

FILED

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

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CLERK, U.S. DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO, FLORIDA



EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,

Plaintiff,

CIVIL ACTION NO.

99-1625-CIV-ORL-18A

v.

COMPLAINT
JURY TRIAL DEMAND
INJUNCTIVE RELIEF SOUGHT

DENNY'S, INC.,

Defendant.

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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 to provide appropriate relief to Valerie Yerrick who was adversely affected by such practices. The Commission alleges that Valerie Yerrick, a female, was sexually harassed by a co-worker and the harassment persisted despite Ms. Yerrick's complaint to the Defendant. As a result of the sexual harassment and the Defendant's failure to take prompt, remedial action, the conditions of Ms. Yerrick's employment were so intolerable that she was forced to resign her position. As alleged with greater particularity in paragraph seven below, Valerie Yerrick was subjected to unwelcome sexual comments and physical contact because of her sex which created a hostile work environment. Despite her complaints to Defendant, Defendant failed to take prompt remedial action and thus, she was forced

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to resign.

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 and are now being committed within the jurisdiction of the United States District Court for the Middle District of Florida, Orlando 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, Defendant, Denny’s, Inc. (the “Employer”), has continuously been a California corporation doing business in the State of Florida and the City of Orlando, and has continuously had at least 15 employees.

5. At all relevant times, Defendant Employer 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, Valerie Yerrick filed a charge with the Commission alleging violations of Title VII by Defendant Employer. All conditions precedent to the institution of this lawsuit have been fulfilled.

7. On or about March 1998, Defendant Employer engaged in unlawful employment practices at its Orlando, Florida store, in violation of Section 703(a)(1) of Title VII, 42 U.S.C. § 2000e-2(a) which included the following:

- a) Valerie Yerrick was regularly subjected to vulgar language, abusive behavior and sexual remarks of a personal nature by a co-worker. Moreover, Ms. Yerrick was subjected to unwelcome physical sexual contact because of her sex which was sufficiently severe and pervasive to affect the terms and conditions of her employment and to create an intimidating, hostile and offensive work environment. Ms. Yerrick made it known to her co-worker that such conduct was unwelcome. Defendant Employer failed to take prompt remedial action when it knew or should have known of the sexual harassment. Defendant is liable for the behavior Ms. Yerrick was subjected to during her employment.
- b) On or about September 1998, Ms. Yerrick was forced to resign her position as a wait person because the conditions of her employment were so intolerable (due to the persistent harassment by Ms. Yerrick's co-worker because of her sex and Defendant's failure to take prompt,

remedial action) that a reasonable person in her shoes would have been compelled to resign.

8. The effect of the practice(s) complained of in paragraph 7 above has been to deprive Valerie Yerrick of equal employment opportunities and otherwise adversely affect her status as an employee because of her sex.

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 Valerie Yerrick.

PRAYER FOR RELIEF

Wherefore, the Commission respectfully requests that this Court:

A. Grant a permanent injunction enjoining Defendant Employer, Denny's, Inc., its officers, successors, assigns, and all persons in active concert or participation with it, from engaging in sexual harassment and any other employment practice which discriminates on the basis of sex.

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

C. Order Defendant Employer, Denny's, Inc., to make whole Valerie Yerrick 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, restoration of benefits and positive future employment references for Valerie Yerrick.

D. Order Defendant Employer, Denny's, Inc., to make whole Valerie Yerrick by providing compensation for past and future pecuniary losses resulting from the unlawful employment practices described in paragraph 7 above, including but not limited to, out of pocket losses, medical expenses, job search expenses, and relocation expenses, in amounts to be determined at trial.

E. Order Defendant Employer, Denny's, Inc., to make whole Valerie Yerrick by providing compensation for past and future nonpecuniary losses resulting from the unlawful practices complained of in paragraph 7 above, including but not limited to, emotional pain, suffering, inconvenience, humiliation and loss of enjoyment of life, in amounts to be determined at trial.

F. Order Defendant Employer, Denny's, Inc., to pay Valerie Yerrick 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

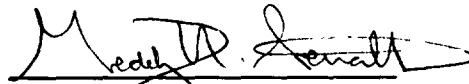
The Commission requests a jury trial on all questions of fact raised by its complaint.

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