

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF FLORIDA  
FORT MYERS DIVISION**

2004 JAN 23 PM 2:27

MYRIAM SEIDE, MARIE FRANCOIS and  
ELAINE FRANCIS

CLERK OF DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
FT. MYERS, FLORIDA

Plaintiffs,

CASE NO.: 03-CV-570-FTM-29DNF

v.

FILED  
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SIX L'S PACKING CO., INC. and  
PRODUCE, INC.

Defendants.

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**COMPLAINT AND JURY TRIAL DEMAND  
WITH INJUNCTIVE RELIEF SOUGHT**

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Plaintiffs, MYRIAM SEIDE, MARIE FRANCIS and ELAINE FRANCIS, by and through the undersigned counsel, sues Defendant, SIX L'S PACKING COMPANY, INC. and PRODUCE, INC., Florida Corporations (hereinafter "Defendants"), and states the following:

**INTRODUCTION**

1. This is an action seeking declaratory, injunctive and equitable relief, compensatory and punitive damages, attorney's fees and costs, under Title VII of the Civil Rights Act of 1964, Title I of the Civil Rights Act of 1991 and the Florida Civil Rights Act of 1992, to correct unlawful employment practices on the basis of sexual harassment and retaliation, and to provide appropriate relief to Myriam Seide, Marie Francois and Elaine Francis who were adversely affected by such practices.

2. As stated with greater particularity in paragraph 13 below, the Plaintiff's allege that Ms. Seide, Ms. Francois and Ms. Francis were subjected to unlawful sexual harassment at

Defendant's place of business in Immokalee, Florida, by their immediate supervisors Jean Magloire and Estill "Steve" Raymond.

3. The conduct was sufficiently severe and pervasive to constitute an intimidating, hostile and offensive work environment and, in the case of Ms. Seide, resulted in a tangible adverse employment action.

4. The Plaintiffs further allege that Ms. Seide was retaliated against by being terminated for complaining about the harassment and/or for rejecting her supervisor's sexually offensive conduct.

### **JURISDICTION AND VENUE**

5. This court has jurisdiction of this action pursuant to 28 U.S.C. §§ 412, 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. §2000(e)(f)(1) and (3) (Title VII) and Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981A.

6. Venue is proper in this Court pursuant to 28 U.S.C. §1391, and Local Rule 1.02. The employment practices, events or omissions alleged to be unlawful and giving rise to this claim occurred and were committed within the jurisdiction of the United States District Court for the Middle District of Florida, which is in this Court's judicial district, Fort Myers, District.

### **PARTIES**

7. Plaintiff's, Myriam Seide, Marie Francois and Elaine Francis are expressly authorized under the constitution to bring this action by Section 706(f)(1) and (3) of Title VII, 42 U.S.C. § 2000e-5(f)(1) and (3).

8. At all relevant times, Defendant, Six L's Packing Co., Inc. ("Six L's"), has continuously been a Florida corporation doing business in the state of Florida and the City of Immokalee, and has continuously had at least 15 employees.

9. At all relevant times, Defendant, Produce, Inc. ("Produce"), has continuously been a Florida corporation doing business in the State of Florida and the City of Immokalee, and has continuously had at least 15 employees.

10. At all relevant times, Defendant Six L's 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).

11. At all relevant times, Defendant, Produce, 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).

### **CONDITION PRECEDENT**

12. More than thirty (30) days prior to the institution of this lawsuit, Myriam Seide, Marie Francois and Elaine Francis each filed a charge with the Equal Employment Opportunity Commission alleging violation of Title VII by Defendant Employers. All conditions precedent to the institution of this lawsuit have been fulfilled.

### **COUNT I**

#### **VIOLATIONS OF TITLE VII, 42 U.S.C. § 2000e-2(a)(1)**

13. Since at least January, 2000, Defendants Six L's and Produce (collectively "Employers") have engaged in unlawful employment practices at their Immokalee, Florida facility, in violation of Section 703(a)(1) and 704(a) of Title VII, 42 U.S.C. §2000e2(a) and 2000e-3(a).

(a) **Myriam Seide** was regularly subjected to sexual harassment by her supervisor/manager, Jean Magloire, in the form of unwelcome verbal comments and conduct of a sexual nature which was sufficiently severe and persuasive to constitute an intimidating, hostile and offensive work environment, and which resulted in a tangible

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adverse employment action. The harassment included, but was not limited to, repeated requests for sex and/or sexual favors.

(b) Defendant Employers are liable for the unlawful sexual harassment to which they subjected Ms. Seide during her employment.

(c) **Marie Francois** was regularly subjected to sexual harassment by her supervisor/manager, Estill "Steve" Raymond, in the form of unwelcome physical and verbal conduct of a sexual nature which was sufficiently severe and persuasive to constitute an intimidating, hostile and offensive work environment. The harassment included, but was not limited to, touching, grabbing and kissing.

(d) Defendant Employers are liable for the unlawful sexual harassment to which they subjected Ms. Francois during her employment.

(e) **Elaine Francis** was regularly subjected to sexual harassment by her supervisor/manager, Estill "Steve" Raymond, in the form of unwelcome physical and verbal conduct of a sexual nature which was sufficiently severe and persuasive to constitute an intimidating, hostile and offensive work environment. The harassment included, but was not limited to, touching, grabbing and vulgar comments such as "you have a big pussy."

(f) Defendant Employers are liable for the unlawful sexual harassment to which they subjected Ms. Francis during her employment.

(g) Defendant Employers unlawfully retaliated against Ms. Seide for complaining about and/or rejecting her supervisor's sexually offensive conduct. Specifically, Defendant employers retaliated against Ms. Seide by terminating her employment after she complained about her supervisor's inappropriate sexual conduct directly in front of her supervisor, and refused his requests for sex and/or sexual favors.

14. The effect of the conduct complained of in paragraph 13 above has been to deprive Ms. Seide, Ms. Francois and Ms. Francis of equal employment opportunities and otherwise adversely affect their status as employees on the basis of sex and retaliation.

15. The unlawful employment practices complained of in paragraph 13 above were intentional.

16. The unlawful employment practices complained of in paragraph 13 above were done with malice or with reckless indifference to the federally protected right of Ms. Seide, Ms. Francois, and Ms. Francis.

## **COUNT II**

### **VIOLATION OF THE FLORIDA CIVIL RIGHTS ACT**

17. Plaintiffs incorporate and reallege paragraphs one through twelve herein.

18. Defendants, their agents and/or employees, conducted unlawful employment practices of sexual discrimination against Plaintiffs with regard to the terms, conditions and privileges of employment in violation of the Florida Civil Rights Act of 1992, Fla. Stat. §760.01 et seq., (Supp. 1992).

19. Defendants' actions, by and through its agents and employees, constitute unlawful employment practices and a violation of the Florida Civil Rights Act.

20. Defendants, its agents and employees, engaged in such discriminatory acts and do not enjoy the *safe harbor* provisions of Fla. Stat. §760.10 (8)(a).

21. As a direct and proximate result of said acts, Plaintiffs have suffered and continue to suffer loss of wages and other compensation, loss of employment opportunities, physical pain and suffering, emotional pain and suffering, mental anguish, distress, humiliation, great expense, embarrassment, loss of dignity, damage to all three Plaintiff's reputation, and loss of the enjoyment of life.

**PRAYER FOR RELIEF**

WHEREFORE, the Plaintiff's, **Myriam Seide, Marie Francois and Elaine Francis** demand judgment against the Defendants and respectfully pray to this Court for:

a) A declaratory Order that the conduct engaged in by Defendants was in violation of the Plaintiffs' rights;

b) An Order requiring Defendants to reinstate **Ms. Seide** to a position of equal compensation, terms, conditions, and privileges of employment, as Ms. Seide would have received "but for" the aforementioned sexual discrimination and unlawful employment practices and retaliatory conduct;

c) An award for damages for all employment benefits **Ms. Seide** would have received "but for" the aforementioned discriminatory and retaliatory conduct;

d) An Order against Defendant Employers to make whole **Ms. Seide** 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, including but not limited to, reinstatement, rightful place promotion, job search expenses and/or front pay.

e) An Order against Defendant Employers to make whole **Ms. Seide, Ms. Francois and Ms. Francis** by providing compensation for past and future pecuniary losses resulting from the unlawful employment practices described in paragraphs 13 through 16 above, including but not limited to, medical expenses and "out of pocket" loses, in amounts to be determined at trial.

f) An Order against Defendant Employers to make whole **Ms. Seide, Ms. Francois and Ms. Francis** by providing compensation for past and future pecuniary losses resulting from the unlawful employment practices described in paragraphs 13 through 16 above, including but not limited to, pain, emotional suffering, mental anguish, distress, humiliation, great expense and inconvenience, loss of dignity, damage to reputation, loss of enjoyment of life, and other non-

pecuniary losses, pursuant to the Florida Civil Rights Act of 1992, §760.01 and the Civil Rights Act of 1991, 42 U.S.C. § 1981(a), in amounts to be determined at trial.

g) An Order against Defendant Employers to pay **Ms. Seide, Ms. Francois and Ms. Francis** punitive damages for engaging in the aforementioned sexual discriminatory and retaliatory practices with malice and reckless indifference to the Plaintiffs protected rights, in amounts to be determined at trial.

h) A permanent injunction enjoining Defendant Employer, its officers, successors, assigns, and all persons in active concert or participation with them, from engaging in unlawful retaliation, sexual harassment, or any other employment practice which discriminates on the basis of sex or retaliation.

i) An Order against Defendant Employers to institute and carry out policies, practices, and programs which provide equal employment opportunities for all its employees, regardless of sex, or having engaged in a protected activity, and which eradicate the effects of its past unlawful employment practices.

j) Judgment representing prejudgment and post-judgment interest;

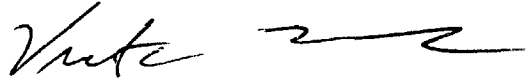
k) An award of attorneys fees and costs, including litigation expenses and costs pursuant to Title VII and the Civil Rights Act of 1991, as amended; and

j) Grant such other relief as the Court deems necessary and proper in the public interest.

#### **JURY TRIAL DEMAND**

The Plaintiffs, MYRIAM SEIDE, MARIE FRANCOIS and ELAINE FRANCIS, request a jury trial on all issues triable by a jury.

Respectfully Submitted,



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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing had been furnished by regular U.S. Mail on this 22<sup>nd</sup> day of January, 2004, to:

John F. Potanovic, Esquire  
Attorney for Defendants  
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Cheryl Cooper, Esquire  
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