

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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EQUAL EMPLOYMENT OPPORTUNITY	:	ECF Case
COMMISSION,	:	
	:	
Plaintiff,	:	CIVIL ACTION NO.
	:	04-CV-7781
v.	:	
	:	
	:	<u>COMPLAINT AND</u>
NINE WEST FOOTWEAR CORP.	:	<u>JURY TRIAL DEMAND</u>
and JONES APPAREL GROUP, INC.,	:	
successor in interest to	:	
NINE WEST GROUP, INC.,	:	Judge McMahon
	:	
Defendants.	:	
	:	
-----X	:	

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, female, and national origin, Hispanic, and to provide appropriate relief to Karen Leon and a class of similarly situated employees at Defendants' White Plains facility who were affected by such practices. As alleged with greater specificity in paragraph 9 below, Defendants subjected a class of female employees to sexual harassment, national origin harassment and constructive discharge. In addition, Defendants retaliated against Karen Leon when she complained of the harassment.

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) ("Title VII") and Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981a.

2. The alleged unlawful employment practices were and are now being committed within the jurisdiction of the United States District Court for the Southern District of New York.

PARTIES

3. Plaintiff, Equal Employment Opportunity Commission (the "Commission") is the agency of the United States of America charged with 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 Jones Apparel Group, Inc. has continuously been a Pennsylvania corporation doing business in the State of New York, Westchester County, and has continuously had at least fifteen employees.

5. At all relevant times, Defendant Jones Apparel Group, Inc. 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).

6. At all relevant times, Defendant Nine West Footwear Corp. has continuously been a Delaware corporation doing business in the State of New York, Westchester County, and has continuously had at least fifteen employees.

7. At all relevant times, Defendant Nine West Footwear Corp. 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, Karen Leon filed charges with the Commission, on behalf of herself and similarly situated female employees, alleging violations of Title VII by Defendants. All conditions precedent to the institution of this lawsuit have been fulfilled.

9. Since at least June 2002, Defendants engaged in unlawful employment practices at its facility in White Plains, New York in violation of Section 703(a)(1) of Title VII, 42 U.S.C. § 2000e-2(a)(1). These practices include, but are not limited to, the following:

a. Defendants subjected a class of female employees to a hostile work environment because of their sex. The harassment included, but was not limited to, solicitations for sex, sexually explicit jokes and comments, unwelcome

sexual advances and gestures and physical groping of female employees by a male manager. For example, a senior manager touched Ms. Leon on more than one occasion, including on her thigh, and asked her if she was ready to have an affair.

b. Defendants subjected a class of Hispanic employees to a hostile work environment based on their national origin. The harassment included, but was not limited to, repeated offensive and demeaning comments and ridicule based on their national origin. For example, a senior manager referred to Hispanic employees using offensive terms and made repeated comments regarding the ability of female Hispanics to perform sex acts.

c. Although female employees repeatedly complained about the harassment, Defendants made no efforts reasonably calculated to prevent or eradicate the continuing behavior and hostile work environment.

d. Defendants constructively discharged Karen Leon and similarly situated female employees by failing to remedy the hostile work environment and by subjecting them to conditions that were so intolerable that they were forced to resign.

e. Defendants retaliated against Karen Leon after she complained of harassment based on sex and national origin. The retaliation included threats to terminate Ms. Leon and harassment.

10. The effect of the practices complained of above has been to deprive a class of female employees and a class of Hispanic employees of equal employment opportunities, inflict emotional pain and suffering upon them, cause them to suffer financial losses and otherwise adversely affect them.

11. The unlawful employment practices complained of in paragraph 9 above were intentional.

12. The unlawful employment practices complained of in paragraph 9 above were done with malice or with reckless indifference to the federally protected rights of Karen Leon and the class of similarly situated employees, and are imputable to the Defendants.

PRAYER FOR RELIEF

Wherefore, the Commission respectfully requests that this Court:

A. Grant a permanent injunction enjoining Defendants, its officers, successors, assigns and all persons in active concert or participation with Defendants, from engaging in any employment practice which discriminates on the basis of sex and national origin and unlawful retaliation.

B. Order Defendants to institute and carry out policies, practices, and programs which provide equal opportunities for employees to work in an environment free from unlawful discrimination and provide affirmative relief necessary to eradicate the effects of Defendants' past and present unlawful employment practices.

C. Order Defendants to make whole Karen Leon and the class of similarly situated employees by providing appropriate backpay with prejudgment interest, in amounts to be determined at trial, and other affirmative relief necessary to eradicate the effects of their unlawful employment practices including, but not limited to, front pay and reinstatement.

D. Order Defendants to make Karen Leon and the class of similarly situated employees whole by providing compensation for past and future pecuniary losses resulting from their unlawful treatment, including prejudgment interest, in amounts to be determined at trial.

E. Order Defendants to compensate Karen Leon and the class of similarly situated employees for past and future non-pecuniary losses resulting from the unlawful employment practices described above, including but not limited to emotional pain, suffering and inconvenience in amounts to be determined at trial.

F. Order Defendants to pay Karen Leon and the class of similarly situated employees punitive damages for their conduct described above, in amounts to be determined at trial.

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

H. Award the Commission its costs in this action.

JURY TRIAL DEMAND

The Commission requests a jury trial on all questions of fact raised by its complaint.

Respectfully submitted,

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