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UNITED STATES DISTRICT COURT  
DISTRICT OF NEW MEXICO

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*Robert J. Puglisi*  
CLERK OF COURT

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

EQUAL EMPLOYMENT OPPORTUNITY  
COMMISSION,

Plaintiff,

v.

STERLING BROTHERS  
CONSTRUCTION, INC.,

Defendant.

CIV **CIV-01 732**

**WILLIAM W. DEAT**  
COMPLAINT

JURY TRIAL DEMANDED

**RICHARD L. PUGLISI**

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, and to provide appropriate relief to charging party Deena Kleinegger who was adversely affected by such practices. Defendant, Sterling Brothers Construction, Inc. ("defendant") subjected Ms. Kleinegger to pervasive and egregious sexual harassment. Defendant engaged in discrimination which adversely affected the employment status of Ms. Kleinegger because of her sex.

As alleged with greater particularity below, the sexual harassment was committed by defendant's president and principal stockholder. As a result of this unlawful conduct, the conditions of employment were made so intolerable that Ms. Kleinegger was forced to resign her employment.

## **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, et seq. ("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 District of New Mexico.

## **PARTIES**

3. The plaintiff, the Equal Employment Opportunity Commission (the "Commission"), is an 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 to this action, Sterling Brothers Construction, Inc., (the "defendant") has continuously been a New Mexico corporation doing business in the State of New Mexico and the Town of Aztec, and has continuously had at least fifteen employees.

5. At all relevant times, the 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).

## **STATEMENT OF CLAIMS**

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

7. Since at least April, 2000 defendant has engaged in unlawful employment practices at its Aztec, New Mexico, facility in violation of Sections 703(a) of Title VII, 42 U.S.C. §§ 2000e-2(a). These practices include the sexual harassment of Deena Kleinegger by Bruce Sterling, the alter ego of the company. Moreover, the defendant had no process or mechanism for employees to report harassment and there was no managing official with higher authority than the president, Bruce Sterling. As a result, Deena Kleinegger was forced to resign her employment with defendant. The resignation of Deena Kleinegger was a constructive discharge. In support of its claims, Plaintiff further states that:

A. Deena Kleinegger worked as a secretary for defendant from July, 1999 to April, 2000. She worked under the direct supervision of the owners of the company, Bruce Sterling and Cathy Sterling.

B. Not long after she began her employment with the defendant, Bruce Sterling began to subject Deena Kleinegger to sexually offensive conduct. This conduct, which included physical touching, created a hostile environment for Deena Kleinegger.

C. Even though Deena Kleinegger on many occasions complained to Bruce Sterling that his conduct offended her, he continued to harass her.

D. As a result of Bruce Sterling's continued harassment and lack of any process or mechanism for reporting and remedying the sexually hostile work environment, Deena Kleinegger's working conditions became intolerable and she felt that she had no choice but to resign her position.

8. The effect of the practices complained of above has been to deprive Deena Kleinegger of equal employment opportunities and otherwise adversely affect her status as an employee because of her sex.

9. The unlawful employment practices complained of in Paragraph Seven (§ 7) above were intentional.

10. The unlawful employment practices complained of in Paragraph Seven (§ 7) above were done with malice and/or reckless indifference to the federally protected rights of Deena Kleinegger.

### **PRAYER FOR RELIEF**

Wherefore, the Commission respectfully requests that this Court:

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

B. Order defendant to institute and carry out policies, practices and programs which provide equal employment opportunities for women and which eradicate the effects of its past and present unlawful employment practices.

C. Grant a judgment requiring defendant to pay appropriate back wages in an amount to be proved at trial to make Deena Kleinegger whole, together with prejudgment interest.

D. Order defendant to make whole Deena Kleinegger, by providing affirmative relief and compensation for past and future non-pecuniary losses resulting from the unlawful practices complained of in Paragraph Seven (§ 7) above, including, but not limited to, rightful place reinstatement, front pay, and any past or future costs incurred for obtaining medical treatment or counseling, in amounts to be proved at trial.

E. Order defendant to make whole Deena Kleinegger by providing compensation for past and future non-pecuniary losses resulting from the unlawful practices complained of in

Paragraph Seven (§ 7) above, including emotional pain, suffering, loss of enjoyment of life, and humiliation in amounts to be determined at trial.

F. Order defendant to pay Deena Kleinegger punitive damages for its malicious and/or reckless conduct complained of in Paragraph Seven (§ 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 in this action.

**JURY TRIAL DEMANDED**

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

DATED this 26<sup>th</sup> day of June, 2001.

Respectfully submitted,

GWENDOLYN YOUNG REAMS  
Acting Deputy General Counsel

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A handwritten signature in cursive script that reads "Veronica A. Molina". The signature is written in dark ink and is positioned above a horizontal line.

VERONICA A. MOLINA  
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