

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
WESTERN DIVISION

FILED

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U.S. DISTRICT COURT
N.D. OF ALABAMA

EQUAL EMPLOYMENT OPPORTUNITY]
COMMISSION,]

Plaintiff,]

and]

PAMELIA SMOOT,]

Plaintiff Intervener,]

vs.]

FIRST TRANSIT, INC., f/k/a]
RYDER/ATE, INC.]

Defendant.]

CIVIL ACTION # CV-02-C-0796-W

AMENDED COMPLAINT

JURY TRIAL DEMAND

NATURE OF THE ACTION

This is an action brought under Title VII of the Civil Rights Act of 1964, as amended, to correct unlawful employment practices on the basis of sex, and to make whole Pamela Smoot, an individual who was aggrieved by the unlawful practices. The Defendant discriminated against Pamela Smoot by subjecting her to sexual harassment.

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 §§ 703(a)(1), 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) and § 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981A.

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2. The employment practices alleged to be unlawful herein were committed within the jurisdiction of the United States District Court for the Northern District of Alabama.

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 § 706(f)(1) of Title VII, 42 U.S.C. § 2000e-5(f)(1).

4. At all relevant times, the Defendant, First Transit, Inc., f/k/a Ryder/ATE, Inc., (the "Employer"), has continuously been a corporation doing business in the State of Alabama, and has continuously had at least fifteen employees.

5. At all relevant times, the Defendant Employer has continuously been and is now an employer engaged in an industry affecting commerce within the meaning of § 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, Pamela Smoot filed a charge with the Commission alleging violations of Title VII by the Defendant Employer. The Commission issued a decision on May 31, 2000, in which it found reasonable cause to believe that Ms. Smoot had been sexually harassed. All conditions precedent to the institution of this lawsuit have been fulfilled.

7. The Defendant Employer engaged in unlawful employment practices at its work sites in Alabama in violation of § 703(a)(1) of Title VII, 42 U.S.C. § 2000e-2(a)(1), through the actions of one its supervisors, Alfonso Pollard. Starting in the fall of 1998 and

continuing until 1999, Pollard sexually harassed Pamela Smoot by subjecting her to offensive sexual comments and inappropriate touching of her private body parts.

8. As a result of the aforementioned sexual harassment, Ms. Smoot was forced to transfer to a lower paying job in order to avoid Mr. Pollard's unpleasant and offensive conduct. Ms. Smoot was also forced to take leave time from work as a result of the emotional distress she experienced.

9. The Defendant Employer admits that the sexual harassment was reported to its General Manager in January of 1999. However, no action was taken in regard to that report. It was not until July of 1999 when a second report was made that the Defendant took any action in regard to the sexual harassment.

10. The Defendant failed to take prompt and effective action to prevent and to remedy the hostile and harassing environment created by Mr. Pollard.

11. The effect of the practices complained of above has been to deprive Pamela Smoot of equal employment opportunities and otherwise adversely affect her status as an employee.

12. The unlawful employment practices complained of above were intentional.

13. The unlawful employment practices complained of above were done with malice or reckless indifference to the federally protected rights of Pamela Smoot.

PRAYER FOR RELIEF

WHEREFORE, the Commission respectfully requests that this Court:

A. 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 any 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 all employees, and which eradicate the effects of its past and present unlawful employment practices.

C. Order the Defendant Employer to make whole Pamela Smoot 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.

D. Order Defendant Employer to make whole Pamela Smoot by providing compensation for past and future pecuniary losses, in amounts to be determined at trial.

E. Order Defendant Employer to make whole Pamela Smoot, 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 Defendant Employer to pay punitive damages to Pamela Smoot in an amount to be determined at trial for its malicious or reckless indifference to the federally protected rights of Ms. Smoot.

G. Award Ms. Smoot reasonable attorney' fees.

H. Grant such further relief as the Court deems necessary and proper.

I. Award the Commission its costs in this action.

JURY TRIAL DEMAND

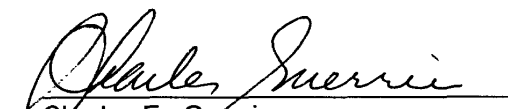
The Commission requests a jury trial on all questions of fact raised in this complaint involving intentional violations of Title VII.

Respectfully submitted,

Nicholas M. INZEO
Acting Deputy General Counsel

GWENDOLYN YOUNG REAMS
Deputy General Counsel

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION
1801 "L" Street, Northwest
Washington, DC 20507


Charles E. Guerrier
Regional Attorney


MILDRED BYRD
Supervisory Trial Attorney


DEBRA HAWES CROOK
Senior Trial Attorney

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION
1130 22nd Street, South, Suite 2000
Birmingham, AL 35205
Telephone Number: 205/731-1380

CERTIFICATE OF SERVICE

I hereby certify that I have served Plaintiff's Amended Complaint to the persons listed below, by placing a copy of same in the United States Mail, properly addressed and postage prepaid.

Abdul K. Kallon
Counsel for Defendant
Bradley Arant Rose & White LLP
2001 - Park Place, Suite 1400
Birmingham, Alabama 35203-2736

Daniel C. Lemley
Attorney for Plaintiff Intervener
Andres and Lemley, LLC
2711 - Sixth Street
Tuscaloosa, Alabama 35401

DONE THIS THE 10th day of October, 2002.



DEBRA HAWES CROOK
Attorney for Plaintiff, Equal Employment
Opportunity Commission