

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No.

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,

Plaintiff,

v.

ACEPEX MANAGEMENT CORPORATION,

Defendant.

COMPLAINT and JURY TRIAL DEMAND

NATURE OF THE ACTION

This is a public enforcement action to correct (1) an unlawful employment practice of a hostile work environment based on gender in violation of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, *et. seq.* (“Title VII”), and Title I of the Civil Rights Act of 1991, 42 U.S.C. § 1981a. This action seeks to provide appropriate relief to Charging Party, a former employee of Acepex Management. Plaintiff, the U.S. Equal Employment Opportunity Commission (“EEOC”), contends Defendant, Acepex Management Corporation, has discriminated against Charging Party because of her gender by subjecting her to sexual harassment, and by failing to take prompt remedial action intended to eliminate the sexual harassment, in violation of Title VII.

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 Sections 703(a), 706(f)(1), 706(f)(3), of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §§ 2000e-2(a), 2000e-5(f)(1), 2000e-5(f)(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, District of Colorado.

3. More than thirty days prior to the institution of this lawsuit, a female employed by Defendant, filed a charge of discrimination with the EEOC alleging violations of Title VII by Defendant. All conditions precedent to the institution of this lawsuit have been fulfilled.

PARTIES

4. Plaintiff EEOC 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 Sections 706(f)(1) and 706(f)(3) of Title VII, 42 U.S.C. §§ 2000e-5(f)(1) and (3).

5. At all relevant times, Defendant has continuously been and is now doing business in the State of Colorado and has continuously had at least fifteen (15) employees.

6. At all relevant times, Defendant has continuously been an employer engaged in an industry affecting commerce within the meaning of Sections 701(b), (g) and (h) of Title VII, 42 U.S.C. §§ 2000e-(b), (g) and (h).

7. The female employee who filed a charge of discrimination with the EEOC will be hereafter referred to as “Charging Party.”

GENERAL ALLEGATIONS

8. Charging Party was hired by Acepex in May 2003, as a janitorial supervisor to work at the Denver Federal Center.

9. Soon after Charging Party was hired, her supervisor, Gary Cordova, began sexually harassing her.

10. Cordova’s sexual harassment of Charging Party began with inappropriate sexual advances, inappropriate sexual touching, and using offensive sexual language when she was present.

11. When Charging Party rejected Cordova’s sexual advances and asked him to leave her alone, he responded by saying he gave her the job, and persisted in his offensive conduct.

12. After Charging Party rejected Cordova’s sexual advances, he punished her by assigning her to do menial tasks, ridiculing her, and frequently threatening to terminate her employment.

13. After Charging Party rejected Cordova’s sexual advances, his treatment of her became violent.

14. Some of Cordova’s offensive sexual conduct was carried on openly, in the presence of other managerial and/or supervisory employees.

15. On one occasion, in the presence of another supervisor, Cordova grabbed Charging Party by the hair and forced her face to the floor, telling her she was stupid, not worth anything, and only there because he gave her the job

16. On two occasions in May and June, 2003, Cordova raped Charging Party.

17. Cordova told Charging Party he had friends who would hurt her and her family if she reported his assaults.

18. On or about July 25, 2003, the General Services Administration (GSA) informed Acepex of Charging Party's allegations against Cordova.

19. GSA banned Cordova from working at the Federal Center, pending the outcome of an investigation by the Federal Protective Service (FPS) into allegations that Cordova had mistreated Acepex employees.

20. As a result of GSA banning Cordova from the Federal Center, Acepex placed Cordova on paid administrative leave.

21. Acepex took no disciplinary action against Cordova because of his inappropriate sexual conduct in the workplace.

22. Before Charging Party complained about Cordova's sexual harassment, her employment record at Acepex was unblemished by any disciplinary action.

23. During the two months after Charging Party complained about Cordova's sexual harassment, she was given four disciplinary actions for alleged violations of company policy, was forced to change shifts, and was ultimately fired on September 26, 2003.

24. The FPS investigation concluded on September 8, 2003, with a notice of Unfavorable Final Adjudication, requiring that Cordova be "removed from the government contract due to information provided on the FBI Rap Sheet and information received through other resources."

25. On September 9, 2003, the day after conclusion of the FPS investigation,

Acepex required Charging Party to change from the night shift to the day shift.

26. Charging Party objected to the shift change and offered to take a demotion from supervisor in order to remain on the night shift.

27. Acepex refused to allow Charging Party to remain on the night shift, and insisted that she report to work at 7:00 a.m.

28. Charging Party is a single mother. Because of Cordova's threats against her family, Charging Party drove her son to school every day.

29. Charging Party could not drive her son to school and get to work by 7:00 a.m.

30. Charging Party requested that her start time be changed to 7:30 a.m., so that she could drive her son to school and report to work on time.

31. Acepex refused to adjust Charging Party's start time to 7:30 a.m.

32. Instead, Acepex issued written warnings to Charging Party for being late to work.

33. On September 26, 2003, Charging Party was terminated as a result of her being late to work.

FIRST CLAIM FOR RELIEF

(Sexual Harassment)

34. Plaintiff realleges the foregoing paragraphs 1 through 33.

35. Cordova's offensive sexual conduct in the workplace was sufficiently severe or pervasive to alter the terms and conditions of Charging Party.

36. Cordova's offensive sexual conduct in the workplace constitutes sexual harassment.

37. Cordova's sexual harassment created a hostile work environment based on

gender.

38. Acepex knew of Cordova's sexual harassment.

39. Acepex failed to take reasonable measures to prevent and promptly correct sexual harassment in the workplace.

40. The effect of the events described above, including Cordova's sexual harassment and Acepex's failure to promptly and adequately respond to employee complaints of sexual harassment, has been to deprive Charging Party of equal employment opportunities.

41. The unlawful employment practices described above were intentional.

42. The unlawful employment practices described above were done with malice or with reckless indifference to the federally protected rights of Charging Party.

SECOND CLAIM FOR RELIEF

(Retaliation)

43. Plaintiff realleges the foregoing Paragraphs 1 through 42.

44. The effect of the practices complained of above has been to deprive Charging Party of equal employment opportunities and otherwise adversely affect her status as an employee, because she opposed practices she reasonably believe to be illegal under Title VII, in violation of Sections 704(a) and 706 of Title VII, 42 U.S.C. § 2000e-3(a), 2000e-5.

45. The unlawful employment practices described above were intentional.

46. The unlawful employment practices described above were done with malice or with reckless indifference to the federally protected rights of Charging Party.

PRAYER FOR RELIEF

WHEREFORE, the Commission respectfully requests that this Court:

A. Grant a permanent injunction enjoining Defendant, Acepex Management Corporation, its officers, successors, assigns, and all persons in active concert or participation with it, from engaging in any employment policy or practice which creates a sexually hostile work environment or otherwise discriminates on the basis of gender;

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 unlawful employment practices;

C. Order Defendant to make whole Charging Party by providing appropriate back pay with pre-judgment 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 to make whole Charging Party by providing compensation for past and future pecuniary losses resulting from the unlawful employment practices described above;

E. Order Defendant to make whole Charging Party by providing compensation for past and future non-pecuniary losses, including emotional pain, suffering, inconvenience, loss of enjoyment of life and humiliation;

F. Order Defendant to pay Charging Party punitive damages for its malicious and/or reckless conduct described above, in amounts to be determined at trial;

G. Order Defendant and its successors to provide training to its officers, managers and employees regarding discriminatory harassment and retaliation in the workplace;

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

interest; and

I. Award the Commission its costs in this action.

JURY TRIAL DEMAND

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

Dated: September 29, 2005

Respectfully submitted,

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PLEASE NOTE:
For the purposes of service upon the EEOC,
it is sufficient that pleadings, notices, and
court documents be served upon the
Trial Attorneys.