
**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
MIDDLE DIVISION**

**EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,**

Plaintiff,

SHEENA CRANFORD,

Intervenor,

vs.

TYSON FOODS, INC.

Defendant.

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CASE NUMBER:

CV 05-S-1090-M

JURY TRIAL DEMANDED

**COMPLAINT IN INTERVENTION
OF SHEENA CRANFORD**

I.

INTRODUCTION

This is an action for legal and equitable relief brought pursuant to Title VII of the Civil Rights Act of 1964, as amended (“Title VII”), to redress unlawful employment practices committed by the Defendant, Tyson Foods, Inc. (“Tyson”). Specifically, Tyson discriminated against the Plaintiff, Sheena Cranford (“Cranford”) and/or otherwise deprived Cranford of the rights secured by Title VII by, among other things, (1) subjecting Cranford to unlawful harassment, (2) subjecting Cranford to a hostile working environment, and (3) constructively discharging Cranford because of her sex.

II.

JURISDICTION AND VENUE

1. The jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 451, 1331, 1337, 1343, 1345 and 42 U.S.C. 2000e et. seq.

2. The unlawful employment practices alleged herein were all committed by Tyson within the jurisdiction of the United States District Court for the Northern District of Alabama, Middle Division.

III.

STATEMENT OF THE PARTIES

3. The Equal Employment Opportunity Commission (the “EEOC”), one of the Plaintiffs in this suit, is an agency of the United States of America charged with the administration, interpretation and enforcement of Title VII.

4. Cranford is a female individual over the age of nineteen years, a citizen of the United States, and a resident of the State of Alabama.

5. Tyson was an employer of Cranford during the time period pertinent to this lawsuit. At all times material to the issues in this case, Tyson employed more than fifteen (15)

people, and, thus, qualifies as an “employer” for Title VII purposes.

IV.

STATEMENT OF FULFILLMENT OF ALL ADMINISTRATIVE PREREQUISITES

6. More than thirty (30) days prior to the institution of this lawsuit, on or about November 6, 2003, Cranford filed a Charge of Discrimination with the EEOC alleging violations of Title VII by Tyson.
7. Tyson was given notice of the charge and responded to the same on or about December 15, 2003.
8. On or about September 24, 2004, the EEOC determined that there was reasonable cause to believe that Cranford was subjected to unlawful harassment by Tyson and was constructively discharged by Tyson because of her sex.
9. The EEOC attempted to conciliate Cranford’s charge. However, on or about October 13, 2004, the EEOC notified Cranford and Tyson that conciliation had been unsuccessful.
10. All administrative prerequisites to this suit have been satisfied and met.

V.

FACTUAL ALLEGATIONS

11. Cranford was hired by Tyson on or about April 14, 2003 as a production line worker. During the duration of her employment, Cranford was subjected to unwelcome sexual harassment and was subjected to a hostile working environment.

12. The sexually harassing, unwelcome and inappropriate conduct Cranford endured during her employment with Tyson included, but was not limited to, the following:
 - A. Almost immediately upon her employment with Tyson, Rogelio Ortiz and other Hispanic co-workers began to make sexually explicit comments and gestures to Cranford.

 - B. As called for (and in fact required) by Tyson's harassment policy, Cranford reported this conduct to Tyson management.

 - C. Despite her report, no effective investigation was done and the problems did not stop. In fact, they escalated.

 - D. Ortiz - the same person who was verbally harassing Cranford - cornered Cranford and physically placed his hand down her shirt. Vicki Snead, the

second shift superintendent and a member of Tyson's management team, actually witnessed this happen. However, Ortiz was not terminated. In fact, nothing was done to prevent this from happening again.

- E. Ortiz and other Hispanic workers continued to jeer at and proposition Cranford. At one point, Ortiz sexually propositioned Cranford in the break room. When she refused, he grabbed her son's Easter basket and she had to follow him to retrieve it. Once again, this conduct was reported to Tyson management. Once again, nothing was done.
- F. On another occasion, Ortiz followed Cranford to her car after their shift ended. Once again, he forced himself on Cranford, this time inserting his hands in her shirt and down her pants. Cranford tried to push Ortiz off but to no avail.
- G. This incident was promptly reported to Tyson management and to the Albertville police department. Although criminal charges were filed by Cranford, Ortiz was not terminated. His shift was not even changed. In fact, Ortiz was placed on the same line beside Cranford to do his work.
- H. Ortiz was criminally convicted on September 9, 2003. He was given a 30 day jail sentence, and placed on probation for 24 months. Based on knowledge,

information and belief, Ortiz was not fired after his criminal conviction.

13. Not only was the conduct of Rogelio Ortiz and other co-workers utterly deplorable, but Tyson management officials (including, but not limited to, Terry Wester and Vickie Snead) turned a blind eye to the situation and failed to protect Cranford.
14. Cranford properly and promptly reported the sexually harassing, unwelcome and inappropriate conduct she endured to Tyson management officials.
15. Although Tyson had knowledge of the harassment Cranford suffered, it utterly failed to take prompt and effective remedial action. This lack of action contributed to the hostile work environment and sexual harassment experienced by Cranford.
16. Further, Tyson failed to exercise reasonable care to prevent and correct promptly the harassing behavior. This lack of action contributed to the hostile work environment and sexual harassment experienced by Cranford.
17. The effect of the practices complained of has been to deprive Cranford of equal employment opportunities and otherwise adversely affect her status as an employee.
18. The actions of Tyson complained of were intentional and were committed with malice and/or with a reckless disregard for the federally protected rights of Cranford.

19. As a result of the Tyson's actions, Cranford has suffered emotional distress, mental anguish, embarrassment, humiliation, inconvenience, loss of enjoyment of life and loss of earnings, income and benefits.

VI.

COUNT ONE - SEXUAL HARASSMENT IN VIOLATION OF TITLE VII

20. Cranford re-alleges and incorporates by reference paragraphs 1 through 19 with the same force and effect as if fully set out in specific detail herein below.
21. The harassment suffered by Cranford was unwelcome and was severe and pervasive enough to adversely affect the terms and conditions of Cranford's employment.
22. Tyson knew or should have known of the sexually harassing, unwelcome and inappropriate conduct Cranford endured and did not take prompt, effective remedial action. Further, Tyson failed to exercise reasonable care to prevent and correct promptly the harassing behavior. Therefore, Tyson is liable for violating the proscription against discrimination on the basis of sex found in Title VII.

VII.

COUNT TWO - HOSTILE WORK ENVIRONMENT

23. Cranford re-alleges and incorporates by reference paragraphs 1 through 22 with the same force and effect as if fully set out in specific detail herein below.
24. The abusive, hostile and threatening behavior Cranford endured was severe and pervasive enough to create a hostile work environment that adversely affected the terms and conditions of Cranford's employment.
25. Tyson knew, or should have known, of the hostile work environment, and did not take prompt, effective remedial action. Further, Tyson failed to exercise reasonable care to prevent and correct promptly the underlying behavior.

VIII.

COUNT THREE - CONSTRUCTIVE DISCHARGE

26. Cranford re-alleges and incorporates by reference paragraphs 1 through 25 with the same force and effect as if fully set out in specific detail herein below.
27. Cranford avers that the discriminatory actions of Tyson, including the sexual harassment and hostile work environment, and the failure of Tyson to promptly and

effectively remedy the same, caused Cranford to resign from her employment and, therefore, amounted to a constructive discharge.

IX.

PRAYER FOR RELIEF

WHEREFORE, Cranford respectfully prays that this Court will assume jurisdiction of this matter, and:

- a. Issue a declaratory judgment that the employment policies and practices, conditions, and customs of the Defendant at issue in this matter are violative of Cranford's rights as secured by Title VII.
- b. Grant Cranford a permanent injunction enjoining the Defendant, its agents, successors, employees and assigns from continuing to violate Cranford's federally protected rights.
- c. Enter an Order requiring the Defendant to make Cranford whole by awarding her the position, salary, seniority and benefits she would have had in the absence of discrimination and/or constructive discharge.

- d. Enter an Order awarding Cranford any and all declaratory, equitable and/or injunctive relief she may be entitled to.

- e. Enter an Order awarding Cranford any and all nominal damages, back pay, front pay, interest, compensatory, liquidated and punitive damages she may be entitled to.

- f. Cranford further prays for such other relief that she may be entitled to, including, but not limited to, an award of costs, attorneys' fees and expenses.

X.

JURY DEMAND

Cranford hereby demands a trial by jury on all issues so triable in this matter.

/s/ Jeffrey B. Carr
JEFFREY B. CARR (CARRJ8004)
Attorney for Sheena Cranford

OF COUNSEL:

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been served upon:

Mason D. Barrett
Senior Trial Attorney for the EEOC
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David M. Smith
Attorney for Tyson Foods, Inc.
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via facsimile, and by placing the same in the United States Mail, postage pre-paid and properly addressed, this the 5th day of October, 2005.

/s/ Jeffrey B. Carr

JEFFREY B. CARR (CARRJ8004)

Attorney for Sheena Cranford