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WESTERN DISTRICT OF LOUISIANA
SHREVEPORT, LOUISIANA

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA

U.S. DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
FILED

SEP 28 2004
ROBERT H. SHEWELL CLERK
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U.S. EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION,

Plaintiff

v.

NELSON TREE SERVICES, INC.

Defendant

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CIVIL ACTION NO.

CV04-2019-S

DIVISION " "

JUDGE

JUDGE STAGG

MAG. NO.

MAGISTRATE JUDGE PAYNE

COMPLAINT

JURY TRIAL DEMAND

NATURE OF THE ACTION

This is an action under Title VII of the Civil Rights Act of 1964 and Title I of the Civil Rights Act of 1991 to correct unlawful employment practices on the basis of sex and to provide appropriate relief to Timothy Wayne Tims ("Mr. Tims"), who was adversely affected by being discriminated against because of sex (male) by his employer, Defendant herein. The Commission alleges that Mr. Tims was sexually harassed by his male supervisor.

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 Section 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 Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981a.

2.

Venue is proper in this Court under 28 U.S.C. § 1391 and Section 706(f)(3) of Title VII, 42 U.S.C. § 2000e-5(f)(3). The unlawful actions which are the subject of the instant lawsuit occurred within the jurisdiction of the United States District Court for the Western District of Louisiana.

PARTIES

3.

Plaintiff, the United States Equal Employment Opportunity Commission (the “Commission”), is the 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 Section 706(f)(1) and (3) of Title VII, 42 U.S.C. § 2000e-5(f)(1) and (3).

4.

At all relevant times, Defendant Nelson Tree Service, Inc. (the “Employer”), has continuously been doing business in the State of Louisiana and the City of Hammond, and has continuously had at least fifteen (15) employees.

5.

At all relevant times, Defendant Employer has continuously been an employer engaged in an industry affecting commerce within the meaning of Sections 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, Mr. Tims filed a charge with the Commission alleging violations of Title VII by Defendant. All conditions precedent to the institution of this lawsuit have been fulfilled.

7.

Since at least August, 2001 and ending in December, 2001, Defendant engaged in unlawful employment practices at its job sites in Arcadia, Monroe, Ringo and Tallullah, Louisiana, in violation of Section 703 of Title VII, 42 U.S.C. §§ 2000e-2. Specifically, Mr. Tims was subjected to unwelcome sexual harassment in the form of requests for sexual favors, sexual remarks and unwelcome comments and touching by a supervisory employee of the Defendant so as (a) to materially alter the terms and conditions of his employment, or (b) to impede his ability to perform his job, and (c) expose Mr. Tims to a sexually offensive work environment.

8.

The individual who harassed Mr. Tims was Defendant's "agent" within the meaning of Title VII.

9.

Prior to and at the time of the harassment now complained of, Defendant did not have an effective anti-harassment policy at the site where Mr. Tims worked.

10.

Defendant either knew or should have known of the illegal actions of the individuals who harassed Mr. Tims.

11.

Despite Mr. Tims' complaints, Defendant did not take appropriate reasonable steps to prevent Mr. Tims from being subjected to illegal harassment.

12.

The effect of the practices complained of in paragraphs 7 through 11 above has been to deprive Mr. Tims of equal employment opportunities and otherwise adversely affect his status as an employee because of his sex, male.

13.

The unlawful employment practices complained of in paragraphs 7 through 11 were intentional.

14.

The unlawful employment practices complained of in paragraphs 7 through 11 above were done with malice or with reckless indifference to the federally protected rights of Timothy Wayne Tims.

PRAYER FOR RELIEF

WHEREFORE, the Commission respectfully requests that this Court:

- A. Grant a permanent injunction enjoining Defendant Nelson Tree Service, Inc., its officers, successors, assigns, and all persons in active concert or participation with it, from engaging in harassment and any other employment practice which discriminates on the basis of sex;
- B. Order Defendant 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, including but not limited to an effective anti-harassment policy;
- C. Order Defendant to make whole Mr. Tims by providing appropriate backpay 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: reinstatement or front pay.

- D. Order Defendant to make whole Mr. Tims, by providing compensation for past and future nonpecuniary losses resulting from the unlawful employment practices described in paragraphs 7 through 11 above, including but not limited to: emotional pain, suffering, inconvenience, loss of enjoyment of life, and humiliation;
- E. Order Defendant to pay Mr. Tims punitive damages for its malicious and reckless conduct described in paragraphs 7 through 11 above, in amounts to be determined at trial;
- F. Grant such further relief as the Court deems necessary and proper in the public interest;
- G. Award the Commission its costs of this action.

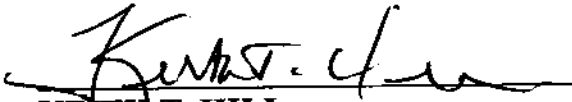
JURY TRIAL DEMAND

In accordance with Rules 38 and 39 of the Federal Rules of Civil Procedure, the Commission hereby requests a jury trial on all questions of fact raised by its complaint.

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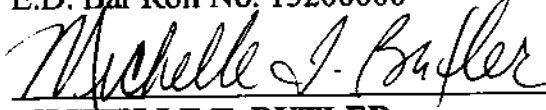
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