

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS
KANSAS CITY, KANSAS**

**EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,**

Plaintiff,

and

HOLLY DAWSON,

Plaintiff/Intervenor,

v.

GMRI, INC. d/b/a Red Lobster,

Defendant.

Case No. 03-2489-KHV

PLAINTIFF’S COMPLAINT IN INTERVENTION

Plaintiff/Intervenor Holly Dawson (“plaintiff”), pursuant to Rule 24(a) of the Federal Rules of Civil Procedure, brings this Complaint in intervention of right for legal and equitable relief to redress the injustices done to her by defendant GMRI, Inc. d/b/a Red Lobster (“defendant”).

Jurisdiction and Venue

1. The Court has jurisdiction over this controversy pursuant to 28 U.S.C. §§ 1331, 1337 and 1343(a)(4), as well as 42 U.S.C. § 2000e-5(f).

2. The Court has jurisdiction over defendant because the unlawful employment practices alleged in this Complaint were committed in Johnson County, Kansas, which lies within the District of

Kansas. In addition, defendant has sufficient minimum contacts with the District of Kansas and the State of Kansas.

3. Venue is proper in this Court pursuant to 28 U.S.C. § 1391, because a substantial part of the events or omissions giving rise to plaintiff's claims occurred in Johnson County, Kansas, which lies within the District of Kansas.

Parties

4. Plaintiff is a female citizen of the United States, residing in the City of Overland Park, Kansas.

5. Defendant is a corporation formed under the laws of Florida and with a principle place of business in Florida. At all relevant times defendant was authorized to conduct business in the State of Kansas and was doing business in the State of Kansas.

6. Defendant is an "employer" within the meaning of Section 701(b) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, et seq. ("Title VII").

7. Defendant currently employs, and during all relevant times has employed, 501 or more persons.

8. Defendant conducts and/or maintains, and/or during all relevant times conducted and/or maintained, a place of business, a restaurant called "Red Lobster" located at 9475 Metcalf Avenue, Overland Park, Johnson County, Kansas.

9. Defendant employed plaintiff at its Red Lobster restaurant located at 9475 Metcalf Avenue, Overland Park, Johnson County, Kansas from approximately June 2001 until approximately April 16, 2002.

Administrative Procedures

10. On or about June 5, 2002, plaintiff timely filed with the Equal Employment Opportunity Commission (“EEOC”) a charge of discrimination against defendant on the basis of sex (sexual harassment) (attached as Exhibit A and incorporated herein by reference).

11. After a reasonable investigation, the EEOC issued a Determination finding reasonable cause to believe that defendant violated Title VII of the Civil Rights Act, as amended.

12. After finding probable cause and attempting conciliation, the EEOC properly initiated litigation based on plaintiff’s charge of sexual harassment.

13. The aforesaid charge of discrimination provided the EEOC sufficient opportunity to investigate the full scope of the controversy between the parties and, accordingly, the sweep of this judicial complaint may be and is as broad as the scope of an EEOC investigation that could reasonably be expected to have grown out of the charge of discrimination.

14. Plaintiff has satisfied all private, administrative, and judicial prerequisites to the institution of this action.

COUNT I

(Violation under Title VII of the Civil Rights Act -- Sexual Harassment – Hostile Work Environment – Constructive Discharge)

15. Paragraphs 1 through 14 above are incorporated herein by reference.

16. Plaintiff is a female.

17. Plaintiff became employed by defendant as a server at its Red Lobster restaurant located at 9475 Metcalf Avenue, Overland Park, Johnson County, Kansas in about June 2001.

18. During all relevant times, defendant also employed Alfredo Mota as a kitchen worker at the restaurant at which plaintiff worked.

19. Plaintiff's job duties required her to regularly work around and have contact with Mota during the entire term of her employment with defendant.

20. During the course of plaintiff's employment with defendant, Mota subjected plaintiff to severe and unwelcome conduct of a sexual nature because of plaintiff's sex, including, but not limited to, sexual comments and innuendo, sexual advances, and sexually offensive bodily contact.

21. Mota's sexually offensive conduct was unwelcome to plaintiff and she rebuffed Mota's sexually offensive advances and complained about that conduct. Nonetheless, Mota's conduct continued.

22. Mota's conduct was sufficiently severe or pervasive that a reasonable person in plaintiff's position would find plaintiff's work environment to be hostile or abusive.

23. At the time Mota's conduct occurred and as a result of that conduct, plaintiff believed her work environment to be hostile and abusive. Mota's conduct adversely affected the terms, conditions and/or privileges of plaintiff's employment with defendant and affected plaintiff's ability to perform her job duties.

24. Plaintiff complained to defendant's management personnel about Mota's conduct, but defendant failed to take proper action.

25. Defendant failed to exercise reasonable care to prevent and correct promptly Mota's sexually harassing behavior.

26. Defendant knew or should have known of Mota's improper conduct, but failed to take prompt and appropriate corrective action to end Mota's harassment of plaintiff.

27. Mota's improper conduct, combined with defendant's failure to correct that conduct, made plaintiff's working conditions intolerable. As a result, plaintiff was forced to resign her employment. Plaintiff's resignation was a reasonably foreseeable result of defendant's actions and/or inactions.

28. As shown by the foregoing, plaintiff suffered intentional discrimination at the hands of defendant during the course of her employment with defendant, based on her gender, in violation of Section 703(a) of Title VII, 42 U.S.C. § 2000e-2(a).

29. As a direct and proximate result of defendant's actions and/or inactions, plaintiff has been deprived of income, as well as other monetary and non-monetary benefits.

30. As a further direct and proximate result of defendant's actions and/or inactions, plaintiff has suffered a loss of self-esteem, humiliation, emotional distress and mental anguish, and related compensatory damages.

31. Defendant failed to make good faith efforts to establish and enforce policies to prevent illegal discrimination against its employees, including sexual harassment.

32. Defendant failed to properly train or otherwise inform its supervisors and employees concerning their duties and obligations under the civil rights laws, including Title VII.

33. Defendant's managers responsible for setting or enforcing policy in the area of discrimination were aware of plaintiff's complaints of harassment, but failed to respond to those complaints. Instead, plaintiff was forced to terminate her employment.

34. By failing to take prompt and effective remedial action, and instead forcing plaintiff to terminate her employment, defendant in effect condoned, ratified and/or authorized the harassment of plaintiff.

35. As shown by the foregoing, defendant engaged in these discriminatory practices with malice or with reckless indifference to the federally protected rights of plaintiff. Plaintiff is therefore entitled to an award of punitive damages in an amount sufficient to punish defendant or to deter it and other companies from like conduct in the future.

36. Plaintiff is entitled to recover from defendant reasonable attorneys' fees, as provided in Section 706(k) of Title VII, 42 U.S.C. § 2000e-5(k).

WHEREFORE, plaintiff requests that the Court enter judgment in her favor and against defendant for such damages, actual and nominal, as are fair and reasonable, for her reasonable attorneys' fees and costs incurred herein, for interest as allowed by law, and for such other and further legal and equitable relief as the Court deems proper.

Jury Demand

Plaintiff hereby requests a trial by jury on all counts and allegations of wrongful conduct alleged in this Complaint.

Place of Trial

Pursuant to D. Kan. Rule 40.2, plaintiff requests that trial be held in Kansas City, Kansas.

Respectfully submitted,

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