, the Claimants were subjected to unwelcome physical sexual contact because of their sex which was sufficiently severe and pervasive to affect the terms and conditions of their employment and to create an intimidating, hostile and offensive work environment. The Claimants made it known to their co-worker and management officials of Defendant that such conduct was unwelcome. Defendant Employer failed to take prompt remedial action when it knew or should have known of the sexual harassment. The Defendant is liable for the behavior the Claimants were subjected to during their employment.
- b) In or about October 1999, the Claimants were forced to resign their positions as cashiers and/or waitresses because the conditions of their employment were so intolerable (due to the persistent harassment by

their co-worker because of their sex and Defendant's failure to take prompt, remedial action) that a reasonable person subjected to the same or similar conduct would have been compelled to resign.

8. The effect of the practice(s) complained of in paragraph 7 above has been to deprive the Claimants 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 intentional.

10. The unlawful employment practices complained of in paragraph 7 above were committed with malice or with reckless indifference to the federally protected rights of the Claimants

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 females, and which eradicate the effects of its past and present unlawful employment practices.

C. Order Defendant Employer, to make whole the Claimants, 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, including but not limited to,

reinstatement and/or front pay, restoration of benefits and positive future employment references for Victoria Briggs, Resa Gaston, and Jackie Speaker.

D. Order Defendant Employer, to make whole the Claimants, by providing compensation for past and future pecuniary losses resulting from the unlawful employment practices described in paragraph 7 above, including but not limited to, out of pocket losses, medical expenses, job search expenses, and relocation expenses, in amounts to be determined at trial.

E. Order Defendant Employer, to make whole the Claimants, by providing compensation for past and future nonpecuniary losses resulting from the unlawful practices complained of in paragraph 7 above, including but not limited to, emotional pain, suffering, inconvenience, humiliation and loss of enjoyment of life, in amounts to be determined at trial.

F. Order Defendant Employer, to pay the Claimants punitive damages for its malicious and reckless conduct described in paragraph 7 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.

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