

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION

FILED
U.S. DISTRICT COURT
EASTERN DISTRICT ARKANSAS
SEP 28 1999

JAMES W. McCORMACK, CLERK
By: _____
DEPT. CLERK

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,

Plaintiff,

v.

AUTOZONE, INC.

Defendant.

CIVIL ACTION NO

LR-C- 99 -

COMPLAINT

Case assigned to District Judge Woo

and to Magistrate Judge Young

JURY TRIAL DEMAND

NATURE OF THE ACTION

This is an action under Title VII of the Civil Rights Act of 1964, as amended ("Title VII"), and Title I of the Civil Rights Act of 1991 to correct unlawful employment practices and to provide appropriate relief on behalf of Theresa Garner and other female employees and female applicants for employment. AutoZone, Inc. has a pattern and practice of failing to promote female employees into upper management positions because of their sex and also has a pattern and practice of excluding females from its management recruiting program because of their sex. Additionally, this action seeks redress for AutoZone's retaliation against Ms. Garner subsequent to her filing a charge of discrimination.

JURISDICTION AND VENUE

1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§451, 1331, 1337, 1343, and 1345. This is an action authorized and instituted pursuant to §706(f)(1) and (3) and §706 and §707 of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §2000e, et seq. ("Title VII").

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NUMBER

JAMES W. McC

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 Eastern District of Arkansas, Western Division.

PARTIES

3. Plaintiff, 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) and (3) and §707 of Title VII, 42 U.S.C. §2000-5(f).

4. At all relevant times, Defendant, AutoZone, Inc. ("Defendant Employer"), was a corporation doing business in the State of Arkansas and the City of Little Rock and has continuously had at least fifteen (15) employees.

5. At all relevant times, 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 (30) days prior to the institution of this lawsuit, Theresa L. Garner filed a charge of discrimination with the Commission alleging violations of Title VII by Defendant Employer including sexual discrimination in failure to promote and retaliation for exercising a federally protected right. During the course of the investigation a pattern and practice of discrimination against female employees and female applicants was discovered. All conditions precedent to the institution of this lawsuit have been fulfilled.

COUNT I

7. From on or around July of 1997, and continuing, Defendant Employer has

engaged in unlawful employment practices at its facility in Little Rock, Arkansas, in violation of §703(a) of Title VII, as amended, 42 U.S.C. §2000e-2(a). The unlawful practices include, but are not limited to failure to promote Theresa L. Garner to manager positions because of her sex.

8. The effect of the practices complained of above has been to deprive Theresa L. Garner of equal employment opportunities and otherwise adversely affect her status as an employee.

9. In July of 1997, Theresa L. Garner applied for the manager's position along with four or five other male candidates. Ms. Garner was qualified for the position but was denied promotion based on her sex. The promotion was given to a less qualified male and all reasons for not promoting Ms. Garner are pretextual.

10. The unlawful employment practices complained of above were and are intentional.

11. Defendant Employer at all relevant times acted with malice or reckless indifference to the federally protected rights of Theresa L. Garner.

COUNT II

12. From on or around July of 1997, and continuing, Defendant Employer has engaged in unlawful employment practices at its facility in Little Rock, Arkansas, in violation of §703(a) of Title VII, as amended, 42 U.S.C. §2000e-2(a). The unlawful practices include, but are not limited to failure to promote female applicants to manager positions because of their sex and failure to recruit female applicants because of their sex.

13. The effect of the practices complained of above has been to deprive female employees and applicants of equal employment opportunities and otherwise adversely affect their status as employees and applicants for employment.

14. The unlawful employment practices complained of above were and are intentional.

15. Defendant Employer at all relevant times acted with malice or reckless indifference to the federally protected rights of female employees and female applicants.

COUNT III

16. Since at least August 29, 1997, Defendant Employer has engaged in unlawful employment practices at its facility in Little Rock, Arkansas, in violation of §703(a) of Title VII, as amended, 42 U.S.C. §2000e-2(a) and §704 of Title VII, as amended, 42 U.S.C. §2000e-3. The unlawful practice includes retaliation against Theresa L. Garner for exercising her federally protected rights in filing a charge of discrimination.

17. Subsequent to filing a charge of discrimination, Theresa L. Garner was subjected to retaliation including but not limited to written reprimands, demotion, and denial of employment benefits.

18. The effect of the practices complained of above has been to deprive her of her federally protected rights and equal employment opportunities and otherwise adversely affect her status of employment.

19. The unlawful employment practices complained of above were and are intentional.

20. Defendant Employer at all relevant times acted with malice or reckless indifference to the federally protected rights of Theresa L. Garner.

PRAYER FOR RELIEF **COUNTS I, II, AND III**

WHEREFORE, the Commission respectfully prays 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 practice which discriminates on the basis sex.

B. Order Defendant Employer to institute and carry out policies, practices and programs which provide equal employment opportunities which eradicate the effects of its past and present unlawful employment patterns and practices.

C. Order Defendant Employer to make whole Theresa L. Garner and all female class members who were subjected to Defendant's patterns and practices of discrimination 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, placement in a position.

D. Order Defendant Employer to make whole Theresa L. Garner and all female class members who were subjected to Defendant's patterns and practices of discrimination by providing compensation for past and future pecuniary losses resulting from the unlawful employment practices described above, including relocation expenses, job search expenses, and medical expenses, in amounts to be determined at trial.

E. Order Defendant Employer to make whole Theresa L. Garner and all female class members who were subjected to Defendant's patterns and practices of discrimination by providing compensation for past and future non pecuniary losses resulting from the unlawful practices complained of above, including emotional pain, suffering, embarrassment, inconvenience, loss of enjoyment of life and humiliation, in amounts to be determined at trial.

F. Order Defendant Employer to pay Theresa L. Garner and all female class members who were subjected to Defendant's patterns and practices of discrimination punitive

damages for its malicious and/or reckless conduct, in an amount to be determined at trial.

G. Order Defendant Employer to pay Theresa L. Garner all the relief to which she is entitled for Defendant's illegal acts of retaliation.

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

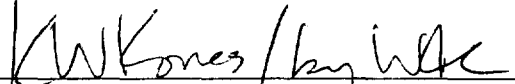
I. Award the Commission its costs in this action.

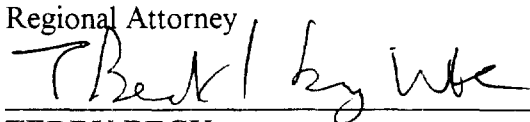
JURY TRIAL DEMAND

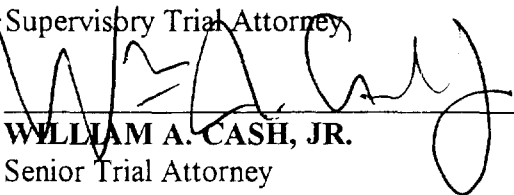
The Commission requests a jury trial on all questions of fact raised by its Complaint.

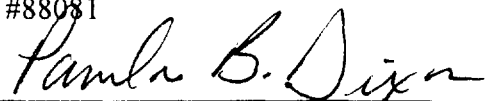
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