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FILED
U.S. DISTRICT COURT
EASTERN DISTRICT ARKANSAS

DEC 18 2000

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION

JAMES W. McCORMACK, CLERK
By: *[Signature]* DEPT. CLERK

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION

PLAINTIFF

VS.

CASE NO. 5:00-CV-00356

AFFILIATED FOODS SOUTHWEST, INC.
d/b/a THRIFTWAY FOODS, INC.

DEFENDANT

JACKQUILINE STOKES

INTERVENOR

COMPLAINT IN INTERVENTION
ON BEHALF OF JACKQUILINE STOKES

Come now the Intervenor, Jackquiline Stokes, by and through her attorneys, Cross, Kearney & McKissic, and for her Complaint in Intervention, state:

INTRODUCTORY STATEMENT

This is an action to redress employment discrimination based upon sex (sexual harassment; hostile environment); for retaliation for complaints of sexual harassment, and for a permanent injunction prohibiting Defendant from engaging in policies and practices contained herein in violation of 42 U.S.C. §2000e. et. Seq., the Equal Employment Opportunity Act (EEOA) (as amended by the Civil Rights Act of 1991) and the Arkansas Civil Rights Act of 1993, A.C.A. 16-123-101, et. seq; and for practices complained of under the Arkansas common law tort of Outrage; for full loss wages, liquidated damages, benefits, damages for pain and suffering, punitive damages, costs and attorney's fees, and any and all other benefits to which the Plaintiff would have been entitled had she not been the victim of sexual harassment and retaliation, and for emotional distress resulting from the Defendant's behavior.



JURISDICTION

1. The jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 1331, 1343(3) and (4), and under 42 U.S.C. § 2000e, et seq., the Equal Employment Opportunity Act. Plaintiff also seeks relief under Title VII of the 1964 Civil Rights Act, and the Civil Rights Act of 1991 as the same pertains to discrimination based on sex, sexual harassment and retaliation; and for a declaratory judgment under 28 U.S.C. §§ 2201 and 2202, declaring that the Defendant has discriminated against her in the terms and conditions of her employment. This Court also has jurisdiction over the Plaintiff's state law claims brought pursuant to the Arkansas Civil Rights Act of 1993, A.C.A. 16-123-101, et seq. And for the torts of Outrage pursuant to the plenary power of this Court to invoke its pendant jurisdiction over causes of action arising under Arkansas law.

Plaintiff claim an unconditional right to Intervene in this action pursuant to Rule 24(a) of the Federal Rules of Civil Procedure. See also EEOC v. Century I.L.C., 142 F.R.D. 494 (D.C. Kan1992); EEOC v. Contour Chair Lounge Co., 596 F. 2d 809 (8th Cir. 1979); Nevilles v. EEOC, 511 F. 2d 303 (8th Cir. 1975); 42 U.S.C. 2000e-5(f)(1).

2. Plaintiff filed a timely charge of discrimination with the Equal Employment Opportunity Commission (EEOC) on or about February 11, 1998. On or about September 27, 2000, the EEOC initiated this lawsuit. All conditions precedent to the institution of this Intervention and the initial EEOC lawsuit have been fulfilled.

PARTIES

3. Intervention, Jackquiline Stokes, is and was at all times relevant hereto a citizen of the United States and a resident of Pine Bluff, Jefferson County, Arkansas, and is a protected person within the meaning of 42 U.S.C. §2000e-2 and the Arkansas Civil Rights Act of 1993, A.C.A. 16-123-101, et seq.

4. At all relevant times, Defendant, Affiliated Foods, corporation doing business in the State of Arkansas and the City of Pine Bluff and has continuously had at least fifteen (15) employees.

5. At all relevant times, Defendant Employer has continuously been and is now an employer engaged in an industry affecting commerce within the meaning of §701(b), (g), and (h) of Title VII, 42 U.S.C. §§2000e(b), (g), and (h).

FACTS

6. From on or about August of 1995 and continuing, Defendant, by and through its agents and employees, has engaged in unlawful employment practices at its Pine Bluff, Arkansas facility, in violation of 42 U.S.C. §2000e-2(a). The unlawful practices include, but are not limited to discrimination against each of the individual Plaintiffs on the basis of their sex in that each was subjected to a sexual hostile work environment.

7. The harassment included, but was not limited to, sexual touching, sexual explicit words, sexual jokes, abusive language, and requests for sexual favors.

8. The unlawful practices complained of herein were and are intentional. Further, the Defendant at all relevant times acted with malice or reckless indifference to the rights of Plaintiffs.

9. As a result of the Defendant's conduct, Plaintiff has suffered psychological and emotional distress, lost wages, lost benefits and other opportunities associated with their employment, and other expenses, for which she seeks damages as set forth, infra.

COUNT I

VIOLATIONS OF TITLE VII, 1964 CIVIL RIGHTS ACT, SEXUAL DISCRIMINATION/HARASSMENT

10. Intervenor restate and incorporate by reference the preceding paragraphs of her Complaint as set forth herein word for word.

11. The Defendant, by and through its agents and employees, has discriminated against Jackquiline Stokes, and sexually harassed her because of her sex (female) in that Plaintiff as subjected to a sexually hostile work environment. Further, the intentional and consistent sexual harassment and the failure of the Defendant to adequately remedy the situation, despite knowledge thereof, also contributed to the sexually hostile working environment, which detrimentally affected the working conditions of the Plaintiffs and would have detrimentally affected a reasonable person in their positions.

COUNT II

RETALIATION IN VIOLATION OF 42 U.S.C. §2000e, et.seq.

12. Intervenor restate and incorporates by reference the preceding paragraphs of their Complaint as if set forth herein word for word.

13. As the direct result of Jackquiline Stokes' complaint of sexually inappropriate conduct in the workplace to her superiors, she was subjected to retaliation, as set forth, supra, all in violation of 42 U.S.C. §2000e, et.seq.

COUNT III

VIOLATION OF THE ARKANSAS CIVIL RIGHTS ACT

14. Intervenor restate and incorporate herein by reference the preceding paragraphs of her Complaint as if set forth herein verbatim.

15. The acts and omissions alleged herein are in violation of the Arkansas Civil Rights Act of 1993, A.C.A. 16-123-101, et. seq., in that the Intervenor was subjected to discrimination in the terms and conditions of her employment as the result of a sexually hostile environment and retaliation, for which they seek the relief set forth, infra.

COUNT IV

OUTRAGE

16. Intervenor restates and incorporates by reference the preceding paragraphs of her Complaint as if set forth herein word for word.

17. The actions of Defendant were an intentional infliction of emotional distress constituting the tort of outrage under the common law of the state of Arkansas.

18. Defendant intentionally discriminated against, subjected Plaintiff to a sexually hostile work environment and retaliated against Plaintiff for complaints thereof, and knew or should have known that their acts were extreme and outrageous and would cause humiliation and emotional distress. The conduct of Defendant, by and through its agents and servants, is beyond all possible bounds of decency and is utterly intolerable in a civilized society. These actions of the Defendant were the cause of severe emotional distress of Plaintiff and such distress was of such a nature that no reasonable person should be expected to endure it.

DAMAGES

19. Intervenor restate and incorporate by reference paragraphs 1 through 18, supra.

20. Intervenor, Jackqueline Stokes, has suffered individual damages in an amount in excess of the minimum amount for federal diversity jurisdiction (\$75,000 each) to be determined by a jury for the following elements.

- [a] Loss of employment compensation, benefits, and promotional opportunities, including salary raises commensurate with performance;
- [b] Loss of reputation and self-esteem;
- [c] Mental anguish and emotional distress; and
- [d] Other expenses incurred.

Additionally, Intervenor request punitive damages to be awarded in an amount to be

determined by a jury also in excess of the minimum Federal Diversity Jurisdictional amount (\$75,000.00).

WHEREFORE, Intervenor pray that this Court grant the following relief against the Defendant herein:

[a] Grant a jury trial for determination of whether the actions of the Defendant violated the rights of the Plaintiff as guaranteed by Title VII of the Civil Rights Act of 1964 and the Civil Rights Act of 1991, as well as the protections afforded under 42 U.S.C. §2000e, et.seq., and in violation of the Arkansas Civil Rights Act of 1993, A.C.A. 16-123-101, et.seq.;

[b] For a declaratory judgment that the acts of the Defendant violated the rights of the Plaintiff as guaranteed by Title VII of the 1964 Civil Rights Act and the protections afforded under 42 U.S.C. §2000e, et.seq., and in violation of the Arkansas Civil Rights Act of A.C.A. 16-23-101, et. seq.;

[c] Grant a permanent injunction preventing Defendant from engaging in the policies and practices complained of in violation of both 42 U.S.C. §2000e, et. seq., and Title VII of the Civil Rights Act of 1964 and the Civil Rights Act of 1991 and in violation of the Arkansas Civil Rights Act of 1993, A.C.A. 16-123-101, et. seq.;

[d] Award full lost wages, and interest thereon;

[e] Award punitive damages for the wilful, intentional and wanton discriminatory actions;

[f] Award compensatory damages for pain and suffering, mental anguish, medical and psychiatric expenses and all other damages to which Plaintiff is entitled;

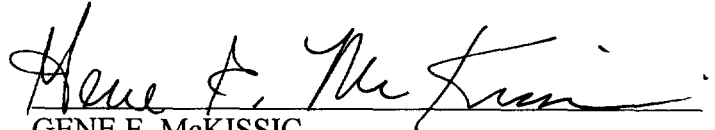
[g] Award attorney's fees and costs as allowed under 42 U.S.C. §2000e-5(k); and

[h] Grant Plaintiff all other relief the Court deems necessary and proper.

INTERVENOR DEMAND A JURY TRIAL.

Respectfully submitted,

BY:


GENE E. McKISSIC

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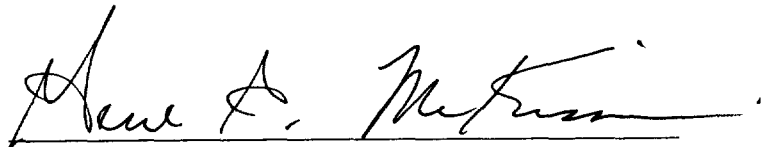
CERTIFICATE OF SERVICE

I, Gene E. McKissic, hereby certify that I have mailed a true and correct copy of the foregoing document via United States mail, postage pre-paid, to the following counsel of record:

Mr. Spencer F. Robinson
Attorney at Law
Post Office Box 8509
Pine Bluff, Arkansas 71611

Mr. C. Gregory Stewart
General Counsel
Equal Employment Opportunity Commission
1407 Union Avenue, Suite 621
Memphis, Tennessee 38104

on this 21st day of November, 2000.


GENE E. McKISSIC