

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

United States Courts
Southern District of Texas
FILED

SEP 29 2004

MIGNANI N. MILBY, Clerk of Court

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,

Plaintiff,

v.

U-HAUL CO. OF TEXAS, d/b/a U-HAUL CO.
OF NORTH HOUSTON and U-HAUL
INTERNATIONAL, INC.

Defendants.

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H - 04 3788

CIVIL ACTION NO.

JURY TRIAL DEMAND

**ORIGINAL COMPLAINT
OF THE
UNITED STATES EQUAL EMPLOYMENT OPPORTUNITY COMMISSION**

TO THE HONORABLE UNITED STATES DISTRICT COURT:

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 Telesha Whitaker, Tammy Jones, Crystal Cotton, and other women who were adversely affected by such practices. As alleged with greater particularity in paragraphs 10-14 below, women employed by Defendants as Customer Service Representatives at U-Haul Center 56, in Houston, were subjected to unlawful sex discrimination, including sexual harassment. Additionally, Defendants unlawfully retaliated against Ms. Jones, and failed to comply with applicable record-keeping laws.

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 ("Title VII").

2. The unlawful employment practices alleged in this complaint were committed within the jurisdiction of the United States District Court for the Southern District of Texas, Houston Division. Venue is appropriate in this court.

PARTIES

3. Plaintiff, the 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 U-Haul Co. of Texas, d/b/a U-Haul Co. of North Houston ("U-Haul Texas"), has continuously been a Texas corporation doing business in the State of Texas and the City of Houston, and has continuously had at least 15 employees.

5. At all relevant times, U-Haul Texas 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). U-Haul Texas may be served with process by serving its registered agent, CT Corp. System, which may be found at 350 N. St. Paul Street, Dallas, TX 75201.

6. At all relevant times, Defendant U-Haul International, Inc. ("U-Haul International"), has continuously been a Nevada corporation, and has continuously had at least 15 employees.

7. At all relevant times, U-Haul International 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

8. More than thirty days prior to the institution of this lawsuit, Telesha Whitaker, Tammy Jones, and Crystal Cotton filed charges with the Commission alleging violations of Title VII by Defendants. All conditions precedent to the institution of this lawsuit have been fulfilled.

9. Since at least November 2003, Defendants have engaged in unlawful employment practices at U-Haul Center 56, in Houston, Texas, in violation of Sections 703(a)(1), 703(k), and 704 of Title VII, 42 U.S.C. §§ 2000e-2(a)(1), (k), and 2000e-3.

10. While working for Defendants at U-Haul Center 56, female Customer Service Representatives were subjected to an unlawful, sexually hostile environment. They also were subjected to sex discrimination by not being paid, unlike males, for time they worked.

11. Whitaker, Jones, and Cotton reported the discrimination to management officials in Houston, and to U-Haul International employees in Defendants' corporate headquarters. They reported that their supervisor at U-Haul Center 56 engaged in the following conduct: asked if they could go out on dates; asked for oral sex (offering payment for this intimate act); touched Whitaker's breast, put his hands between her legs, and rubbed her behind; and threatened to fire women for rejecting his sexual advances. Although Whitaker reported this conduct to management by December 9, 2003, Defendants took no action for weeks and permitted this conduct to continue.

12. Defendants fired the harassing supervisor on January 21, 2004, for "NOT FOLLOWING CASH MANAGEMENT POLICIES AND PROCEDURES. UNAPPROPRIATE [sic] BEHAVIOR TOWARDS EMPLOYEES."

13. After she filed a Charge of Discrimination with the EEOC, Defendants fired Jones.

This firing, allegedly for her not showing up for work on a day Defendants contend she was scheduled to work, was retaliatory.

14. Since at least June 2004, Defendants have failed, in violation of Section 709(c) of Title VII, 42 U.S.C. § 2000e-8(c), to make and preserve records relevant to the determination of whether unlawful employment practices have been or are being committed. Specifically, Defendants have failed to retain a copy of the work schedule which would indicate whether Jones was indeed scheduled to work the day for which she was fired for not reporting to work.

15. The effect of the practices complained of in paragraphs 10-14 above has been to deprive Telesha Whitaker, Tammy Jones, Crystal Cotton, and other female Customer Service Representatives of equal employment opportunities and otherwise adversely affect their status as employees, because of their sex, and to deprive Tammy Jones of equal employment opportunities and otherwise adversely affect her status as an employee by unlawfully retaliating against her.

16. The unlawful employment practices complained of in paragraphs 10-14 above were intentional.

17. The unlawful employment practices complained of in paragraphs 10-14 above were done with malice or with reckless indifference to the federally protected rights of Telesha Whitaker, Tammy Jones, Crystal Cotton, and other female Customer Service Representatives.

PRAYER FOR RELIEF

Wherefore, the Commission respectfully requests that this Court:

A. Grant a permanent injunction enjoining Defendants U-Haul Co. of Texas, d/b/a U-Haul Co. of North Houston, and U-Haul International Inc., their officers, successors, assigns, and all persons in active concert or participation with them, from engaging in sexual harassment and any

other employment practice which discriminates on the basis of sex, and from engaging in unlawful retaliation against employees who complain about sexual harassment and other unlawful employment practices.

B. Order Defendants to institute and carry out policies, practices, and programs which provide equal employment opportunities for women and employees who complain of employment practices prohibited by Title VII, and which eradicate the effects of its past and present unlawful employment practices.

C. Order Defendants to make whole female Customer Service Representatives who were not appropriately compensated for their work, because of their sex, 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 their reinstatement.

D. Order Defendants to make whole Tammy Jones who lost her jobs as a result of the unlawful retaliation by providing compensation for past and future pecuniary losses resulting from the unlawful employment practices described in paragraphs 10-14 above, including job search expenses and medical expenses not covered by Defendants' employee benefit plan, in amounts to be determined at trial.

E. Order Defendants to make whole Telesha Whitaker, Tammy Jones, Crystal Cotton, and other female Customer Service Representatives by providing compensation for past and future nonpecuniary losses resulting from the unlawful practices complained of in paragraphs 10-14 above, including emotional pain, suffering, inconvenience, loss of enjoyment of life, and humiliation, in amounts to be determined at trial.

F. Order Defendants to pay Telesha Whitaker, Tammy Jones, Crystal Cotton, and other female Customer Service Representatives punitive damages for their malicious and reckless conduct described in paragraphs 10-14 above, in amounts to be determined at trial.

G. Order Defendants to make and preserve all records, in accordance with the provisions of Section 709(c) of Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e-8(c), relevant to the determination of whether unlawful employment practices have been or are being committed.

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

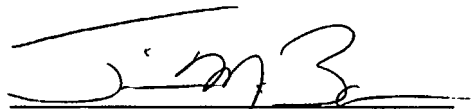
I. Award the Commission its costs of this action.

Respectfully submitted,

Eric S. Dreiband
General Counsel

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Deputy General Counsel

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Equal Employment Opportunity
Commission
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The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

Hittner CIVIL COVER SHEET H-04 3788

I(a) PLAINTIFFS
EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF (M)

DEFENDANTS
U-Haul Co. of Texas, d/b/a U-Haul Co. of North Houston and U-Haul International, Inc.
COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT: Harris

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)
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EEOC-Houston District Office
1919 Smith Street, 7th Floor
Houston, Texas 77002
(713) 209-3395

ATTORNEYS (IF KNOWN)
SEP 29 2004
Michael N. Milby, Clerk of Court

II. BASIS OF JURISDICTION (PLACE AN x IN ONE BOX ONLY)
[x] 1 U.S. Government Plaintiff
[] 2 U.S. Government Defendant
[] 3 Federal Question (U.S. Government Not a Party)
[] 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN x IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)
(For Diversity Cases Only)
PTF DEF PTF DEF
Citizen of This State [] 1 [] 1 Incorporated or Principal Place of Business in This State [] 4 [] 4
Citizen of Another State [] 2 [] 2 Incorporated and Principal Place of Business in Another State [] 5 [] 5
Citizen or Subject of a Foreign Country [] 3 [] 3 Foreign Nation [] 6 [] 6

IV. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY)
Defendants have engaged in unlawful employment practices in violation of Sections 703 and 704 of Title VII, and Section 102 of the Civil Rights Act of 1991. The practices include sex discrimination, subjecting women to an unlawfully hostile work environment, retaliation, and record-keeping violations.

V. NATURE OF SUIT (PLACE AN x IN ONE BOX ONLY)

Table with 5 columns: CONTRACT, TORTS, FORFEITURE/PENALTY, LABOR, LABOR, BANKRUPTCY, OTHER STATUTES. Includes sub-sections like PERSONAL INJURY, REAL PROPERTY, CIVIL RIGHTS, PRISONER PETITIONS, LABOR, SOCIAL SECURITY, FEDERAL TAX SUITS.

VI. ORIGIN (PLACE AN x IN ONE BOX ONLY)
[x] 1 Original Proceeding
[] 2 Removed from State Court
[] 3 Remanded from Appellate Court
[] 4 Reinstated or Reopened
[] 5 another district (specify)
[] 6 Multidistrict Litigation
[] 7 Judge from Appeal to District Magistrate Judgment

VII. REQUESTED IN COMPLAINT: CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23
DEMAND \$
Check YES only if demanded in complaint: JURY DEMAND: [X] YES [] NO

VIII. RELATED CASE(S) IF ANY (See instructions) JUDGE DOCKET NUMBER

DATE: 9/29/04
SIGNATURE OF ATTORNEY OF RECORD: [Signature]