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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Equal Employment
Opportunity Commission,

Plaintiff,

vs.

Arrowhead Bagel Company, L.L.C.
Defendant.

GIV'00 1860 PHX SMM
COMPLAINT
(JURY TRIAL DEMAND)

NATURE OF THE ACTION

1. This is an action pursuant to Title VII of the Civil Rights Act of 1964, as amended and the Civil Rights Act of 1991, 42 U.S.C. § 1981a against Arrowhead Bagel Company, L.L.C. ("Arrowhead Bagel") seeking redress for unlawful sexual discrimination, sexual harassment and termination against a class of women. Plaintiff, Equal Employment Opportunity Commission (the "Commission") contends that Arrowhead Bagel has discriminated against and continues to discriminate against female employees, including minors, on the basis of their gender by subjecting them to unlawful sexual discrimination and sexual harassment.

JURISDICTION AND VENUE

2. This Court's jurisdiction is invoked pursuant to 28 U.S.C. §§ 451,

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1 1331, 1337, 1343 and 1345. This action is authorized and instituted pursuant to
2 sections 706(f)(1) and (3) and 707 of Title VII of the Civil Rights Act of 1964, as
3 amended, 42 U.S.C. § 2000e-5(f)(1) and (3); §2000e-6; and section 102 of the
4 Civil Rights Act of 1991, 42 U.S.C. § 1981a.

5 3. Arrowhead Bagel's unlawful employment practices were committed
6 in the state of Arizona and, accordingly, venue is proper in this Court.

7 **PARTIES**

8 4. The Commission is the agency of the United States of America
9 charged with the administration, interpretation and enforcement of Title VII and is
10 expressly authorized to bring this action by 42 U.S.C. § 2000e-5(f)(1) and (3).

11 5. More than thirty days prior to the institution of this lawsuit, Melissa
12 Barker (the "charging party") filed a charge of discrimination with the Commission
13 alleging that Arrowhead Bagel violated Title VII by subjecting her to sexual
14 harassment. All conditions precedent to the institution of this lawsuit have been
15 fulfilled.

16 6. Arrowhead Bagel is an Arizona limited liability corporation which
17 operates stores in Arizona and have, at all relevant times, employed a sufficient
18 number of employees to subject them to jurisdiction under Title VII.

19 8. At all relevant times, Arrowhead Bagel has continuously been an
20 employer engaged in an industry affecting commerce within the meaning of
21 Section 701(b), (g) and (h) of Title VII, 42 U.S.C. § 2000e(b), (g) and (h).

22 **STATEMENT OF CLAIMS**

23 9. More than thirty days prior to institution of this lawsuit, the charging
24 parties filed charges with the Commission alleging violations of Title VII by
25 Arrowhead Bagel.

26 10. Charging party Melissa Barker was employed by Arrowhead Bagel.

27 11. Since at least May, 1997, Arrowhead Bagel has engaged in unlawful
28 employment practices at its Arizona locations in violation of Section 703(a) of

1 Title VII, 42 U.S.C. § 2000e-2(a), including subjecting Charging Party and a class
2 of women to a hostile work environment due to sexual harassment and forcing
3 Ms. Barker and other female employees to resign because of the sexual
4 harassment.

5 12. The sexual harassment to which Arrowhead Bagel subjected the
6 charging party and a class of female employees, including minor female
7 employees, included:

- 8 a). unwelcome and inappropriate touching of their bodies; and
- 9 b). unwelcome and inappropriate sexual comments including
10 comments concerning the bodies of female employees.

11 13. Since at least May, 1997, Arrowhead Bagel has engaged in a pattern
12 and practice of sex discrimination against female employees, including sexual
13 harassment. The pattern or practice is of such a nature that it is intended to deny
14 employees the full exercise of their Title VII rights because of sex, in violation of
15 Section 707 of Title VII, 42 U.S.C. § 2000e-6. Such discrimination included:

- 16 a). subjecting female employees to unwelcome and inappropriate touching
17 of their bodies; and
- 18 b). subjecting female employees to unwelcome and inappropriate
19 sexual comments including comments concerning female bodies.

20 14. The effect of the practices complained of in paragraphs nine (9)
21 through thirteen (13) above has been to deprive the charging party and a class of
22 females of equal employment opportunities and otherwise adversely affected
23 their status as employees because of their sex.

24 15. The unlawful employment practices outlined above were intentional.

25 16. Arrowhead Bagel engaged in the unlawful employment practices
26 outlined above in reckless indifference to the federally protected rights of the
27 charging parties and a class of females.

PRAYER FOR RELIEF

Wherefore, the Commission respectfully requests that this Court:

- A. Grant a permanent injunction enjoining Arrowhead Bagel, its officers, successors, assigns, and all persons in active concert or participation with it, from engaging in discrimination on the basis of sex or retaliation.
- B. Order Arrowhead Bagel 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 Arrowhead Bagel to make whole charging party and a class of similarly situated females 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 their unlawful employment practices.
- D. Order Arrowhead Bagel to make whole charging party and a class of similarly situated females by providing compensation for past and future pecuniary losses resulting from the unlawful employment practices described above in amounts to be determined at trial.
- E. Order Arrowhead Bagel to make whole charging party and a class of similarly situated females by providing compensation for past and future non-pecuniary losses resulting from the unlawful practices complained of above including emotional pain, suffering, inconvenience, mental anguish, and loss of enjoyment of life, in amounts to be determined at trial.
- F. Order Arrowhead Bagel to pay punitive damages for their malicious and/or reckless disregard to the federally protected rights of the charging party and other similarly situated females described above,

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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 DEMAND

The Commission respectfully requests a trial by jury on all appropriate
Claims for Relief set forth in this Complaint.

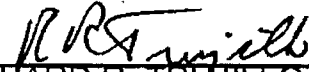
DATED this 28th day of September, 2000.

Respectfully submitted,

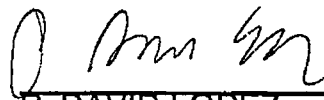
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