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EQUAL EMPLOYMENT OPPORTUNITY

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IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

Equal Employment Opportunity
Commission,

Plaintiff,

vs.

Dee's, Inc., d/b/a Dee's Family
Restaurants

Defendant.

COMPLAINT AND JURY TRIAL
DEMAND

Judge Paul G. Cassell

DECK TYPE: Civil

DATE STAMP: 03/31/2005 @ 15:49:10

CASE NUMBER: 2:05CV00282 PGC

NATURE OF ACTION

This is an action under Title VII of the Civil Rights Act of 1964 and Title I of the Civil Rights Act of 1991 to correct unlawful employment practices on the bases of sex, female, and retaliation and to provide appropriate relief to Diann Dutweiler, Breeanna Bonnell, Karanette Gallegos, and a class of females who were adversely affected by such practices. Ms. Dutweiler, Ms. Bonnell, Ms. Gallegos and other female employees were discriminated against by Dee's, Inc. when they were sexually harassed and subjected to a sexually hostile work environment. In addition, Ms. Bonnell was retaliated against because she opposed the harassment and was terminated.

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 Section 102 of the Civil Rights Act of 1991, 42 U.S.C. §1981a.

2. The employment practices alleged to be unlawful were, and are now being committed within the jurisdiction of the United States District Court for the District of Utah, Central Division.

PARTIES

3. Plaintiff, the Equal Employment Opportunity Commission (the "Commission"), 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 (3) and 707 of Title VII, 42 U.S.C. §§ 2000e-5(f)(1) and (3) and 2000e-6.

4. At all relevant times, defendant Dee's, Inc., d/b/a Dee's Family Restaurant ("Defendant" or "Dee's") has continuously been a Utah corporation doing business in the State of Utah and the city of Midvale and has continuously had at least 15 employees.

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, Diann Dutweiler, Breeanna Bonnell and Karanette Gallegos 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 2001, Defendant has engaged in unlawful employment practices at its Midvale, Utah facility, in violation of Section 703(a) of Title VII, 42 U.S.C. § 2000e-2(a), subjecting Ms. Dutweiler, Ms. Bonnell, Ms. Gallegos and a class of female employees to sexual harassment and a hostile work environment due to sexual harassment. The sexual harassment includes, but is not limited to, a co-worker:

- a. Hugging female employees;
- b. Putting his arms around female employees' waists;
- c. Rubbing up against female employees from behind while having an erection; and
- d. Groping female employees in a sexual manner

8. Since at least August 2003, Defendant has engaged in unlawful retaliatory practices in violation of Section 704(a) of Title VII, 42 U.S.C. § 2000e-3(a) by terminating Ms. Bonnell because she complained of sexual harassment.

9. Although employees complained to management and Dee's had knowledge of the harassment described above, it failed to exercise reasonable care to prevent and/or correct promptly any discrimination on the basis of sex.

10. The effect of the practices complained of in paragraphs 7-9 above has been to deprive Ms. Dutweiler, Ms. Bonnell, Ms. Gallegos and a class of females of equal

employment opportunities and otherwise adversely affect their status as employees because of their sex and in retaliation against Ms. Bonnell for opposing practices made unlawful by Title VII.

11. The unlawful employment practices complained of in paragraphs 7-9 above were and are intentional.

12. The unlawful employment practices complained of in paragraphs 7-9 were done with malice or with reckless indifference to the federally protected rights of Ms. Dutweiler, Ms. Bonnell, Ms. Gallegos and a class of females.

PRAYER FOR RELIEF

WHEREFORE, the Commission respectfully requests that this Court:

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

B. Order Defendant to institute and carry out policies, practices, and programs which provide equal employment opportunities for women and those who oppose unlawful employment discrimination, and which eradicate the effects of its past and present unlawful employment practices.

C. Order Defendant to make whole Ms. Bonnell by providing appropriate backpay 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, their rightful place reinstatement.

D. Order Defendant to make whole Ms. Dutweiler, Ms. Bonnell, Ms. Gallegos and a class of females by providing compensation for past and future non-

pecuniary losses resulting from the unlawful practices complained of in paragraphs 7-9 above, including emotional pain, suffering, inconvenience, loss of enjoyment of life and humiliation, in amounts to be determined at trial.

E. Order Defendant to pay Ms. Dutweiler, Ms. Bonnell, Ms. Gallegos and a class of females punitive damages for its malicious and/or reckless conduct, described in paragraphs 7-9 above, in amounts to be determined at trial.

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

H. Award the Commission its costs of this action.

JURY TRIAL DEMAND

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

RESPECTFULLY SUBMITTED this _____ day of March, 2005.

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