

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
PINE BLUFF DIVISION**

MAR 21 2003

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

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

PLAINTIFF

V.

NO.: 5:02CV0153 SWW

FRED'S STORES OF TENNESSEE, INC.

DEFENDANT

**LASONIA BETHEA, ALLEANOR M. SMITH
AND AMANDA TOLLIVER**

INTERVENORS

COMPLAINT IN INTERVENTION

Come now the Intervenors, LaSonia Bethea, Alleanor M. Smith and Amanda Tolliver, by and through their attorneys, Bridges, Young, Matthews & Drake PLC, and for their Complaint in Intervention, state:

PARTIES

1. 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 of the Civil Rights Act of 1964 and Title I of the Civil Rights Act of 1991.

2. At all relevant times, Defendant, Fred's Stores of Tennessee, Inc. ("Defendant Employer"), was a corporation doing business in the State of Arkansas and the City of Lake Village and has continuously had at least fifteen (15) employees.

3. At all relevant times, Defendant Employer has continuously been and is now an employer engaged in an industry affecting commerce within the meaning of Section 701(b), (g), and (h) of Title VII, 42 USC §§ 2000e-(b), (g), and (h).

4. At all relevant times, Intervenor, La Sonia Bethea, Alleonor M. Smith and Amanda Tolliver, were employees of Fred's Stores of Tennessee, Inc.

JURISDICTION AND VENUE

5. Jurisdiction of this Court is invoked pursuant to 28 USC §§ 451, 1331, 1337, 1343, and 1345. This is an action which seeks relief under Title VII of the Civil Rights Act of 1964 ("Title VII"), 42 USC §§ 2000e, and the Civil Rights Act of 1991.

6. The unlawful employment practices alleged below were and are now being committed in the Eastern District of Arkansas, Pine Bluff Division.

STATEMENT OF CLAIMS

7. More than thirty (30) days prior to the institution of this lawsuit, LaSonia Bethea filed a charge with the Commission alleging violations of Title VII by Defendant Employer. During the course of investigation of Intervenor Bethea's charge, acts of sexual harassment and discrimination were discovered which were directed toward other female employees including Intervenor Smith and Tolliver. All conditions precedent to the institution of this lawsuit have been fulfilled.

8. Since at least July, 2000, Defendant Employer has engaged in unlawful employment practices at its facility in Lake Village, Arkansas, in violation of § 703(a) of Title VII, as amended, 42 USC §§ 2000e(a). These unlawful practices include, but are not limited to, the sexual harassment and termination of Intervenor Bethea, Smith and Tolliver.

9. The effects of the practices complained of in Paragraph 8 above have been to deprive Intervenor of equal employment opportunities and otherwise adversely affect their

status employees, and to cause them emotional and psychological harm, lost wages in the past, present and will continue to have a loss of wages in the past, present and loss of wages in the future.

10. Beginning in October of 2000, Intervenor Bethea made a complaint to the company's hotline number that she was being subjected to sexual harassment by the store manager. The company failed to take corrective measures to protect Ms. Bethea. The harassment continued and the harassment included, but was not limited to, sexual touching, sexual comments, requests for sexual favors, and other unwelcome conduct of a sexual nature. Ms. Bethea was discharged in October of 2001 when she attempted to return to work following a medical leave of absence and was told there were no openings.

11. Intervenor Smith was employed by Defendant Employer at its Lake Village, Arkansas location from September, 2000 to March 2001. The store manager of that location subjected Intervenor Smith to sexual harassment, including, but not limited to, sexual touching, sexual comments, requests for sexual favors, and other unwelcome conduct of a sexual nature. When Intervenor Smith refused the advances of the store manager, he took retaliatory employment action and ultimately made Intervenor Smith's working conditions so intolerable at the Lake Village location that Intervenor Smith terminated her employment.

12. Intervenor Tolliver was subjected to sexual harassment by the store manager at the Defendant Employer's location in Lake Village, Arkansas. The harassment included, but was not limited to, sexual touching, sexual comments, requests for sexual favors, and unwelcome conduct of a sexual nature. As a result of this sexual harassment, Intervenor

Tolliver condition of employment became intolerable and she was forced to terminate her employment with Defendant Employer.

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

14. Defendant Employer at all relevant times acted with malicious or reckless indifference to the federally protected rights of the Intervenor.

15. Since at least on or about July, 1999,, Defendant Employer has engaged in unlawful employment practices at its facility in Lake Village, Arkansas, in violation of § 703(a) of Title VII, as amended, 42 USC § 2000e(a). The unlawful practices included, but are not limited to, sexual harassing female employees because of their sex. The conduct consisted of sexual comments, requests for sexual favors, and other unwelcome conduct of a sexual nature. The harassment was pervasive and continuous, and as a result, female employees including several of the Intervenor, have been terminated or forced to resign rather than endure the sexual harassment.

PRAYER FOR RELIEF

WHEREFORE, Intervenor respectfully request that this Court:

16. 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 an employment practice which discriminates on the basis of sex.

17. Order Defendant employer to institute and carry out policies, practices, and

programs which would provide equal employment opportunities which eradicate the effects of its past and present unlawful employment patterns and practices.

18. Order Defendant Employer to make whole all Intervenor 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 complaint practices.

19. Order Defendant Employer to make whole all Intervenor by providing compensation for past and future pecuniary losses resulting from the unlawful employment practices described above, including, but not limited to, present and future lost wages, relocation expenses, job search expenses, and medical expenses incurred by Intervenor, in amounts to be determined at trial.

20. Order Defendant Employer to make whole Intervenor by providing compensation for past and future nonpecuniary losses resulting from the unlawful practices complained of above, including emotional pain, suffering, embarrassment, inconvenience, loss of enjoyment of life, depression, and humiliation, in amounts to be determined at trial.

21. Order Defendant Employer to pay Intervenor punitive damages for its malicious and/or reckless conduct in an amount to be determined at trial.

22. Order Defendant Employer to pay Intervenor all the relief to which they are entitled because of Defendant's illegal acts in discharging them.

23. Awarding Intervenor their costs and attorney's fees of this action.

24. Grant such further relief as the Court may deem necessary.

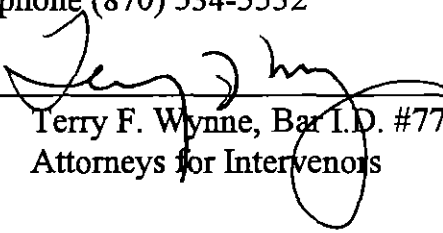
JURY TRIAL DEMAND

25. Intervenor request a trial by jury on all questions and facts raised by their Complaint.

Respectfully submitted,

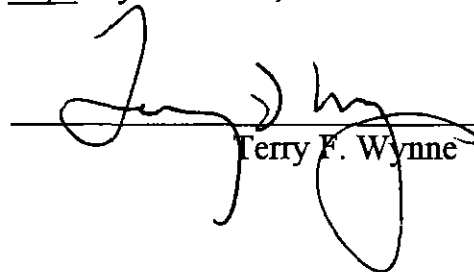
LaSonia Bethea
Alleonor M. Smith
Amanda Tolliver

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By 
Terry F. Wynne, Bar I.D. #77148
Attorneys for Intervenor

CERTIFICATE OF SERVICE

I, Terry F. Wynne, do hereby certify that I have served a copy of the foregoing pleading upon **Mr. Christopher Hiller, Friday, Eldredge & Clark, 2000 Regions Center, 400 West Capitol, Little Rock, AR 72201** and **Ms. Pamela B. Dixon, Senior Trial Attorney, Equal Employment Opportunity Commission, Little Rock Area Office, 820 Louisiana, Suite 200, Little Rock, AR 72201**, by placing same in the United States mail with first class postage affixed thereto on this 21 day of March, 2003.


Terry F. Wynne