

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA

FILED

OCT 21 2003

ROBERT D. BENNIS
U.S. DIST. COURT, WESTERN DIST. OF OKLA.
MUSKOGEE

(1) EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,

Plaintiff,

(2) KENDRA WHITNEY ,

Plaintiff Intervenor,

v.

(1) GREAT PLAINS COCA-COLA
BOTTLING CO., INC.,

Defendant.

Case No. CIV-03-1347-F

JURY TRIAL DEMANDED

PLAINTIFF INTERVENOR COMPLAINT

1. This is an action under Title VII of the Civil Rights Act of 1964, as amended, Title I of the Civil Rights Act of 1991, and Oklahoma law, to correct unlawful employment practices on the basis of sex, religion, retaliation, and to remedy intentional tortious conduct and negligent conduct, and to provide appropriate relief to Kendra Whitney.

PARTIES, JURISDICTION AND VENUE

2. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. Section 451, 1331, 1337 and 1343, and 1345. This action is authorized and instituted pursuant to Section 706 of Title VII of the Civil Rights Act of 1964, as amended ("Title VII"), 42 U.S.C. § 2000e-5, and Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981A.

3. The employment practices alleged to be unlawful, as well as the alleged acts of tortious and negligent conduct, were and are now being committed within the jurisdiction of the United States District Court for the Western District of Oklahoma.

4. Plaintiff, Equal Employment Opportunity Commission (the "Commission"), filed a complaint against Defendant in the United States District Court for the Western District of Oklahoma on September 24, 2003.

5. As the Equal Employment Opportunity Commission named Plaintiff Intervenor, Kendra Whitney as an aggrieved party, Kendra Whitney, has an unconditional right to intervene in the case filed by the Commission pursuant to Section 706(f) of Title VII, 42 U.S.C. § 2000e-5(f).

6. In the event that the Court finds Kendra Whitney does not have right of intervention pursuant to Fed. R. Civ. P. 24(b), Kendra Whitney's Intervenor Complaint and the Complaint filed in the above-styled litigation have questions of law and fact in common. Therefore, pursuant to Fed. R. Civ. P. 24(b) intervention is permissive under the circumstances.

7. At all relevant times, Defendant has continuously been and is now doing business in the State of Oklahoma and city of Oklahoma City, and has had at least fifteen employees.

8. At all relevant times, Defendant has continuously been an employer engaged in an industry affecting commerce within the meaning of Section 701 (b), (g) and (h) of Title VII, 42 U.S.C. § 2000e(b), (g) and (h).

9. All conditions precedent to the institution of this action have been met in that Kendra Whitney is designated as an aggrieved party in the Original Complaint file by the Equal Employment Opportunity Commission herein

FIRST CLAIM FOR RELIEF

SEXUALLY HOSTILE WORKING ENVIRONMENT

10. Since at least December 1, 1998, Defendant has engaged in unlawful employment practices in violation of Title VII by creating, permitting and condoning a sexually hostile work environment.

11. Defendant failed to remedy the hostile environment despite notice of the hostile environment.

12. As a result Kendra Whitney is entitled to relief as set forth below in her prayer for relief.

SECOND CLAIM FOR RELIEF

RETALIATION

13. Defendant retaliated against Kendra Whitney for engaging in protected activity by harassing her and constructively terminating in violation of Title VII.

14. As a result, Kendra Whitney is entitled to the relief set forth below in her prayer for relief.

THIRD CLAIM FOR RELIEF

VIOLATION OF OKLAHOMA LAW

15. By subjecting Kendra Whitney to a sexually hostile working environment, Defendant violated Oklahoma law and public policy.

16. As a result, Kendra Whitney is entitled to the relief set forth below in her prayer for relief.

FOURTH CLAIM FOR RELIEF

VIOLATION OF OKLAHOMA LAW

17. By subjecting Kendra Whitney to retaliation and constructively terminating her based upon her engaging in protected conduct, the Defendant violated Oklahoma law and public policy.

18. As a result, Kendra Whitney is entitled to the relief set forth below in her prayer for relief.

FIFTH CLAIM FOR RELIEF

INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS AND OUTRAGEOUS CONDUCT

19. By subjecting, Kendra Whitney to retaliation, sexual harassment, and constructively terminating her, Defendant engaged in extreme and outrageous conduct and intentionally inflicted emotional distress upon Kendra Whitney.

20. As a result, Kendra Whitney is entitled to the relief set forth below in her prayer for relief.

SIXTH CLAIM FOR RELIEF

NEGLIGENT SUPERVISION

21. Defendant was negligent in its supervision of Kendra Whitney's supervisors and coworkers.

22. As a result, Kendra Whitney is entitled to the relief set forth below in her prayer for relief.

SEVENTH CLAIM FOR RELIEF

NEGLIGENCE

23. Defendant was negligent in its retention of Kendra Whitney's supervisors and coworkers.

24. As a result, Kendra Whitney is entitled to the relief set forth below in her prayer for relief.

PRAYER FOR RELIEF

WHEREFORE, Kendra Whitney respectfully requests the following relief:

- A. back pay;
- B. interest;

- C. pecuniary compensatory damages;
- D. non-pecuniary compensatory damages, including but not limited to damages for pain and suffering, loss of enjoyment of life and humiliation, stress, and anxiety;
- E. punitive damages;
- F. reinstatement, or in the alternative, front pay in lieu of reinstatement;
- G. costs;
- H. reasonable attorneys fees;
- I. such other legal or equitable relief as the Court deems appropriate.

Respectfully Submitted,



Russell L. Mulinix, OBA #6494
MULINIX OGDEN HALL
ANDREWS & LUDLAM, P.L.L.C.
3030 Oklahoma Tower
210 Park Avenue
Oklahoma City, Oklahoma 73102
(405) 232-3800 - Telephone
(405) 232-8999 - Facsimile
rusty@lawokc.com

ATTORNEY FOR PLAINTIFF
INTERVENOR, KENDRA WHITNEY

ATTORNEY LIEN CLAIMED