

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
AT NASHVILLE**

EQUAL EMPLOYMENT OPPORTUNITY)	
COMMISSION,)	
)	
Plaintiff,)	
)	
TRACIE LEWELLEN and)	No. 3:05-CV-00768
MICHELLE MEDINA,)	JURY DEMAND
)	Judge Aleta Trauger
Plaintiff-Intervenors,)	
)	
v.)	
)	
LOVE’S TRAVEL STOPS & COUNTRY)	
STORE, INC.)	
)	
Defendant.)	

COMPLAINT OF INTERVENOR MICHELLE MEDINA

Plaintiff-Intervenor Michelle Medina (“Ms. Medina”), by and through her undersigned attorney, for her cause of action against the Defendant states as follows:

I. NATURE OF COMPLAINT

1. This action is brought by the Equal Employment Opportunity Commission (“EEOC”) against Love’s Travel Stops & Country Store, Inc. (“Defendant” or “Love’s”) pursuant to Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §2000 et seq. (“Title VII”) and §1981a to correct unlawful employment practices on the basis of sex.

2. Plaintiff-Intervenor, Michelle Medina is a former employee of Defendant and was subjected to such unlawful employment practices of Defendant, including sexual harassment, retaliation and unlawful discharge.

II. JURISDICTION AND VENUE

3. Plaintiff-Intervenor Medina brings her cause of action pursuant to Title VII and §102 of the Civil Rights Act of 1991, 42 U.S.C. §1981a and the Tennessee Human Rights Act, T.C.A. §4-21-101 et seq. This Court has jurisdiction pursuant to 28 U.S.C. §1331 as a federal question and pursuant to 28 U.S.C. §1343(4) in protection of civil rights. Plaintiff-Intervenor Medina has the statutory right to intervene in the instant action pursuant to §706(f)(1) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §2000e-5(f)(1). The Court has jurisdiction over Plaintiff-Intervenor Medina's pendant state claims pursuant to 28 U.S.C. §1367.

4. Defendant Love's is an employer within the meaning of §701(b), (g) and (h) of Title VII, 42 U.S.C. §§2000e(b), (g) and (h) and the Tennessee Human Rights Act ("THRA").

5. Plaintiff-Intervenor Medina filed her Charge of Discrimination with the EEOC on July 29, 2004.

6. On September 7, 2005, the EEOC issued a Determination as to the merits of Ms. Medina's Charge, finding reasonable cause to believe that Defendant violated Title VII by subjecting her and other women to sexual harassment and by terminating Ms. Medina because of her sex and in retaliation for opposing the discrimination. A true and correct copy of the Determination is attached hereto as Exhibit A.

7. On or about September 22, 2005, Ms. Medina received notice that the EEOC's attempt to conciliate with Love's had failed. A true and correct copy of the EEOC's Notice of Conciliation Failure is attached hereto as Exhibit B.

8. Venue is proper in this Court pursuant to 42 U.S.C. §2000e-5 and 28 U.S.C. § 1391(b) because Defendant Love's maintains a business office in this judicial district

and a substantial part of the events or omissions giving rise to Plaintiff-Intervenor Medina's claims occurred in this judicial district.

III. PARTIES

9. Plaintiff-Intervenor Michelle Medina is a resident of the State of Illinois, residing in Oak Forest, Cook County.

10. Plaintiff Equal Employment Opportunity Commission ("EEOC"), the federal agency charged with the administration, interpretation and enforcement of Title VII, brought the instant action pursuant to §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 §102 of the Civil Rights Act of 1991, 42 U.S.C. §1981a.

11. Plaintiff-Intervenor Tracie Lewellen intervened in this action pursuant to § 706(f)(1) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e-5(f)(1) and the Tennessee Human Rights Act.

12. Defendant Love's Travel Stops & Country Stores, Inc. ("Defendant" or "Love's") is a foreign corporation with its principal place of business located at 10601 N Pennsylvania, Oklahoma City, OK 73120. Defendant is registered with the State of Tennessee under the same name and conducts business in the State of Tennessee under that name.

IV. STATEMENT OF RELEVANT FACTS

13. Defendant Love's, at all relevant times, operated Love's Travel Stops & Country Stores, Inc. in Christiana, Rutherford County, Tennessee, and employed Michelle Medina as a cashier.

14. Freddie Crutchfield, at all relevant times, was employed by Defendant Love's as General Manager of its Christiana, Tennessee store.

15. Beginning on or before July 7, 2004, and continuing through July 27, 2004, the General Manager of Defendant Love's made inappropriate unwelcome sexual comments to Ms. Medina including but not limited to lewd comments about her body, and graphic sexual proposals and advances.

16. Beginning on or before June 28, 2004, and continuing through July 26, 2004, the General Manager of Defendant Love's inappropriately touched Ms. Medina including but not limited to rubbing himself against her and grabbing her on more than one occasion.

17. When Ms. Medina told Mr. Crutchfield to stop the inappropriate comments and touching, Mr. Crutchfield replied, "get used to it, you work at a truck stop" and the offensive conduct continued.

18. Defendant terminated Ms. Medina because of her sex and in retaliation for rejecting and opposing sexual advances and touching by Defendant's managers.

19. On at least one occasion, a general manager of another Love's store also made sexual advances towards Ms. Medina.

20. Other female employees were also subjected to unwelcome sexual comments and touching by Mr. Crutchfield and other managers.

21. On or about July 20, 2004, Mr. Crutchfield took statements from three other female employees who complained of sexual harassment by another store manager. Ms. Medina was also subjected to sexual harassment by this manager, but told Mr. Crutchfield that she preferred to speak about her complaints with the district manager, who was scheduled to visit the Murfreesboro store on July 28, 2004. Approximately seven days after telling Mr. Crutchfield that she intended to speak with the district manager and on the day before the district manager was scheduled to be in the store, Mr. Crutchfield terminated Ms. Medina.

22. The unlawful conduct alleged above was unwelcome, deliberate and offensive to Ms. Medina and would be found by a reasonable person to be deliberate, unwelcome and offensive.

23. Ms. Medina attempted to report the misconduct to the district manager who never returned any of her numerous voicemails.

24. The unlawful conduct alleged above was sufficiently severe or pervasive to create a hostile working environment for the Plaintiff-Intervenor Medina which altered the terms or conditions of her employment, and Defendant Love's failed to take adequate corrective or remedial action in response to such unlawful conduct, in violation of Title VII and the THRA.

25. Defendant Love's unlawfully discharged Ms. Medina on July 28, 2004 because of her sex, female, and in retaliation for opposing sexual harassment.

26. Defendant Love's did not have a readily accessible and effective policy for reporting and resolving complaints of sexual harassment.

27. As a result of the actions alleged above, Plaintiff-Intervenor Medina has suffered and will continue to suffer emotional distress, loss of enjoyment of life, loss of reputation and humiliation.

COUNT I

TITLE VII-SEXUAL HARASSMENT AND CONSTRUCTIVE DISCHARGE

28. Plaintiff-Intervenor Medina incorporates and re-alleges Paragraphs 1 through 26 of this Complaint as is fully set forth herein.

29. By the unlawful acts alleged above, Defendant Love's has violated Title VII and the THRA.

30. As a direct and proximate result of Defendant Love's unlawful acts, Plaintiff-Intervenor has sustained and is reasonably likely to sustain in the future irreparable

harm in the form of pecuniary and nonpecuniary losses including but not limited to lost wages and benefits, emotional pain, suffering, inconvenience, humiliation, loss of enjoyment of life, loss of reputation, medical and counseling expenses, and attorneys' fees and expenses.

31. Defendant Love's acted with malice or with reckless indifference to Plaintiff-Intervenor Medina's right not to be discriminated against, thus making appropriate an award of punitive damages to punish Defendant Love's and to deter Defendant Love's and others from like conduct. Such malice or reckless indifference is part of a pattern of conduct engaged in by Defendant Love's on other, similar occasions.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff-Intervenor Medina prays that this Court enter Judgment pursuant to Title VII and the THRA in her favor and against Defendant Love's and enter an order:

- a. Declaring all acts described herein in violation of Title VII and the THRA;
- b. Enjoining and permanently restraining Defendant Love's from continued violation of Title VII and the THRA;
- c. Directing Defendant Love's to take such affirmative action as is necessary to ensure that the effects of these unlawful practices are eliminated and do not continue to affect Plaintiff-Intervenor Medina's employment opportunities;
- d. Requiring Defendant Love's to compensate, reimburse, and make whole Plaintiff-Intervenor Medina for full value of all pecuniary and nonpecuniary damages she has sustained in the past, and is reasonably certain to sustain in the future, including, but not limited to, any and all back pay and benefits, front pay, and any medical and counseling expenses, embarrassment, humiliation, loss of enjoyment of life, potential loss of reputation, and all consequent damages;

e. Awarding Plaintiff-Intervenor Medina punitive damages in such sum as is appropriate to punish Defendant and to deter Defendant and others from like conduct in the future;

f. Awarding Plaintiff-Intervenor Medina the costs of this action, prejudgment interest and reasonable attorneys' fees; and

g. Such further and other relief as the Court deems just and proper.

Respectfully submitted,

/s/ Donna L. Roberts

Donna L. Roberts
STITES & HARBISON, PLLC
424 Church Street, Suite 1800
Nashville, TN 37219
615.782.2200

Counsel for Plaintiff-Intervenor Michelle Medina

CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing has been sent via U.S. Mail,
postage prepaid to:

David P. Knox
Ford & Harrison, LLP
795 Ridge Lake Boulevard, Suite 300
Memphis, TN 38120

Counsel for Love's Travel Stops & Country Store, Inc.

Celia S. Liner
Equal Employment Opportunity Commission
1407 Union Avenue, Suite 621
Memphis, TN 38104

Counsel for Plaintiff Equal Employment Opportunity Commission

Executed this 9th day of January, 2006.

/s Donna L. Roberts

Donna L. Roberts

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