

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

FILED
UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO

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EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,

Plaintiff,

v.

ALL AMERICAN MEAT, INC.,
d/b/a FARMERS COUNTRY MARKET,

Defendant.

CIVIL ACTION NO.

CIV - 06 - 0094

RLP LFG

COMPLAINT
JURY TRIAL DEMAND

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, 42 U.S.C. § 1981 against All American Meat, Inc., d/b/a Farmer's Country Market ("Defendant" or "Farmers Country Market") to correct unlawful employment practices on the bases of sexual harassment and retaliation and to provide appropriate relief to Brandy F. Rivera who was adversely affected by such practices. The Commission alleges Brandy F. Rivera was subjected to sexual harassment by a male manager at Farmers Country Market. The Commission further alleges that after Brandy F. Rivera reported the harassment to Farmers Country management officials, she was retaliated against for making the complaint and discharged.

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); 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. Plaintiff, the Equal Employment Opportunity Commission (the "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. Defendant All American Meat, Inc. d/b/a Farmers Country Market (the "Employer"), a New Mexico corporation, has continuously been doing business in the State of New Mexico and the City of Roswell and has at all relevant times had at least fifteen employees.

5. At all relevant times, Defendant Farmers Country Market 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, Brandy F. Rivera (the Charging Party), filed a charge of discrimination with the Commission alleging that Farmers Country Market violated Title VII. All conditions precedent to the institution of this lawsuit have been fulfilled.

7. Charging Party Brandy F. Rivera was employed at Farmers Country Market in Roswell, New Mexico, as a cashier from approximately January to March, 2005.

8. Since at least February, 2005, Defendant Farmers Country Market has engaged in unlawful employment practices at its Roswell, New Mexico store in violation of Section

703 (a) of Title VII, 42 U.S.C. § 2000e-2(a), by discriminating against Brandy F. Rivera on the basis of sex and subjecting her to a hostile work environment due to sexual harassment.

9. These violations include, but are not limited to:

- A) Unwelcome and inappropriate physical touching by a manager, including hugging and kissing Ms. Rivera; and
- B) Unwelcome and inappropriate remarks of a sexual nature by a manager, including daily invitations to dinner, telling her he could not resist hugging her and telling her he had video recorded her to watch on his big screen TV.

10. Since at least March 2005, Defendant Farmers Country Market has engaged in unlawful retaliatory conduct practices in violation of Section 704(a) and Title VII, 42 U.S.C. § 2000e-3(a). The retaliation to which Ms. Rivera was subjected after she reported the unlawful sexual harassment by the manager to management officials includes, but is not limited to:

- A) Denying Ms. Rivera further employment at the store she originally worked;
- B) Denying Ms. Rivera further employment despite her best efforts to get another job in another of Respondent's stores, effectively terminating or discharging Ms. Rivera's employment; and
- C) Constructively discharging and/or discharging Ms. Rivera for complaining about the sexual harassment.

11. The effect of the practices complained of in paragraphs 8 through 10 above has been to deprive Brandy F. Rivera of equal employment opportunities and otherwise adversely affect her status as an employee because of her sex, female, and because Ms. Rivera complained about the sexual harassment.

12. The unlawful employment practices complained of in paragraphs 8 through 10 above were intentional.

13. The unlawful employment practices complained of in paragraphs 8 through 10 above were done with malice or with reckless indifference to the federally protected rights of Brandy F. Rivera.

14. Since at least January 2005, Defendant Country Farmers Market has failed, in violation of Section 711(a) of Title VII, 42 U.S.C. § 2000e-10(a), to post and keep posted notices which have been prepared or approved by the Commission setting forth excerpts from or summaries of the pertinent provisions of Title VII and information pertinent to the filing of a charge or complaint.

PRAYER FOR RELIEF

Wherefore, the Commission respectfully requests that this Court:

A. Grant a permanent injunction enjoining Defendant Farmers Country Market, its officers, successors, assigns, and all persons in active concert or participation with it, from engaging in discrimination on the bases of sex or retaliation.

B. Order Defendant Farmers Country Market to institute and carry out policies, practices, and programs which provide equal employment opportunities for females and anyone who complains about sexual harassment, and which eradicate the effects of its past and present unlawful employment practices.

C. Order Defendant Farmers Country Market to make whole Brandy F. Rivera 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 its unlawful employment practices.

D. Order Defendant Farmers Country Market to make whole Brandy F. Rivera by providing compensation for past and future pecuniary losses resulting from the unlawful employment practices described above in amounts to be determined at trial.

E. Order Defendant Farmers Country Market to make whole Brandy F. Rivera by providing compensation for past and future non-pecuniary losses resulting from the unlawful practices described in paragraphs 8-10 above, including emotional pain, suffering, inconvenience, mental anguish, and loss of enjoyment of life, in amounts to be determined at trial.

F. Order Defendant Farmers Country Market to pay punitive damages for its malicious and/or reckless conduct described in paragraphs 8-10 above in amounts to be determined at trial.

G. Order Defendant Farmers Country Market to post and keep posted notices in accordance with the provisions of Section 711(a) of Title VII, 42 U.S.C. § 2000e-10(a).

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

I. Award the Commission its costs of this action.

JURY DEMAND

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

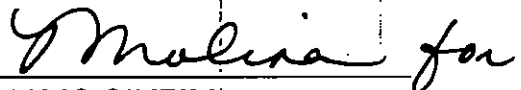
DATED this 2nd day of February, 2006.

Respectfully submitted,

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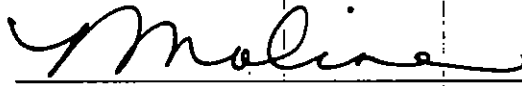


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