

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

ECF CASE

	X	
	:	
	:	
EQUAL EMPLOYMENT OPPORTUNITY	:	Civil Action No.
COMMISSION,	:	06 CV 4577 ((NG) (RER))
	:	
	:	<u>AMENDED COMPLAINT</u>
	:	
Plaintiff,	:	
	:	<u>JURY TRIAL DEMAND</u>
-v-	:	
	:	
BOOKS FOR LESS, LLC AND	:	
BOOKS FOR LESS, INC.,	:	
	:	
Defendant.	:	
	:	
	X	

NATURE OF THE ACTION

This is an action under Title VII of the Civil Rights Act of 1964, as amended, and Title I of the Civil Rights Act of 1991 to correct unlawful employment practices on the basis of race and/or sex discrimination and/or retaliation and to provide appropriate relief to Damien Ballard, Christina Cordova, Janell Howard, Lawrence Lerner, Keelan Rozier, Christina Rush, Erika Sanchez, Nicole Weissart (collectively referred to as Charging Parties unless otherwise indicated) and a class of similarly situated African American and female individuals affected by such unlawful practices. Defendant Books For Less, LLC, and Books For Less, Inc.’s (hereinafter “Defendant”) management, particularly the President and owner, Michael Shmuel, created a hostile and abusive work environment for the Charging Parties and others based on their race, African American and/or sex, female. Defendant also retaliated against the employees who complained about the discrimination, cooperated with EEOC’s investigation and/or filed

Charges of Discrimination with EEOC, in violation of Title VII. These facts are alleged with greater particularity in paragraph 7 below.

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 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) ("Title VII") and pursuant to Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981a.

2. The unlawful employment practices alleged below were committed within the jurisdiction of the United States District Court for the Eastern District of New York.

PARTIES

3. Plaintiff, Equal Employment Opportunity Commission (hereinafter "EEOC" or "the Commission"), is an 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 (3) of Title VII, 42 U.S.C. §§ 2000e-5(f)(1) and (3).

4. At all relevant times, Defendant, Books For Less, LLC has continuously been a corporation doing business in the State of New York and the county of Kings, and has continuously had at least fifteen employees. At all relevant times, Books For Less, Inc. has continuously been a corporation doing business in the State of Pennsylvania and the county of Allegheny, and has continuously had at least fifteen employees. Defendant Books For Less, LLC and Books For Less, Inc. together function as an integrated enterprise.

5. 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).

STATEMENT OF CLAIMS

6. More than thirty days prior to the institution of this lawsuit, Damien Ballard, Christiana Cordova, Janell Howard, Lawrence Lerner, Keelan Rozier, Christina Rush, Erika Sanchez, and Nicole Weissart filed charges with the Commission alleging violations of Title VII by Defendant. All conditions precedent to the institution of this lawsuit have been fulfilled.

7. Since at least December 2004, Defendant has engaged in unlawful employment practices in violation of Section 703(a) of Title VII, 42 U.S.C. § 2000e. These practices include, but are not limited to, the following:

- a) Defendant subjected African American employees to frequent and pervasive harassment because of their race. Specifically, the harassment included, but is not limited to: management, particularly the owner of the company, frequently making racist and egregious comments such as “stupid niggers” “dumb fucking niggers,” and “blacks are stupid.”
- b) Defendant subjected Charging Party Rush to harassment based on her association with African Americans. The owner on more than one occasion accused Charging Party Rush of sleeping with an African American employee and said she had a “thing for niggers” because her biracial children were “too dark” to be hers.

c) Defendant subjected female employees to unwelcome verbal harassment based on their sex. Specifically, the harassment included, but is not limited to: management, particularly the owner of the company, on more than one occasion, making sexist comments such as “stupid bitch,” “dumb bitch,” “cock suckers,” “lazy bitch,” “fucking bitch,” “dumb fucking idiot,” and “stupid little cunt.”

d) Defendant engaged in unlawful employment practices in violation of Section 704 of Title VII, 42 U.S.C. Section 2000e-3, by retaliating against employees who complained about and/or objected to the discriminatory treatment, who filed Charges of Discrimination with EEOC, and/or who participated in EEOC’s investigation. The retaliatory acts include, but are not limited to: harassing and threatening employees with termination and/or lawsuits filed against them, filing civil lawsuits against several of the claimants, and terminating employees.

8. The effect of the practices complained of above has been to deprive the Charging Parties along with a class of similarly situated African American and/or female individuals and/or those who have engaged in protected activities of equal employment opportunities and otherwise adversely affect their status as employees because of their race and/or sex, and/or because they engaged in protected activities.

9. The unlawful employment practices complained of above were intentional.

10. At all relevant times, Defendant has acted with malice or reckless indifference to the federally protected rights of the Charging Parties and a class of similarly situated African American and/or female individuals and/or those who have engaged in protected activities.

PRAYER FOR RELIEF

Wherefore, the Commission 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 practices that discriminate on the basis of race and/or sex;
- B. Grant a permanent injunction enjoining Defendant, its officers, successors, assigns and all persons in active concert or participation with them, from engaging in any employment practices that retaliate against those individuals that oppose race and/or sex discrimination;
- C. Order Defendant to institute and carry out policies, practices and programs that provide equal employment opportunities for all employees, regardless of race and sex, and that eradicate the effects of Defendant's past and present unlawful employment practices;
- D. Order Defendant to make whole all those individuals affected by the unlawful employment practices described above, by providing compensation for past and future pecuniary losses in amounts to be determined at trial;
- E. Order Defendant to make whole all those individuals affected by the unlawful employment practices described above, by providing compensation for non-pecuniary losses, including pain, suffering and humiliation, in amounts to be determined at trial;
- F. Order Defendant to provide punitive damages for its malicious and/or reckless conduct, in amounts to be determined at trial;
- G. Grant such further relief as the Court deems necessary and proper; and
- H. 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: New York, New York
January *18*, 2007

Respectfully submitted,

Ronald S. Cooper
General Counsel

James L. Lee
Deputy General Counsel

Gwendolyn Young Rears
Associate General Counsel

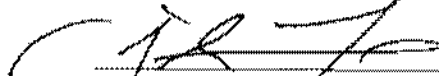
EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION
1801 L Street, N.W.
Washington, D.C. 20507



Elizabeth Grossman
Regional Attorney



Robert Rose
Supervisory Trial Attorney



Stella N. Yamada
Trial Attorney

New York District Office
33 Whitehall Street, 5th Floor
New York, New York 10004
Phone: 212-336-3689
Fax: 212-336-3623
Stella.Yamada@eeoc.gov