

The Honorable James L. Robart

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AT SEATTLE
CLERK U.S. DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON DEPUTY



04-CV-01505-CMP

UNITED STATES
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION,

Plaintiff,

SANDRA BERNHARDT, REBECCA
MYER, and JAMAN MINAR, as personal
representative of the ESTATE OF
NATALIE MINAR,

Intervenor-Plaintiffs,

v.

HARBOR FREIGHT TOOLS USA, INC.,
dba HARBOR FREIGHT TOOLS,

Defendant.

Case No. C04-1505 JLR

INTERVENORS' COMPLAINT

JURY TRIAL DEMANDED

I. JURISDICTION AND VENUE

1.1. This is a civil action arising under federal civil rights acts, 42 U.S.C. §§ 2000e and 1981a, the Washington Law Against Discrimination, RCW 49.60, and the common law. This Court has jurisdiction under 28 U.S.C. §§ 1331 and 1367.

1.2. The acts complained of in this case took place and/or took effect within the Western District of Washington.

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1 1.3. This action was properly brought by the Plaintiff United States Equal
2 Employment Opportunity Commission on behalf of the Intervenor Plaintiffs and others
3 on or about June 29, 2004.

4 1.4. The Intervenor-Plaintiffs have a right to intervene in this action as persons
5 aggrieved under 42 U.S.C. § 2000e-5(f).

6 **II. PARTIES**

7 2.1. Intervenor Plaintiff Jarman Minar is the husband of Natalie Minar and is or
8 will be the properly-appointed personal representative of the Estate of Natalie Minar.

9 2.2. Intervenor Plaintiffs Sandra Bernhardt, Rebecca Myer, and Jarman Minar
10 are residents of Everett, Snohomish County, Washington. During the relevant times,
11 intervenor-plaintiffs were employed by Defendant Harbor Freight Tools, USA, Inc.

12 **III. FACTS**

13 3.1. Sandra Bernhardt worked for the Defendant from about September 1998 to
14 March 2003. Rebecca Myer has worked for the Defendant since about May 2000.
15 Natalie Minar worked for the Defendant from about October 1998 to April 2003.
16 Bernhardt, Myer, and Minar worked in the Defendant's Everett store.

17 3.2. During their employment by Defendant, Bernhardt, Myer, and Natalie
18 Minar ("the Claimants") were subjected to hostile, offensive, and threatening treatment
19 by their managers and/or supervisors.

20 3.3. The Claimants' managers and supervisors discriminated against them in the
21 terms and conditions of their employment based on the Claimants' sex.

22 3.4. The Claimants' managers created, promoted, and tolerated a sexually
23 hostile, offensive, and intimidating environment in the workplace.

24 3.5. The Claimants complained of the hostile environment and discrimination to
25 their managers, but no remedial action was taken.
26

1 3.6. The Defendant knowingly and recklessly ignored the Claimants' rights and
2 their safety.

3 3.7. On or about March 25, 2003, Ms. Bernhardt was terminated because of her
4 sex and for resisting sexual harassment and discrimination.

5 3.8. On or about May 21, 2003, Ms. Bernhardt filed a charge of sex
6 discrimination and harassment against the Defendant with the Plaintiff United States
7 Equal Employment Opportunity Commission.

8 3.9. The Plaintiff-Intervenors are similarly-situated to Bernhardt in that they all
9 allege the same type of discrimination by the Defendant as Ms. Bernhardt has, in the
10 same location and in overlapping time periods.

11 3.10. No conciliatory purpose would be served by serving separate additional
12 charges against the Defendant with the EEOC.

13 **IV. CLAIMS**

14 4.1. Sex Discrimination and Harassment Under Title VII and RCW 49.60.

15 Defendant discriminated against the Claimants in the terms and conditions of
16 employment by creating, promoting, and tolerating a sexually hostile environment and by
17 subjecting them to disparate treatment because of their sex. Claimants suffered damages
18 as a result.

19 4.2. Retaliation Under RCW 49.60

20 Defendant discriminated against the Claimants because of their resistance and
21 opposition to sex discrimination and sexual harassment. Claimants suffered damages as a
22 result.

23 4.3. Negligent Hiring, Supervision, and/or Retention

24 To the extent that the hostile, offensive, and intimidating treatment of the
25 Claimants by their managers and supervisors was not based on their sex, Defendant
26 breached its duty to exercise ordinary, reasonable care to protect the Claimants from such

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1 treatment in the workplace, which was reasonably foreseeable. Claimants suffered
2 damages as a result.

3 4.4. Civil Assault

4 Claimants' supervisors and/or managers assaulted the Claimants in the workplace
5 while serving the Defendant by means of the authority granted them by the Defendant.
6 Claimants suffered damages as a result.

7 **V. RELIEF SOUGHT**

8 Intervenor Plaintiffs request that the Court enter judgment for them against
9 Defendant for the following relief:

10 5.1. Injunctive and declaratory relief to prevent further wrongful conduct by the
11 Defendant and its agents and employees;

12 5.2. The full amount of Intervenor's claimed damages as determined at trial,
13 including pecuniary damages such as back pay, front pay, lost benefits, and out-of-pocket
14 expenses and compensatory damages for assault, emotional distress, humiliation, and
15 degradation;

16 5.3. Double the amount of any damages for lost wages and benefits, pursuant to
17 RCW 49.52.070;

18 5.4. Punitive damages pursuant to the Civil Rights Act of 1991, 42 U.S.C.
19 1981a, to the maximum allowed by law;

20 5.5. Statutory costs and fees;

21 5.6. Actual and reasonable attorney fees and litigation expenses pursuant to
22 RCW 49.60, RCW 49.48, RCW 49.52, and 42 U.S.C. § 2000e;

23 5.7. An offset to compensate for the adverse tax consequences of the judgment,
24 pursuant to RCW 49.60;

25 5.8. Prejudgment interest on any award of lost wages and benefits at the highest
26 rate of interest permitted by law;

1 5.9. Post-judgment interest on all awards at the highest rate of interest permitted
2 by law;

3 5.10. Such other relief deemed just and equitable.

4 DATED this 26th day of August, 2004.

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