

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
STATESVILLE DIVISION

FILED
02 AUG 30 PM 2:30
U.S. DISTRICT COURT
STATESVILLE, N.C.

U.S. EQUAL EMPLOYMENT)
OPPORTUNITY COMMISSION,)
)
Plaintiff,)
)
v.)
)
FURNITURE DISTRIBUTORS, INC.,)
KIMBRELL'S OF STATESVILLE, N.C.,)
INC. and)
KIMBRELL'S, INCORPORATED,)
collectively doing business as)
KIMBRELL'S FURNITURE ,)
)
Defendants.)
_____)

CIVIL ACTION NUMBER

5:02CV101-MCK

JURY TRIAL DEMANDED

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 to provide appropriate relief to Robin W. Drye who was adversely affected by such practices. The Equal Employment Opportunity Commission (the "Commission") alleges that Robin W. Drye was subjected to a sexually hostile work environment and constructively discharged by Furniture Distributors, Inc., Kimbrell's Furniture of Statesville, N.C. Inc., and Kimbrell's Incorporated collectively doing business as Kimbrell's Furniture ("Defendants" or "Kimbrell's Furniture").

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 employment practices alleged to be unlawful were committed within the jurisdiction of the United States District Court for the Western District of North Carolina, Statesville Division.

PARTIES

3. Plaintiff, the Equal Employment Opportunity 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, Defendants, Furniture Distributors, Inc., Kimbrell’s of Statesville, N.C., Inc. and Kimbrell’s, Incorporated have continuously been North Carolina corporations doing business in the State of North Carolina and the City of Statesville, and have continuously had at least fifteen (15) employees.

5. At all relevant times, Defendants have continuously been employers 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).

CONCILIATION

6. More than thirty days prior to the institution of this lawsuit, Robin W. Drye filed a charge with the Commission alleging violations of Title VII by Defendants. All conditions precedent to the institution of this lawsuit have been fulfilled.

STATEMENT OF CLAIMS

7. Since at least June 2000, Defendants have engaged in unlawful employment

practices at their Statesville, North Carolina facility, in violation of Section 703(a)(1) of Title VII, 42 U.S.C. §§ 2000e-2(a)(1). The unlawful practices:

- a. subjecting Robin W. Drye to a sexually hostile work environment, including sexual comments and sexual advances by a male co-worker; and
- b. constructively discharging Robin W. Drye.

Although Defendants received complaints about the sexual harassment, and otherwise knew or reasonably should have known about the sexual harassment, Defendants failed to take appropriate action to stop it.

8. The effect of the practices complained of in paragraph 7 above has been to deprive Robin W. Drye of equal employment opportunities and otherwise adversely affect her status as an employee because of sex.

9. The unlawful employment practices complained of in paragraph 7 above were intentional.

10. The unlawful employment practices complained of in paragraph 7 above were done with malice or with reckless indifference to the federally protected rights of Robin W. Drye.

PRAYER FOR RELIEF

Wherefore, the Commission respectfully requests that this Court:

A. Grant a permanent injunction enjoining Defendants, their officers, successors, assigns and all persons in active concert or participation with them, from engaging in sexual harassment, constructive discharge and any other employment practice which discriminates on the basis of sex.

B. Order Defendants to institute and carry out policies, practices and programs which

provide equal employment opportunities for women, and which eradicate the effects of their past and present unlawful employment practices.

C. Order Defendants to make whole Robin W. Drye 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 their unlawful employment practices, including but not limited to reinstatement or front pay.

D. Order Defendants to make whole Robin W. Drye by providing compensation for past and future pecuniary losses resulting from the unlawful employment practices described in paragraph 7 above, including but not limited to medical expenses and job search expenses, in amounts to be determined at trial.

E. Order Defendants to make whole Robin W. Drye by providing compensation for past and future nonpecuniary losses resulting from the unlawful employment practices complained of in paragraph 7 above, including but not limited to emotional pain, suffering, inconvenience, loss of enjoyment of life, loss of civil rights, and humiliation, in amounts to be determined at trial.

F. Order Defendants to pay Robin W. Drye punitive damages for their malicious and reckless conduct described in paragraph 7 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 of this action.

JURY TRIAL DEMAND

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

GWENDOLYN YOUNG REAMS
Associate General Counsel

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION
1801 "L" Street, N.W.
Washington, D.C. 20507



MINDY E. WEINSTEIN
Regional Attorney



KIRK J. ANGEL
Trial Attorney
EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION
Charlotte District Office
129 West Trade Street, Suite 400
Telephone: (704) 344-6875