

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 1:05-CV-01883-REB-CBS

YOLANDA CARRILLO,

Plaintiff,

v.

ACEPEX Management Corporation,

Defendant.

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COMPLAINT IN INTERVENTION

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COMES NOW THE PLAINTIFF, Yolanda Carrillo, by and through her attorney, John S. Evangelisti, and for her Complaint against the Defendant, states as follows:

I. NATURE OF THE ACTION.

1. Plaintiff Yolanda Carrillo suffered damages as a result of sex discrimination (female) and retaliation, when she was sexually assaulted, subjected to quid pro quo sexual harassment by an employee of the Defendant, subjected to a hostile environment, disciplined and terminated in retaliation for opposing practices made illegal by Title VII.
2. Plaintiff seeks relief under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §2000e-2(a) and 42 U.S.C. §2000e-3(a).

II. JURISDICTION AND VENUE.

3. The jurisdiction of this Court is invoked pursuant to 42 U.S.C. § 2000e-5(f) and 28 U.S.C. §1343(a)(3) and (4).

4. At all times relevant herein, Defendant ACEPEX Management Corporation employed fifteen (15) or more employees for each working day in each of twenty (20) or more calendar weeks in the current or preceding calendar year and is an employer engaged in an industry effecting commerce within the meaning of 42 U.S.C. §2000e.

5. Venue in this Court is proper pursuant to 42 U.S.C. §2000e-5(f)(3), as the unlawful employment practices complained of herein were committed in the Federal Judicial District of the State of Colorado

### III. PARTIES.

6. Plaintiff is a female citizen of the United States and of the State of Colorado.

7. Defendant ACEPEX Management Corporation is a company incorporated and in active status in the State of California, and is presently doing business in the State of Colorado.

### IV. ADMINISTRATIVE PROCEDURE.

8. Plaintiff Yolanda Carrillo filed a timely charge of discrimination, EEOC No. 320-2004-00007, regarding sex, race, national origin discrimination and retaliation, with the U.S. Equal Employment Opportunity Commission on November 24, 2003.

9. On September 29, 2005, the Equal Employment Opportunity Commission commenced an action against Defendant ACEPEX.

10. All other jurisdictional and statutory prerequisites to this action have been fulfilled.

### V. GENERAL ALLEGATIONS.

11. Ms. Yolanda Carrillo is a 40 year old, Hispanic female.

12. In May of 2003, ACEPEX Management Corporation (“ACEPEX”) had a janitorial contract with the Denver Federal Center at 6<sup>th</sup> and Kipling, Lakewood, Colorado 80214.

13. On May 5, 2003, Ms. Carrillo was hired at ACEPEX by Custodial Project Manager (Mgr.), Gary Cordova as a janitorial supervisor, to work the night shift, from 11:30 a.m. to 8:00 p.m.

14. Ms. Carrillo supervised approximately 22 janitorial staff in Building 67 at the Federal Center.

15. Immediately after Ms. Carrillo was hired, Mgr. Cordova began making unwanted sexual advances towards Ms. Carrillo.

16. Mgr. Cordova would ask Ms. Carrillo how she liked it, “big, medium or small”.

17. From May 5, 2003 through May 12, 2003, Mgr. Cordova made similar demands and remarks on a daily basis.

18. Mgr. Cordova constantly reminded Ms. Carrillo that he had given her the job.

19. On May 12, 2003, Mgr. Cordova told Ms. Carrillo to check the 9<sup>th</sup> floor janitor’s closet.

20. During that time, the 9<sup>th</sup> floor was under construction and nobody was there after 4:00 p.m. Ms. Carrillo and Mgr. Cordova took the elevator to the 9<sup>th</sup> floor. Ms. Carrillo opened the door to the janitor’s closet. Mgr. Cordova then sexually assaulted Ms. Carrillo.

21. Ms. Carrillo returned to work, as she needed the job to support her three children.

22. Mgr. Cordova continued making dirty comments to Ms. Carrillo.

23. Mgr. Cordova demanded that Ms. Carrillo sit in a chair in his office and not move.

24. Mgr. Cordova would close his office door and tell Ms. Carrillo that she needed to be “dusted” or that she was “grounded”.

25. Ms. Carrillo pleaded with Mgr. Cordova to leave her alone.

26. Mgr. Cordova would tell Ms. Carrillo that “he gave her the job”.

27. Mgr. Cordova would pull the chair that Ms. Carrillo was sitting in, close to him and he tell Ms. Carrillo that he had friends that could hurt her and her family if she told.

28. Ms. Carrillo pleaded with Mgr. Cordova not to fire her because she needed the job.

29. Mgr. Cordova verbally abused Ms. Carrillo, and made threats to her on a daily basis.

30. Mgr. Cordova made Ms. Carrillo pick up the trash that he had thrown on the floor. During this incident, Mgr. Cordova called Ms. Carrillo “stupid”, told her that she “was not worth anything”, and said “you are here because I gave you this job.”

31. Mgr. Cordova pounded his fist on his desk, yelled and pointed his finger at Ms. Carrillo.

32. Mgr. Cordova demanded more every day.

33. Mgr. Cordova allowed a cartoon clipping which identified the characters as Ms. Carrillo and another male janitor to be hung in his office.

34. These incidents took place from May 13, 2003 through June 12, 2003.

35. On June 12, 2003, Mgr. Cordova handed Ms. Carrillo a key and told her to check the janitor’s closet on the 9<sup>th</sup> floor where Mgr. Cordova again sexually assaulted her.

36. Mgr. Cordova continued the verbal abuse, threats and violence towards Ms. Carrillo.

37. Ms. Carrillo was forced to perform duties that were normally performed by subordinate staff.

38. Ms. Carrillo and a co-employee told Regional Mgr. Alan Antonio what was happening to Ms. Carrillo.

39. On July 24, 2003, Mgr. Cordova told Ms. Carrillo to go to the janitor's closet on the 9<sup>th</sup> floor.

40. A co-employee told a federal worker what was happening to Ms. Carrillo and telephoned the police.

41. Mgr. Cordova was later terminated from ACEPEX for other reasons.

42. Ms. Carrillo began to receive complaints from Ms. Montez, Reg. Mgr. Antonio, and Administrative Assistant Christensen.

43. Management forced Ms. Carrillo to perform the same duties as her subordinate employees, along with her supervisory duties.

44. On August 13, 2003, Ms. Carrillo was given an *Employee Warning Notice* by Reg. Mgr. Antonio, stating that Ms. Carrillo violated company policy to not "involve self at any time in the current police investigation unless directed by FPS Investigators or to discuss subject matter with anyone at anytime . . ."

45. Ms. Carrillo had never received any disciplinary warnings prior to the reporting of the sexual assaults.

46. Dated September 23, 2003, Ms. Carrillo was given an *Employee Warning Notice* for approving an employee's request for time off to attend a funeral.

47. In early September 2003, Ms. Carrillo's schedule was changed and she was moved to the 7:00 a.m. to 3:30 p.m. day shift.

48. Ms. Carrillo pleaded with management not to change her schedule because she wanted to make sure that her youngest son got to school.

49. Ms. Carrillo offered to step down as supervisor in order to remain on the night shift.

50. Management refused.

51. On September 25, 2003, Ms. Carrillo was given an *Employee Warning Notice* after she was five minutes late reporting to work.

52. On September 26, 2003, Ms. Carrillo was terminated.

53. Ms. Carrillo is currently seeing a therapist for post-traumatic stress disorder.

54. Ms. Carrillo lost wages and wage earning capacity, suffered emotional distress and mental pain and suffering, loss of enjoyment of life, compensatory and pecuniary damages.

FIRST CLAIM FOR RELIEF

42 U.S.C. §2000e-2

(Discrimination Based on Sex – Female –Quid Pro Quo)

55. Plaintiff incorporates paragraphs 1 through 54 inclusive, as though fully set forth herein.

56. Defendant is liable for the actions of its employees.

57. Defendant intentionally engaged in unlawful employment practices and policies in violation of 704(a) of Title VII, 42 U.S.C. §2000e-2, including but not limited to quid pro quo sexual harassment.

SECOND CLAIM FOR RELIEF

42 U.S.C. §2000e-2

(Discrimination Based on Sex – Female – Sexual Assault)

58. Plaintiff incorporates paragraphs 1 through 57 inclusive, as though fully set forth herein.

59. Defendant is for the actions of its employees.

60. Defendant intentionally engaged in unlawful employment practices and policies in violation of 704(a) of Title VII, 42 U.S.C. §2000e-2, including but not limited to sexual assault.

THIRD CLAIM FOR RELIEF

42 U.S.C. §2000e-2

(Discrimination Based on Sex – Female – Hostile Environment)

61. Plaintiff incorporates paragraphs 1 through 60 inclusive, as though fully set forth herein.

62. Defendant is liable for the actions of its employees.

63. Defendant intentionally engaged in unlawful employment practices and policies in violation of 704(a) of Title VII, 42 U.S.C. §2000e-2, including but not limited to harassment because of her sex in the form of a hostile work environment.

FOURH CLAIM FOR RELIEF

42 U.S.C. §2000e-3

(Discrimination Based on Sex – Female – Retaliation)

64. Plaintiff incorporates paragraphs 1 through 63 inclusive, as though fully set forth herein.

65. Defendant intentionally engaged in unlawful employment practices and policies in violation of 704(a) of Title VII, 42 U.S.C. §2000e-3, including but not limited to unlawful

discipline and termination because Plaintiff complained of discrimination or otherwise opposed practices made unlawful by Title VII.

FIFTH CLAIM FOR RELIEF

42 U.S.C. §2000  
(Punitive Damages)

66. Plaintiff incorporates paragraphs 1 through 66 inclusive, as though fully set forth herein.

67. Defendant engaged in discriminatory practices with malice or with reckless indifference to the federally protected rights of the Plaintiff.

68. Defendant is also vicariously liable for the actions of its employees.

WHEREFORE, Plaintiff prays the Court:

A. Enter a declaratory judgment, as Defendant has violated the rights secured to Plaintiff by Title VII of the Civil Rights Act of 1964, 42 U.S.C. Section 2000e, *et seq.*, to be free of employment discrimination.

B. Order the Defendant to make the Plaintiff whole by providing her with full back pay and front pay, pre and post judgment interest, the monetary value of lost wage increases and promotions, the monetary value of lost fringe benefits, including pension, social security and other retirement accounts, pursuant to 42 U.S.C. §2000e-5(g) and in an amount to be shown at trial.

C. Award Plaintiff compensatory damages pursuant to 42 U.S.C. §1981(a), (Section 102 of the Civil Rights Act of 1991) for future pecuniary losses, emotional pain, suffering, PTSD, inconvenience, mental anguish, loss of enjoyment of life and other non-pecuniary losses, in an amount to be shown at trial.

D. Award Plaintiff punitive damages pursuant to 42 U.S.C. §1981(a), (Section 102 of the Civil Rights Act of 1991) in an amount to be shown at trial

E. Award Plaintiff the costs of this action together with reasonable attorney's fees pursuant to 42 U.S.C. §2000e-5(k) and 42 U.S.C. 1988(b).

F. Enter an Order for such further and other relief as this Court may deem necessary and proper including any affirmative relief that is necessary to eliminate the effect of the discriminatory practices complained of or any affirmative relief that is necessary to make the Plaintiff whole pursuant to 42 U.S.C. §2000e-5(g).

PLAINTIFF DEMANDS TRIAL BY JURY.

RESPECTFULLY SUBMITTED

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