

04-60856

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA

CIVIL ACTION NO.: CIV-ALTONAGA

U.S. EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,

Plaintiff,

v.

DTG OPERATIONS, INC.
INC. d/b/a DOLLAR RENT A CAR,

Defendant.

~~URGENT~~ MAGISTRATE JUDGE PATRICK A
BANDSTRA
FILE

JUN 30 2004

CLARENCE MADDOX
CLERK, USDC / SDEL / MIA

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, as amended ("Title VII"), 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 Jessica Varela who was adversely affected by such practices. As stated with greater particularity in paragraph 7, the Commission alleges that Ms. Varela was subjected to sexual harassment by a management official of the Defendant corporation. The Commission further alleges that Defendant subsequently retaliated against Ms. Varela for complaining of the unlawful sexual harassment by terminating her employment.

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 Southern District of Florida, Ft. Lauderdale 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, DTG Operations, Inc. d/b/a Dollar Rent a Car, an Oklahoma corporation, **has continuously been doing business** in the State of Florida and the City of Ft. Lauderdale, **and has continuously had at least 15 employees.**

5. At all relevant times DTG Operations, Inc. d/b/a Dollar Rent A Car 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, Jessica Varela 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 September 2002, Defendant Employer engaged in unlawful employment practices at its Ft. Lauderdale, 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. Jessica Varela was subjected to sexual harassment by her direct supervisor in the form of unwelcome physical and verbal conduct of a sexual nature which was sufficiently severe and pervasive to constitute an intimidating, hostile and offensive work environment.
- b. Defendant retaliated against Jessica Varela for complaining of the unlawful sexual harassment by discharging her from her position.

8. The effect of the conduct complained of in paragraph 7 above has been to deprive Jessica Varela 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 Jessica Varela.

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 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 Jessica Varela 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 Jessica Varela 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 Jessica Varela 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 Jessica Varela 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,

ERIC S. DRIEBAND
General Counsel

JAMES L. LEE
Deputy General Counsel

GWENDOLYN YOUNG REAMS
Associate General Counsel

DELNER FRANKLIN-THOMAS
Regional Attorney

MICHAEL J. FARRELL
Supervisory Trial Attorney



JENNIFER N. BROWN
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EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION
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CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM)

04-60856
DEFENDANT

DTG Operations, Inc., d/b/a Dollar Rent a Car

CIV-ALTONAGA

I. (a) PLAINTIFFS

United States Equal Employment Opportunity Commission

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF
(EXCEPT IN U.S. PLAINTIFF CASES)

Broward 04-60856-CA

(c) ATTORNEYS (FIRM NAME, ADDRESS AND TELEPHONE NUMBER)
EEOC, One Biscayne Tower, Suite 2700
2 S. Biscayne Blvd., Miami, FL 33131
(305)530-6012

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT
(IN U.S. PLAINTIFF CASES ONLY)
NOTE: IN LAND CONDEMNATION CASES USE THE LOCATION OF THE TRACT OF LAND INVOLVED

ATTORNEYS (IF KNOWN)
MAGISTRATE JUDGE
BANDSTRA

NIGHT BOX
JUN 30 2004

(d) CIRCLE COUNTY WHERE ACTION AROSE: DADE, MONROE, BROWARD, PALM BEACH, MARTIN, ST. LUCIE, INDIAN RIVER, OKEECHOBEE, HIGHLANDS

II. BASIS OF JURISDICTION (PLACE AN "X" IN ONE BOX ONLY)

- 1 U.S. Government Plaintiff
- 2 U.S. Government Defendant
- 3 Federal Question (U.S. Government Not Party)
- 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN "X" IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

- | | | | | | |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. ORIGIN (PLACE AN "X" IN ONE BOX ONLY)

- 1 Original Proceeding
- 2 Removed from State Court
- 3 Remanded from Appellate Court
- 4 Reinstated or Reopened
- 5 Transferred from another district (specify)
- 6 Multidistrict Litigation
- 7 Appeal to District Judge from Magistrate Judgment

V. NATURE OF SUIT (PLACE AN "X" IN ONE BOX ONLY)

<h4>A CONTRACT</h4> <ul style="list-style-type: none"> <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans <input type="checkbox"/> 153 Recovery of Overpayment of Veterans Benefits <input type="checkbox"/> 190 Shareholders Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <h4>A REAL PROPERTY</h4> <ul style="list-style-type: none"> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Eminent Domain <input type="checkbox"/> 230 Lease & Ejectment <input type="checkbox"/> 240 Title to Land <input type="checkbox"/> 245 Title Product Liability <input type="checkbox"/> 290 All Other Real Property 	<h4>A TORTS</h4> <h5>PERSONAL INJURY</h5> <ul style="list-style-type: none"> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <h5>PERSONAL INJURY</h5> <ul style="list-style-type: none"> <input type="checkbox"/> 362 Personal Injury Med. Malpractice <input type="checkbox"/> 365 Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <h5>PERSONAL PROPERTY</h5> <ul style="list-style-type: none"> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability <h4>A CIVIL RIGHTS</h4> <ul style="list-style-type: none"> <input type="checkbox"/> 441 Voting <input checked="" type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing, Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 448 Other Civil Rights 	<h4>FORFEITURE/PENALTY</h4> <ul style="list-style-type: none"> <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other <h4>A LABOR</h4> <ul style="list-style-type: none"> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor Mgmt. Relations <input type="checkbox"/> 730 Labor Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act 	<h4>A BANKRUPTCY</h4> <ul style="list-style-type: none"> <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <h4>A PROPERTY RIGHTS</h4> <ul style="list-style-type: none"> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <h4>B SOCIAL SECURITY</h4> <ul style="list-style-type: none"> <input type="checkbox"/> 861 - A - 100% <input type="checkbox"/> 862 - A - 100% <input type="checkbox"/> 863 - A - 100% <input type="checkbox"/> 864 - A - 100% <input type="checkbox"/> 865 - A - 100% <h4>FEDERAL TAX SUITS</h4> <ul style="list-style-type: none"> <input type="checkbox"/> 870 Taxes (S, E, F, or Defendant) <input type="checkbox"/> 871 IRS (S, E, F, or Defendant) 	<h4>A OTHER STATUTES</h4> <ul style="list-style-type: none"> <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environment Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutional of State Statutes <input type="checkbox"/> 990 Other Statutory Actions
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VI. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE BRIEF STATEMENT OF CAUSE OF ACTION) **This is an action under, amended, 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 Jessica Varela.**

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint

JURY DEMAND: YES NO

VIII. RELATED CASE(S) IF ANY (See instructions)

JUDGE

DOCKET NUMBER

DATE
6/30/04

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY