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UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION,

Plaintiff,

and

JENNIFER HULAHAN,

Plaintiff-Intervenor,

v.

JAMES G. KENNEDY & CO., INC.

Defendant.

Civil Action No.: 04-2586(DMC)

**INTERVENOR
COMPLAINT AND JURY DEMAND**

Plaintiff-Intervenor, Jennifer Hulahana, residing at 236 West Place, Washington Township, Bergen County, State of New Jersey 07676, by way of complaint against the Defendant herein, alleges as follows:

JURISDICTION AND VENUE

1. The jurisdiction of this Court is invoked pursuant to 28 U.S.C. Sect 1331 and 1343(a)(3) and (4), 29 U.S.C. Sec. 621 et seq.

2. Supplemental jurisdiction of this Court is invoked pursuant to 28 U.S.C. Section 1367 over Plaintiff-Intervenor's claims under the New Jersey Law Against Discrimination, N.J.S.A. 10:5-1, et seq.

3. Injunctive and declaratory relief, damages and other appropriate legal and equitable relief are sought pursuant to Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000e, et seq. ("Title VII") and the New Jersey Law Against Discrimination, N.J.S.A. 10:5-1, et seq. ("NJLAD").

4. Venue is proper within the District because the unlawful practices complained of herein occurred within the District of New Jersey, and the Defendant, James G. Kennedy & Co., Inc., does business in the State of New Jersey, City of Jersey City.

5. Plaintiff-Intervenor filed charges against the Defendant for gender discrimination (sexual harassment) with the Equal Employment Opportunity Commission ("EEOC") on or about October 7, 2003, complaining of the acts of discrimination alleged herein.

6. On or about June 3, 2004, the EEOC filed a Complaint against Defendant for the benefit of Plaintiff-Intervenor. As a result thereof, Plaintiff-Intervenor has complied fully with the administrative requisites of Title VII.

7. The EEOC is a governmental entity which is charged with enforcing the rights of employees granted by Title VII.

PARTIES

8. Plaintiff-Intervenor, Jennifer Hulahan ("Plaintiff-Intervenor"), at all relevant times, was an employee of Defendant, James G. Kennedy & Co., Inc. ("Defendant") and claims sexual harassment and retaliation in violation of Title VII and the NJLAD.

9. At all relevant times, Defendant was doing business in the State of New Jersey, with New Jersey offices located in Jersey City, New Jersey, and has continually had at least 15 employees.

10. 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. Secs. 2000e(b), (g) and (h).

STATEMENT OF CLAIMS

COUNT ONE

Sexual Discrimination in Violation of Title VII

11. More than thirty days prior to the institution of this lawsuit, Plaintiff-Intervenor filed a charge of discrimination with the EEOC alleging violations of Title VII by Defendant employer. All conditions precedent to the institution of this lawsuit have been fulfilled.

12. Since at least December 2002, Defendant has engaged in unlawful employment practices at its Jersey City, New Jersey location in violation of § 703(a)(1) of Title VII, 42 U.S.C. Section 2000e-2(a)(1), by discriminating against Plaintiff-Intervenor based on her sex, female. The unlawful employment practices included, but are not limited to, the following:

(a) Plaintiff-Intervenor began working for Defendant in August 1998. Throughout her employment, in a continuing pattern and practice of discrimination which lasted until December 2002, Jack Piccolomini, Defendant's Vice President ("Piccolomini"), subjected Plaintiff-Intervenor to a sexually hostile work environment, including unwelcomed sexual advances, offensive touching, requests for sexual favors, requests that Plaintiff-Intervenor travel to Mexico with him for romance and repeated references to Plaintiff-Intervenor as "honey" or "sweetheart";

(b) By way of example, and not of limitation, on three different occasions in December 2002, Piccolomini physically grabbed Plaintiff-Intervenor and forcibly tried to kiss her;

(c) On one occasion, while Plaintiff-Intervenor was seated in Piccolomini's office, he came up behind her, wrapped his arms around her and pressed his face against hers, moving his lips towards hers;

(d) On December 6, 2002, Piccolomini grabbed Plaintiff-Intervenor's hand several times asking her that they enter a company Christmas party as "a couple". On this occasion, Piccolomini crawled under the table where Plaintiff-Intervenor was seated and ran his hand up her leg and under her skirt;

(e) By way of further example, and not of limitation, on or about December 6, 2002, while seated next to Plaintiff-Intervenor in the vehicle she was driving, Piccolomini reached over several times, pulled Ms. Hulahan's coat open and flipped her skirt open while pulling it to the side;

(f) On December 8, 2002, Plaintiff-Intervenor complained about Piccolomini's sexual advances to Defendant's Chief Operating Officer, Nick Gambardella;

(g) On December 9, 2002, Defendant advised Plaintiff-Intervenor that she was being placed on leave until further notice. On December 20, 2002, Plaintiff-Intervenor was notified that she could return to work and she returned to work thereafter;

(h) On April 4, 2003, Defendant terminated Plaintiff-Intervenor's employment, ostensibly as part of a downsizing.

13. The effect of the practices complained of in paragraphs 12. (a) through (h) above has been to deprive Plaintiff-Intervenor of equal employment opportunities and otherwise

adversely affect her status as an employee on the basis of her sex.

14. The unlawful employment practices complained of in paragraphs 12. (a) through (h) above, were intentional.

15. The unlawful employment practices complained of in paragraphs 12. (a) through (h) above were done with malice or with reckless indifference to the federally protected rights of Plaintiff-Intervenor.

WHEREFORE, Plaintiff-Intervenor 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 any employment practice that discriminates on the basis of sex;
- b. order Defendant to institute and carry out policies, practices, and programs which provide equal employment opportunities for female employees which eradicate the effects of its past and present unlawful employment practices;
- c. order Defendant to make whole Plaintiff-Intervenor by providing compensation for past, present, and future pecuniary losses resulting from the unlawful employment practices described in paragraphs 12. (a) through (h) above;
- d. order Defendant to make whole Plaintiff-Intervenor by providing compensation for past, present, and future non-pecuniary losses resulting from the unlawful practices complained of in paragraphs 12. (a) through (h) above, including humiliation, emotional pain, suffering, anxiety, stress, loss of enjoyment of life, depression, and exacerbation of physical problems in amounts to be determined at trial;
- e. order Defendant to pay Plaintiff-Intervenor punitive damages for its malicious and

reckless conduct, as described in paragraphs 12. (a) through (h) above, in amounts to be determined at trial; and

- f. grant such further relief as the Court deems necessary and proper in the public interest.

COUNT TWO

Sexual Harassment/Hostile Work Environment - Violation of NJLAD

16. Plaintiff-Intervenor repeats and realleges each and every allegation contained in Paragraphs 1 through 15 as if more particularly set forth at length herein.

17. The actions alleged constitute a violation of the New Jersey Law Against Discrimination, N.J.S.A. 10:5-1 et seq.

WHEREFORE, Plaintiff-Intervenor requests judgment against Defendant, awarding her damages, including economic damages, compensatory damages, and damages for emotional distress, physical distress, and pain and suffering; punitive damages and attorneys fees, costs of suit and any other relief the Court deems proper and just.

COUNT THREE

Sexual Harassment/Retaliation - Violation of NJLAD

18. Plaintiff-Intervenor repeats and re-alleges each and every allegation contained in Paragraphs 1 through 17 as if more particularly set forth at length herein.

19. When Plaintiff-Intervenor returned to work after her forced leave of absence, she relied on the help of Stephanie Fuca to deal with the backlog of work that had accumulated. Subsequently, Ms. Fuca was terminated. When Plaintiff-Intervenor asked Piccolomini by telephone what she was going to do without Stephanie's help, Piccolomini told her to "wing it." He also said

“people should learn to keep their mouths shut in this company.” Plaintiff-Intervenor took this as a retaliatory threat.

20. Within a short time, four people corroborating Plaintiff-Intervenor’s complaints, including Stephanie Fuca, Steve Sullivan, Joe Marino and Barbara DelGuercio, were terminated.

21. On March 26, 2003 Piccolomini returned from lunch visibly inebriated. Concerned about a recurrence of Piccolomini’s previous offensive behavior, Plaintiff-Intervenor left the Jersey City office and went to a job site, where she sent an e-mail to Defendant’s Principal, Mr. Kennedy, complaining of Piccolomini’s behavior and the fact that appropriate disciplinary action had not been taken to prevent his inappropriate behavior.

22. Six days after that complaint, and at least in part as a consequence of, and in retaliation for her complaints, Plaintiff-Intervenor was terminated.

23. Plaintiff-Intervenor engaged in the protected activity of objecting to and complaining about discriminatory and harassing treatment by Piccolomini, and was retaliated against as a result of her complaints in that an adverse employment action was taken against her, i.e., termination.

24. As a result of Defendant’s actions, Plaintiff-Intervenor has suffered injuries including, but not limited to, emotional distress, humiliation, embarrassment, pain and suffering, as well as loss of income and benefits.

25. The retaliatory actions complained of constitute violations of the New Jersey Law Against Discrimination, N.J.S.A. 10:5-1, et seq.

WHEREFORE, Plaintiff-Intervenor requests judgment against Defendant, awarding her damages, including economic damages, compensatory damages, and damages for emotional distress, physical distress, pain and suffering; punitive damages, attorneys fees, costs of suit and any

other relief the Court deems proper and just.

DEUTSCH RESNICK, P.A.
Attorneys for Plaintiff-Intervenor

Dated: September 23, 2004

By: s/ Frances Farber-Walter
FRANCES FARBER-WALTER, ESQ.