

IN THE UNITED STATES DISTRICT COURT 8 SEP 29 PM 4: 29

FOR THE DISTRICT OF NEW MEXICO That morning

CLERK-ALBUSUERQUE

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,)		
Plaintiff,)))	CIVCIV 9 8 1187 L	Н
v.)		
)	COMPLAINT	
AMERICAN SEAFOOD PARTNERS, LTD, and)		
RESTAURANT MANAGEMENT COMPANY)	JURY TRIAL DEMANDED	
of WICHITA, INC., d/b/a)		
LONG JOHN SILVERS,)		
_ ,)		
Defendants.)	WILLIAM W. DEATO	
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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 bases of sex and retaliation, and to make whole Annette Soriano and Stacy A. Collins and a class of female employees sexually harassed while employed by defendants American Seafood Partners, Ltd. and Restaurant Management Company of Wichita, Inc., d/b/a Long John Silvers. In addition, defendants retaliated against Stacy Collins for her opposition to the sexual harassment and/or for participation in proceedings protected by Title VII. The sexual harassment and retaliation of Stacy Collins resulted in her discharge.

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, et seq ("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 District of New Mexico.

PARTIES

- 3. The Plaintiff, the Equal Employment Opportunity Commission (the "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) of Title VII, 42 U.S.C. §2000e-5(f)(1) and (3).
- 4. At all relevant times to this action, the defendants American Seafood Partners, Ltd. and Restaurant Management Company of Wichita, Inc., d/b/a Long John Silvers (collectively the "defendants" or "Employer") were Kansas Corporations which continuously did and are now doing business in the State of New Mexico and the metropolitan Albuquerque area as Long John Silvers, and have continuously had at least fifteen employees.
- 5. At all relevant times, the defendants have continuously been and are now employers engaged in an industry affecting commerce within the meaning of Section 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, Annette Soriano and Stacy A. Collins each filed a charge with the Commission alleging violations of Title VII by Long John Silvers. All conditions precedent to the institution of this lawsuit have been fulfilled.
- 7. Since at least September 1996, defendants have engaged in unlawful employment practices at its Albuquerque metropolitan area facilities in violation of Sections 703(a) and 704(a) of Title VII, 42 U.S.C. §§2000e-2(a) and 3(a). These practices include the sexual harassment of a class of female employees, including Ms. Soriano and Ms. Collins. In addition, defendants retaliated against Ms. Collins because she opposed the sexual harassment and/or participated in proceedings protected under Title VII. Ms. Collins' opposition to the sexual harassment was protected activity under Title VII. As a result of the sexual harassment and retaliation, Ms. Collins was discharged.
- 8. The effect of the practices complained of above has been to deprive a class of employees, including but not limited to Ms. Soriano and Ms. Collins, of equal employment opportunities and otherwise adversely affect their status as employees because of their sex and with respect to Ms. Collins in retaliation for opposition to practices made unlawful and/or participation in proceedings protected by Title VII.
- 9. The unlawful employment practices complained of in paragraphs 7-8 were intentional.
- 10. The unlawful employment practices complained of in paragraphs 7-8 were done with malice and/or reckless indifference to the federally protected rights of the charging parties and the class of female employees.

PRAYER FOR RELIEF

Wherefore, the Commission respectfully requests that this Court:

- A. Grant a permanent injunction enjoining defendants American Seafood Partners, Ltd. and Restaurant Management Company of Wichita, Inc., d/b/a Long John Silvers, their officers, successors, assigns and all persons in active concert or participation with them, from engaging in any employment practice which discriminates on the basis of sex, including sexual harassment and/or is in retaliation for any employee engaging in protected activity.
- B. Order defendants to institute and carry out policies, practices and programs which provide equal employment opportunities for individuals who are female or who engage in protected activity, and which eradicate the effects of its past and present unlawful employment practices.
- C. Grant a judgment requiring defendants to pay appropriate back wages in an amount to be proved at trial, and prejudgment interest, to a class of female employees, including Ms. Soriano and Ms. Collins, who were adversely affected by the unlawful practices described above.
- D. Order defendants to make whole a class of female employees, including Ms. Soriano and Ms. Collins, who were adversely affected by the unlawful practices described above, by providing the affirmative relief necessary to eradicate the effects of its unlawful practices, including but not limited to rightful place hiring and/or front pay, and providing compensation for past and future pecuniary losses, including any costs incurred for obtaining medical treatment or counseling, in amounts to be proved at trial.
- E. Order defendants to make whole a class of female employees, including Ms. Soriano and Ms. Collins who were adversely affected by the unlawful employment practices

described above, by providing compensation for non-pecuniary losses, including emotional pain, suffering, loss of enjoyment of life, and humiliation in amounts to be determined at trial.

- F. Order defendants to pay a class of female employees, including Ms. Soriano and Ms. Collins, who were adversely affected by the unlawful employment practices described above, punitive damages for its malicious and/or reckless conduct, in amounts to be determined at trial.
- H. Grant such further relief as the Court deems necessary and proper in the public interest.
 - I. Award the Commission its costs in this action.

JURY TRIAL DEMANDED

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

DATED this Offiay of Lanten . 1998.

Respectfully submitted,

C. GREGORY STEWART General Counsel

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