

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

UNITED STATES EQUAL EMPLOYMENT)
OPPORTUNITY COMMISSION,)
)
Plaintiff,)
v.)
)
KMART CORPORATION,)
)
)
Defendant.)
_____)

CIVIL ACTION NO.
COMPLAINT
JURY TRIAL DEMAND
INJUNCTIVE RELIEF SOUGHT
6:01-CV-1133-ORL-28 DAB

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 Virginia Anderson, Tracy Brown, Y'Sheena McCoy, Jennifer Valdez, Lisa Williams and any other similarly situated individuals who were adversely affected by such practices. As stated with greater particularity in paragraph seven, the Equal Employment Opportunity Commission (hereinafter the "EEOC" or "Commission") alleges that Virginia Anderson, Tracy Brown, Y'Sheena McCoy, Jennifer Valdez, Lisa Williams, and similarly situated individuals were subjected to unwelcome verbal and physical conduct of a sexual nature by the Defendant because of their sex, female. The conduct was sufficiently severe and pervasive to constitute a hostile intimidating work environment. As a result of the harassment, Virginia

Anderson, Tracy Brown, and Jennifer Valdez were compelled to resign their positions. The Commission further alleges that Defendant subsequently retaliated against Y'Sheena McCoy for complaining of the unlawful sexual harassment by subjecting her to adverse terms and conditions of employment and discharge.

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, Orlando Division.

PARTIES

3. Plaintiff, the United States Equal Employment Opportunity 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, Kmart Corporation, (the "Employer"), has continuously been a Michigan 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, Virginia Anderson, Tracy Brown, Y'Sheena McCoy, Jennifer Valdez, and Lisa Williams each 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. Since at least April of 1999, Defendant Employer has engaged in unlawful employment practices at its Orlando, Florida facility, in violation of Section 703(a)(1) and Section 704(a) of Title VII, 42 U.S.C. § 2000e-2(a) and Section 2000e-3(a).

a) Virginia Anderson, Tracy Brown, Y'Sheena McCoy, Jennifer Valdez, Lisa Williams and similarly situated individuals were subjected to sexual harassment by their Supervisor and certain coworkers 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. The sexually offensive conduct included, but was not limited to:

- (1) the Supervisor picking up a female employee, throwing her across his shoulder, and touching her buttocks;
- (2) male coworkers throwing condoms in the faces of the female employees, rubbing their penis area and expressing their desires "to go in and out of

them"; and,

(3) the Supervisor and coworkers engaging in graphic sexual conversations, constant flirting, and lustful staring.

- b) Defendant Employer failed to take prompt corrective action when it knew or should have known of the of the sexual harassment.
- c) The harassment was so intolerable that Virginia Anderson, Tracy Brown, and Jennifer Valdez were compelled to give up their respective positions with Defendant Employer and/or constructively discharged.
- d) Defendant Employer terminated Y'Sheena McCoy shortly after she complained about the sexual harassment. Y'Sheena McCoy's termination was in retaliation for her opposition to Defendant's sexual harassment.

8. The effect of the practice(s) complained of in paragraph 7 above has been to deprive Virginia Anderson, Tracy Brown, Y'Sheena McCoy, Jennifer Valdez, Lisa Williams and similarly situated individuals of equal employment opportunities and otherwise adversely affect their status as employees because of their sex and/or in retaliation for their 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 Virginia Anderson,

Tracy Brown, Y'Sheena McCoy, Jennifer Valdez, Lisa Williams and any other similarly situated individuals.

PRAYER FOR RELIEF

Wherefore, the Commission respectfully requests that this Court:

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

B. Order Defendant Employer to institute and carry out policies, practices, and programs which provide equal employment opportunities for all its employees regardless of sex which eradicate the effects of its past and present unlawful employment practices.

C. Order Defendant Employer to make whole Virginia Anderson, Tracy Brown, Y'Sheena McCoy, Jennifer Valdez, Lisa Williams and similarly situated individuals, 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 for Virginia Anderson, Tracy Brown, Y'Sheena McCoy, Jennifer Valdez, Lisa Williams and similarly situated individuals.

D. Order Defendant Employer to make whole Virginia Anderson, Tracy Brown, Y'Sheena McCoy, Jennifer Valdez, Lisa Williams and similarly situated individuals, 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 and job search expenses, in amounts to be determined at trial.

E. Order Defendant Employer to make whole Virginia Anderson, Tracy Brown, Y'Sheena McCoy, Jennifer Valdez, Lisa Williams and similarly situated individuals, 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, loss of enjoyment of life, and humiliation, in amounts to be determined at trial.

F. Order Defendant Employer to pay Virginia Anderson, Tracy Brown, Y'Sheena McCoy, Jennifer Valdez, Lisa Williams and similarly situated individuals 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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