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The Honorable Ronald B. Leighton

UNITED STATES DISTRICT COURT WESTERN
DISTRICT OF WASHINGTON AT TACOMA

ANN MORGAN & GENNY SMITH,

Plaintiffs,

v.

HANNAH MOTORS COMPANY, BRYAN
LINDSAY and the marital community
comprised thereof,

Defendants.

No. C03-5531 RBL

AMENDED COMPLAINT
FOR DAMAGES

I. INTRODUCTION

This is an action for declaratory judgment, equitable relief, and money damages, instituted to secure the protection of, and to redress the deprivation of rights secured through, Washington state common law, RCW 49.60, et seq., and Title VII of the Civil Rights Act of 1964, 42 USC § 2000(e), et seq. Ms. Ann Morgan and Ms. Genny Smith (Plaintiffs) have satisfied all administrative prerequisites to bringing suit. The Equal Opportunity Employment Commission (“EEOC”) has also instituted litigation on their behalf.

Plaintiffs allege that Hannah Motors Company and Brian Lindsay (Defendants) discriminated against, and harassed them. Plaintiffs further allege that Defendants retaliated against them because of their opposition activities. Plaintiffs also allege that their terminations were in contravention to Washington’s public policy against discrimination. Plaintiffs further allege that Defendants’ conduct both intentionally and negligently inflicted emotional distress upon them. Plaintiffs seek monetary and injunctive relief, including pecuniary and non-pecuniary damages, and punitive damages to the fullest extent allowed by law.

II. JURISDICTION

1 1. This court has jurisdiction because Plaintiffs allege claims that comprise federal
2 questions under 28 U.S.C. § 1331.
3

4 2. Plaintiff, Ann Morgan, timely filed charges of discrimination with the Equal
5 Employment Opportunity Commission (“EEOC”), alleging discriminatory conduct by
6 Defendants.
7

8 3. Plaintiff Genny Smith is exempt from the administrative exhaustion
9 requirements because she is an aggrieved party for whom the EEOC has found cause to sue, and
10 on whose behalf the EEOC has filed suit.
11

12 4. Jurisdiction over Ms. Smith’s Claim is also proper pursuant to 42 USC § 2000e-
13 5(f)(1)(B).
14

15 5. This court has jurisdiction over Plaintiffs’ related state claims pursuant to 28
16 U.S.C. Sec. 1367.
17
18

III. PARTIES AND VENUE

19 5. Plaintiffs are United States citizens and were residents of the Western District of
20 Washington at all times during their employment with Defendant.
21

22 6. Defendant Hannah Motors is, and was at all times pertinent to this litigation, a
23 Corporation, doing business in the Western District of Washington.
24

25 7. Defendant Hannah Motors has, and had at all times pertinent to this litigation, more
26 than fifteen employees.
27

28 8. Defendant Hannah Motors is, and was at all times pertinent to this litigation, an
29 employer within the meaning of 42 USC Sec. 2000e (a) and (b) and RCW 49.60 et. seq.
30

31 9. Defendant Bryan Lindsay and the marital community thereof, was at all times
32 relevant herein, a United States citizen and resident of the Western District of Washington.
33

34 10. At all times relevant herein, the practices alleged to be unlawful were committed
35 within the jurisdiction of the Federal District Court for the Western District of Washington at
36 Tacoma.
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IV. STATEMENT OF CLAIMS

10. Plaintiffs are members of a protected class on the basis of their sex and gender.

11. Defendant Hannah Motors engaged in unlawful employment practices in violation of the Washington Law Against Discrimination, RCW 49.60 et seq., and Title VII.

12. Defendant Bryan Lindsay engaged in unlawful employment practices in violation of the Washington Law Against Discrimination, RCW 49.60 et. seq.

13. Plaintiffs were specifically subjected to a hostile work environment

14. Plaintiffs were denied equal employment opportunities at Defendant Hannah Motor's facilities.

15. Defendants terminated Ms. Morgan.

16. Defendants constructively discharged Ms. Smith.

17. Defendant Hannah Motor's actions and inactions, with respect to Plaintiffs' employment, were in violation of RCW 49.60 et seq., and Title VII.

18. Defendant Bryan Lindsay's actions and inactions, with respect to Plaintiffs' employment, were in violation of RCW 49.60 et. seq.

19. Defendants subjected Plaintiffs to adverse employment outcomes as a result of their opposition activities and refusal to abide unwelcome and offensive conduct because of sex.

20. The unlawful employment practices complained of in the above paragraphs were intentional.

21. The unlawful employment practices complained of in the above paragraphs were done with malice or with reckless indifference to Plaintiffs' rights as protected by federal and state laws.

22. Defendants' termination of Plaintiffs was in contravention of Washington public policy.

23. Defendants' actions and inactions constitute the intentional infliction of emotional distress upon Plaintiffs.

24. Defendants' actions and inactions constitute a breach its duty to observe Plaintiffs' civil rights.

THE BLANKENSHIP LAW FIRM, P.S.

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Seattle, Washington 98101
(206) 343-2700

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25. As a result of Defendants' unlawful conduct, Plaintiff's have suffered damages in the amount to be proved at trial.

V. PRAYER FOR RELIEF

Wherefore, Plaintiffs respectfully request that this court enter judgment against Defendants:

A. Granting a permanent injunction enjoining Defendant Hannah Motors, its officers, successors, agents, assigns, and all persons in active concert or participation with them, from engaging in any other employment practice which discriminates on the basis of sex and gender.

B. Ordering Defendant Hannah Motors 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.

C. Ordering Defendants Hannah Motors and Bryan Lindsay to make Plaintiffs whole 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.

D. Ordering Defendants Hannah Motors and Bryan Lindsay to make Plaintiffs whole by providing compensation for past and future pecuniary losses resulting from the unlawful employment practices described in the above paragraphs, including out-of-pocket expenses, in amounts to be determined at trial.

E. Ordering Defendants Hannah Motors and Bryan Lindsay to make Plaintiffs whole by providing compensation for past and future nonpecuniary losses resulting from the unlawful practices complained of in the above paragraphs, including, without limitation, emotional pain, suffering, and loss of enjoyment of life, in amounts to be determined at trial.

F. Ordering Defendants Hannah Motors and Bryan Lindsay to pay the tax consequences of any award that Plaintiffs may recover at trial.

G. Ordering Defendant Hannah Motors to pay Plaintiffs punitive damages for their malicious or reckless conduct, described in the above paragraphs, under Title VII, in amounts to be determined at trial.

1
2 H. Awarding Plaintiffs the costs of this action, including attorneys' fees to the full
3 extent required by law and the statutes cited above.

4 I. Grant any additional or further relief as provided by law, which this Court finds
5 appropriate, equitable, or just.
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9 DATED this 26th day of March 2004.
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14 **THE BLANKENSHIP LAW FIRM, P.S.**
15

16
17
18 By: s\Beth Barrett Bloom
19 Scott C.G. Blankenship
20 WSBA No. 21431
21 Beth Barrett Bloom
22 WSBA No. 31702
23 Attorneys for Plaintiffs
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DECLARATION OF SERVICE

1
2 The undersigned hereby declares under penalty of perjury under the laws of the State of
3 Washington that, on the below date, I mailed or caused delivery of a true copy of this document
4 to:
5

6
7 A Luis Lucero, Jr.
8 Equal Employment Opportunity Commission
9 Seattle District Office
10 909 First Ave
11 Suite 400
12 Seattle, WA 98104-1061
13 206-220-6883
14 *ATTORNEY for the EEOC*
15

16
17 Stephen P. Rickles
18 The Rickles Law Firm
19 One SW Columbia Street, Suite 1850
20 Portland Oregon 97258-2001
21 503-229-1850
22 Fax : FAX 1-503-229-1856
23 *ATTORNEY for Defendant*
24
25

26 At their regular offices.
27

28 DATED this 26th day of March 2004, at Seattle, Washington.
29
30

31
32 \s\ Greg Roth
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