

F#9676

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION

EQUAL EMPLOYMENT)
OPPORTUNITY COMMISSION,)
)
Plaintiff)
)
v.)
)
HILL BROTHERS CONSTRUCTION)
AND ENGINEERING COMPANY, INC.)
)
Defendant)
)
* * *)
)
DOUGLAS ERIC SMITH,)
)
Intervenor)

DOCKET NO. 3:05-cv-122-M-A

COMPLAINT IN INTERVENTION

The intervenor Douglas Eric Smith, by and through his attorneys Branch, Thompson, Philhours & Warmath, P.A., and for his Complaint in Intervention, states:

A. Parties, Jurisdiction and Venue

1. The intervenor Douglas Eric Smith (hereinafter "Smith") is an individual and a resident of Walnut Mississippi.
2. The defendant Hill Brothers Construction and Engineering Company, Inc. (hereinafter "Hill Brothers"), is a corporation with its primary place of business in Mississippi, with more than 15 employees at all times relevant to this matter.

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3. From 2001 to July 2002, Smith was an employee of Hill Brothers in Faulkner, Mississippi.

4. This Court has jurisdiction over the parties and subject matter of this action, and venue is proper in this Court.

B. Factual Statement

5. As employee of Hill Brothers, Smith's primary job duties involved driving trucks and transporting equipment and parts for Hill Brothers. Smith's supervisor was Greg Witt.

6. During the period of Smith's employment, Smith was subjected to repeated and continued sexual harassment by Witt. Witt's actions included exposing his penis in the presence of Smith, suggesting to Smith that he engage in sexual activity with Witt, touching Smith in a sexually provocative manner, and making repeated sexual comments to Smith. None of Witt's actions were welcome or elicited by Smith.

7. Smith requested that Witt cease this conduct, and Witt refused. Shortly before Smith left Hill Brothers, Witt summoned Smith and three other employees to a hotel room to receive their paychecks, often exposing himself.

8. Smith advised Witt this conduct was unwelcome, but it continued. Smith also made a complaint to an employee at Hill Brothers named Tina Robinson, who was designated to receive claims and concerns involving employment discrimination. This complaint was ignored.

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9. Smith's working conditions were so intolerable that a reasonable person similarly situated would have felt compelled to resign. Smith did resign from Hill Brothers.

D. Claim for Relief

10. This Court should hold Hill Brothers liable to Smith for sexual harassment pursuant to the Civil Rights Act of 1964, 42 U.S.C. § 2000e *et seq.*

11. Smith filed a Charge of Discrimination with the Equal Employment Opportunity Commission within 90 days of his constructive termination from Hill Brothers. All administrative prerequisites to the filing of this lawsuit have been exhausted.

12. This Court should award Smith the following relief: backpay, compensatory damages for emotional distress and humiliation, equitable relief including front pay, attorneys fees, and court costs.

13. The actions of Hill Brothers were intentional, willful, wanton, reckless, and malicious. This Court should award Smith punitive damages.

E. Jury Trial Demand

14. Pursuant to Fed. R. Civ. P. 38, Smith requests a jury trial on any and all issues so triable.

WHEREFORE, the plaintiff Douglas Eric Smith prays that this Court grant all relief requested in this Complaint in Intervention; prays that this Court hold the defendant liable for violation of the Civil Rights Act of 1964; prays that this Court award him backpay, compensatory damages for emotional distress and

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humiliation, equitable relief including front pay, and punitive damages; prays that this Court award him attorneys fees, court costs and all other proper relief.

VERIFICATION

Comes the undersigned and being first duly sworn states on oath that the above and foregoing matters are true and correct as he verily believes.

_____/s/ Douglas Eric Smith_____
Douglas Eric Smith

STATE OF MISSISSIPPI)
COUNTY OF _____)

Subscribed and sworn to before me on this ____ day of

My Commission Expires:

Notary Public

BRANCH, THOMPSON, PHILHOURS & WARMATH
A Professional Association
414 West Court Street
Paragould, Arkansas 72450
870-239-9581

By:_____/s/ Kimberly B. Dale_____
Robert F. Thompson III (Ark. Bar No. 97232)
Kimberly B. Dale (Ark. Bar No. 2003195)
Attorneys for intervenor Eric Douglas Smith

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Certificate of Service

I, Kimberly B. Dale, certify that I have served a copy of the foregoing by through the ECF system on this 17th day of October 2007:

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_____/s/ Kimberly B. Dale_____
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