

FILED

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
FT. MYERS DIVISION

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U.S. DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FT. MYERS DIVISION

U.S. EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,)

Plaintiff,)

v.)

ACCULAB LABORATORIES, INC.)

d/b/a/)

ACCULAB)

Defendant.)

CIVIL ACTION NO.

2:04-cv-364-FTM-29 SPC

COMPLAINT

JURY TRIAL DEMANDED
INJUNCTIVE RELIEF SOUGHT

NATURE OF THE 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 basis of sex and retaliation, and to provide appropriate relief to Michelle Maus ("Ms. Maus") who was adversely affected by such practices. As stated with greater particularity in paragraph 7, the Commission alleges that Ms. Maus was subjected to sexual harassment by the brother and guest of Defendant's manager. The Commission further alleges that Defendant subsequently retaliated against Ms. Maus for complaining of the unlawful sexual harassment by terminating her employment with Defendant.

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 Section 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 committed within the jurisdiction of the United States District Court for the Middle District of Florida, Ft. Myers 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 Section 706(f)(1) and (3) of Title VII, 42 U.S.C. § 2000e-5(f)(1) and (3).

4. At all relevant times, Acculab Laboratories, Inc, d/b/a Acculab, a Nevada corporation, has continuously been doing business in the State of Florida and the City of Port Charlotte, and has continuously had at least 15 employees.

5. At all relevant times Acculab Laboratories, Inc. d/b/a Acculab 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, Michelle Maus filed a charge with the Commission alleging violations of Title VII by the Defendant. All conditions precedent to the institution of this lawsuit have been fulfilled.

7. Since at least January 2003, Defendant Employer engaged in unlawful employment practices at its Port Charlotte, Florida location in violation of Section 703(a) and Section 704(a) of Title VII, 42 U.S.C. §2000e-2(a) and §2000e-3(a).

a. These practices included, but were not limited to, permitting Ms. Maus, its employee, to be subjected to unwelcome physical and verbal conduct of a

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sexual nature which was sufficiently severe and pervasive to constitute an intimidating hostile and offensive work environment.

- b. The older brother and guest of Defendant's South Regional Supervisor Letty Moreno, ("Ms. Moreno") who was Ms. Maus' immediate Supervisor, subjected Ms. Maus to repeated, sexual harassment.
- c. Ms. Maus repeatedly complained about the sexual harassment to Ms. Moreno, who failed to take any action to correct the harassment. Ms. Maus ultimately complained to Barbara Kupp, Defendant's Director of Operations. Defendant failed to take appropriate corrective action in response to Ms. Maus' complaints of the unlawful sexual harassment.
- d. Further, Defendant retaliated against Ms. Maus for complaining of the unlawful sexual harassment by terminating her employment.

8. The effect of the conduct complained of in paragraph 7 above has been to deprive Ms. Maus of equal employment opportunities and otherwise adversely affect her status as an employee because of her sex and/or in retaliation for her opposition to unlawful employment practices.

9. The unlawful employment practices complained of in paragraph 7 above were intentional.

10. The unlawful employment practices complained of in paragraph 7 above were done with malice or with reckless indifference to the federally protected rights of Ms. Maus.

PRAYER FOR RELIEF

Wherefore, the Commission respectfully requests that this Court:

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

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

C. Order Defendant to make whole Michelle Maus by providing appropriate back pay 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 reinstatement and/or front pay.

D. Order Defendant to make whole Michelle Maus by providing compensation for past and future pecuniary losses resulting from the unlawful employment practices described in paragraph 7 above, including out of pocket losses in amounts to be determined at trial.

E. Order Defendant to make whole Michelle Maus by providing compensation for past and future nonpecuniary losses resulting from the unlawful practices complained of in paragraph 7 above, including emotional pain, suffering, inconvenience, humiliation, and loss of enjoyment of life, in amounts to be determined at trial.

F. Order Defendant to pay Michelle Maus punitive damages for its malicious and reckless conduct described in paragraph 7 above, in amounts to be determined at trial.

G. 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,

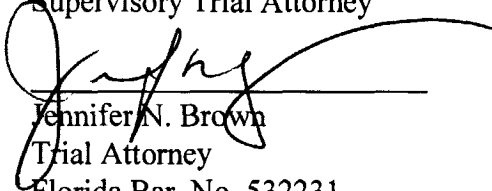
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