

FILED

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

2002 JUN 14 PM 4:44

CLERK, U.S. DISTRICT COURT
OCALA, FLORIDA

UNITED STATES EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION,

Plaintiff,

CIVIL ACTION NO. 5:02CV169-CC-106A

v.

COMPLAINT
JURY TRIAL DEMAND
INJUNCTIVE RELIEF SOUGHT

MORGAN TIRE & AUTO, INC. d/b/a
OLSON TIRE COMPANY,

Defendant.

_____ /

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 John Florida and other similarly situated males, who were adversely affected by such practices. As stated with greater particularity in paragraph 7, the Commission alleges that Mr. Florida and other similarly situated male employees were sexually harassed by Howard Cooper, a management official and supervisor for the Defendant's corporation. The Commission further alleges that the harassment persisted despite Mr. Florida's and other similarly situated males' complaint(s) to the Defendant. As a result of the sexual harassment and the Defendant's failure to take prompt, remedial action, the employment conditions for Mr. Florida and other similarly situated males, were so intolerable that they were forced to resign their positions.

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, Ocala 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, Morgan Tire & Auto, Inc. d/b/a Olson Tire Company (the “Employer”), has continuously been a Florida corporation doing business in the State of Florida and the City of Ocala, 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, John Florida filed charges 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 September 1999, Defendant Employer engaged in unlawful employment practices at its Ocala, Florida facility, in violation of Section 703(a) of Title VII, 42 U.S.C. § 2000e-2(a) which included the following:

- a) John Floridaia was regularly subjected to sexual harassment by Service Manager Howard Cooper 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. John Floridaia made it known to Mr. Cooper and other management officials of Defendant that such conduct was unwelcome. Furthermore, Defendant Employer failed to exercise reasonable care to prevent and correct the sexually harassing behavior even after being placed on notice.
- b) The sexually harassing behavior endured by John Floridaia resulted in a significant change in his employment status, culminating in a tangible employment action by a supervisor with immediate authority.
- c) On or about May 2000, John Floridaia was forced to resign his position as salesman because the conditions of his employment were so intolerable (due to the persistent harassment by his supervisor because of his sex and Defendant's failure to take prompt remedial action) that a reasonable person subjected to the same or similar conduct and tangible employment actions would have been compelled to resign.
- d) Other similarly situated male employees were regularly subjected to sexual harassment by Service Manager Howard Cooper 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. These other

similarly situated male employees made it known to Mr. Cooper and other management officials of Defendant that such conduct was unwelcome.

Furthermore, Defendant Employer failed to exercise reasonable care to prevent and correct the sexually harassing behavior even after being placed on notice.

- e) The sexually harassing behavior endured by these other similarly situated male employees resulted in a significant change in their employment status, culminating in a tangible employment action by a supervisor with immediate authority.
- f) Some of these similarly situated male employees were forced to resign their position as salesmen because the conditions of their employment were so intolerable (due to the persistent harassment by their supervisor because of their sex and Defendant's failure to take prompt remedial action) that a reasonable person subjected to the same or similar conduct and tangible employment actions would have been compelled to resign.

8. The effect of the practice(s) complained of in paragraph 7 above has been to deprive John Florida and other similarly situated male employees of equal employment opportunities and otherwise adversely affect their status as employees because of their 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 committed with malice or with reckless indifference to the federally protected rights of John Florida and other similarly situated male employees.

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 any other employment practices which discriminate on the basis of sex.

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

C. Order Defendant Employer, to make whole John Florida and other similarly situated male employees, by providing appropriate back pay with prejudgement 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.

D. Order Defendant Employer, to make whole John Florida and other similarly situated male employees, 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, to make whole John Florida and other similarly situated male employees, 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, to pay John Florida and other similarly situated male employees, 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

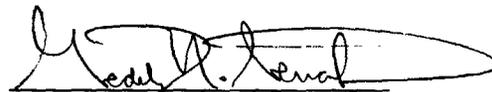
The Commission requests a jury trial on all questions of fact raised by its complaint.

NICHOLAS M. INZEO
Acting Deputy General Counsel

GWENDOLYN REAMS
Associate General Counsel

DELNER FRANKLIN-THOMAS
Regional Attorney

MICHAEL FARRELL
Supervisory Trial Attorney



GEDETY N. SERRALTA
Senior Trial Attorney
FL Bar No. 0864137

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION
MIAMI DISTRICT OFFICE
One Biscayne Tower
2 South Biscayne Boulevard, Suite 2700
Miami, Florida 33131
Tel. (305) 530-6009
Fax (305) 536-4494