

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Civil Action No.:

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,

Plaintiff,

v.

MORELAND AUTO GROUP, LLP d/b/a KIDS AUTOMOTIVE, INC., KIDS FINANCIAL,
INC., AND BRANDON FINANCIAL, INC.

Defendant.

COMPLAINT and JURY TRIAL DEMAND

NATURE OF THE ACTION

This is a public enforcement action to correct (1) the unlawful employment practice of maintaining a hostile work environment based on gender in violation of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, *et. seq.* (“Title VII”), and Title I of the Civil Rights Act of 1991, 42 U.S.C. § 1981a, and (2) the unlawful employment practice of retaliating against employees for complaining about discrimination, in violation of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e-3. This action seeks to provide appropriate relief to Georgene Wayne, Nancy Castanon, and similarly situated individuals adversely affected by such practices. Plaintiff, the U.S. Equal Employment Opportunity Commission (“EEOC”), contends Defendant, Moreland Auto Group, LLP d/b/a Kids Automotive, Inc., Kids Financial, Inc., and Brandon Financial, Inc. (“Kids Automotive”) has discriminated against Charging Parties and similarly situated individuals, because of their gender, female, by subjecting them to

sexual harassment and a hostile work environment, by failing to take prompt remedial action intended to eliminate the sexual harassment, and by retaliating against Wayne and Castanon for complaining about the hostile work environment, all in violation of Title VII.

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 703(a), 704, 706(f)(1), 706(f)(3), of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §§ 2000e-2(a), 2000e-3, 2000e-5(f)(1), 2000e-5(f)(3), and Section 102 of the Civil Rights Act of 1991, 42 U.S.C. §1981a.

2. The employment practices alleged to be unlawful were committed within the jurisdiction of the United States District Court for the District of Colorado.

PARTIES

3. Plaintiff EEOC 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 706(f)(3) of Title VII, 42 U.S.C. §§ 2000e-5(f)(1) and (3).

4. At all relevant times, Defendant has continuously been and is now doing business in the State of Colorado and has continuously had at least fifteen (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).

6. The female employees who filed the charges of discrimination with the EEOC will be hereafter referred to as “Wayne” and “Castanon.”

STATEMENT OF CLAIMS

7. More than thirty days prior to the institution of this lawsuit, Georgene Wayne and Nancy Castanon, former employees of Defendant, filed charges of discrimination with the EEOC alleging violations of Title VII by Defendant. All conditions precedent to the institution of this lawsuit have been fulfilled.

First Claim: Sexual Harassment and Hostile Work Environment

8. Since at least 1996, Defendant has engaged in unlawful employment practices at its Denver, Colorado and Aurora, Colorado locations, in violation of section 703(a) of Title VII, 42 U.S.C. §2000e-2(a), by allowing its employees, including but not limited to several management level officials, to sexually harass Wayne, Castanon, and other female employees. This harassment altered the terms and conditions of employment and created a hostile work environment for Wayne, Castanon, and other similarly situated employees.

9. The unlawful sexual harassment was physical and verbal in nature.

10. The sexual harassment included, but was not limited to, the following acts:

- (a) using office computers to view pornographic Internet sites;
- (b) subjecting female employees to pornographic materials on work computers;
- (c) allowing male employees to keep pornographic magazines at work stations;
- (d) making lewd sexual comments at work events, including management meetings;
- (e) directing obscene gestures at female employees, such as pointing to male

genitals; and

- (f) allowing nude and pornographic pictures of women to be displayed in the work environment.

11. The offensive sexual conduct was sufficiently severe or pervasive as to alter the terms and conditions of employees subjected to the conduct.

12. The offensive sexual conduct in the workplace initiated and/or participated in by Defendant's employees, including but not limited to managers, constitutes sexual harassment.

13. The sexual harassment in the work place created a hostile work environment based on gender.

14. Defendant was aware of the sexual harassment and aware that some managers participated in the harassment.

15. Defendant failed to take reasonable measures to prevent and promptly correct sexual harassment in the workplace.

16. Defendant engaged in a pattern or practice of tolerating a sexually hostile work environment.

17. The effect of the events described above, including the sexual harassment by managers and Defendant's failure to promptly and adequately respond to employee complaints of sexual harassment pursuant to its sexual harassment policies and procedures, has been to deprive Wayne, Castanon, and other similarly situated individuals of equal employment opportunities.

18. The unlawful employment practices described above were intentional.

19. The unlawful employment practices described above were done with malice or

with reckless indifference to the federally protected rights of Wayne, Castanon and other similarly situated individuals.

Second Claim: Retaliation

20. Plaintiff realleges the foregoing paragraphs 1 to 19 of this Complaint.

21. Since at least 2003, Defendant has engaged in unlawful employment practices at its Denver, Colorado and Aurora, Colorado locations, in violation of section 704(a) of Title VII, 42 U.S.C. §2000e-3, by retaliating against Wayne and Castanon for complaining about discrimination.

22. Plaintiff asserts that Wayne and Castanon engaged in protected activities in that they opposed the sexual harassment and complained to managers and to the Equal Employment Opportunity Commission about the sexual harassment and the hostile work environment.

23. The retaliatory acts included, but were not limited to:

- (a) subjecting Wayne and Castanon to increased scrutiny on the job;
- (b) subjecting Wayne and Castanon to demotions including loss of professional titles and decrease in pay;
- (c) undermining Castanon's authority by managing and disciplining her staff without her knowledge or input and failing to inform or include her in at least one management meeting;
- (d) publicizing the claims brought by Wayne and Castanon to other employees, which resulted in ostracism by their coworkers; and
- (e) terminating Wayne and Castanon.

24. After Wayne and Castanon engaged in these protected activities, the sexual

harassment and hostile work environment escalated, and they were ultimately discharged.

25. The effect of the practices complained of in the paragraphs above has been to deprive Wayne and Castanon of equal employment opportunities based on their gender.

26. The unlawful employment practices complained of in the paragraphs above were intentional.

27. The unlawful employment practices complained of herein were done with malice or with reckless indifference to the federally protected rights of Wayne and Castanon.

28. Defendant failed to take reasonable measures to prevent retaliation against Wayne and Castanon by management.

29. Defendant retaliated against Wayne and Castanon for complaining about the sexual harassment.

PRAYER FOR RELIEF

WHEREFORE, the Commission respectfully requests that this Court:

A. Grant a permanent injunction enjoining Defendant, its officers, successors, assigns, and all persons in active concert or participation with it, from engaging in any employment policy or practice which creates a sexually hostile work environment or otherwise discriminates on the basis of gender, and from retaliating against employees who complain about discrimination;

B. Order Defendant to institute and carry out policies, practices, and programs which provide equal employment opportunities for women, and which eradicate the effects of its past unlawful employment practices, including retaliation;

C. Order Defendant to make whole Wayne and Castanon by providing appropriate

back pay with pre-judgment interest, in amounts to be determined at trial, and other affirmative relief necessary to eradicate the effects of its unlawful employment practices;

D. Order Defendant to make whole Wayne, Castanon and similarly situated individuals, by reinstating them in their previously held positions or the equivalent thereof or, in the alternative, by providing appropriate front pay in amounts to be determined at trial;

E. Order Defendant to make whole Wayne, Castanon and other similarly situated individuals, by providing compensation for past and future pecuniary losses resulting from the unlawful employment practices described above;

F. Order Defendant to make whole Wayne, Castanon and other similarly situated individuals, by providing compensation for past and future non-pecuniary losses, including emotional pain, suffering, inconvenience, mental anguish, loss of enjoyment of life and humiliation;

G. Order Defendant to pay Wayne, Castanon and other similarly situated individuals punitive damages for its malicious and/or reckless conduct described above, in amounts to be determined at trial;

H. Order Defendant and its successors to provide training to its officers, managers and employees regarding discriminatory harassment and retaliation in the workplace;

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

J. Award the Commission its costs in this action.

JURY TRIAL DEMAND

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

DATED this 25th day of September, 2006.

Respectfully submitted,

RONALD S. COOPER
General Counsel

U.S. EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION
1801 L Street, N.W.
Washington, D.C. 20507

MARY JO O'NEILL
Regional Attorney
Phoenix District Office

s/ Nancy A. Weeks
NANCY A. WEEKS
Supervisory Trial Attorney
EEOC Denver Field Office
303 E. 17th Ave., Suite 510
Denver, CO 80203
nancy.weeks@eeoc.gov
303-866-1947

LYNN

s/ Lynn Palma
PALMA
Senior Trial Attorney
lynn.palma@eeoc.gov
303-866-1347

PLEASE NOTE:
For the purposes of service upon the EEOC,
it is sufficient that pleadings, notices, and
court documents be served upon the
Trial Attorney