

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA
FORT PIERCE DIVISION

00-1428

UNITED STATES EQUAL EMPLOYMENT)
OPPORTUNITY COMMISSION,)
)
Plaintiff,)
)
v.)
)
MIDNIGHT GAMBLER CASINO CRUISES,)
)
)
Defendant.)
_____)

CLERK OF COURT
MAGISTRATE JUDGE
CIVIL ACTION NO. LYNCH
COMPLAINT
JURY TRIAL DEMAND
INJUNCTIVE RELIEF REQUESTED
D.C.
MID: 11
DOX

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 race, and to provide appropriate relief to Shirley Dandurand who was adversely affected by such practices. As alleged with greater particularity in paragraph 7, the Commission alleges that Shirley Dandurand was subjected to a racially hostile work environment because of her race, Black. Further, the Commission alleges that the racial harassment created an intolerable work environment forcing Ms. Dandurand 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. Section 2000e-5(f)(1) and (3) ("Title VII")

and Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981 A.

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, Fort Pierce 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. Section 2000e-5(f)(1) and (3).

4. At all relevant times, Defendant Midnight Gambler Casino Cruises (the "Employer"), has continuously been doing business in the State of Florida and the City of Fort Pierce, 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, Shirley Dandurand 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 1997, Defendant Employer has engaged in unlawful employment practices at its place of business in Fort Pierce, Florida in violation of Section 703(a)

of Title VII, 42 U.S.C. § 2000e-2(a).

(A) Shirley Dandurand was subjected to racial harassment by her co-workers and members of management on a daily basis.

(B) The harassment included verbal abuse and derogatory comments about her race. The unwelcome racial harassment created an intimidating, hostile or offensive work environment which was sufficiently severe and pervasive to affect the terms and conditions of her employment. Defendant Employer failed to take reasonable steps to prevent and correct the harassment. Moreover, Defendant Employer knew or should have known of the harassment but failed to take prompt, effective, remedial action.

(C) Shirley Dandurand was subjected to working conditions so intolerable that she felt compelled to resign.

8. The effect of the practices complained of in paragraph 7 above has been to deprive Shirley Dandurand, of equal employment opportunities because of her race, Black.

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 Shirley Dandurand.

PRAYER FOR RELIEF

Wherefore, the Commission respectfully requests that this Court:

A. Grant a permanent injunction enjoining Defendant Midnight Gambler Casino Cruises

its officers, successors, assigns, and all persons in active concert or participation with it, from engaging in race discrimination and any other employment practice which discriminates on the basis of race.

B. Order Defendant Midnight Gambler Casino Cruises, to institute and carry out policies, practices, and programs which provide equal employment opportunities for Blacks, and which eradicate the effects of its past and present unlawful employment practices.

C. Order Defendant Midnight Gambler Casino Cruises to make whole Shirley Dandurand 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 rightful-place reinstatement of Shirley Dandurand or front pay.

D. Order Defendant Midnight Gambler Casino Cruises to make whole Shirley Dandurand 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, job search expenses, and medical expenses in amounts to be determined at trial.

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

F. Order Defendant Midnight Gambler Casino Cruises, to pay Shirley Dandurand 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.

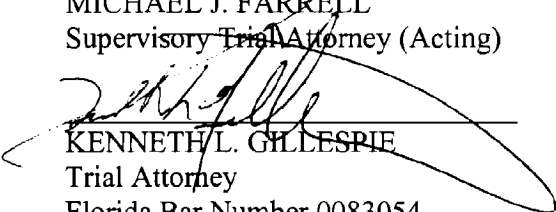
Respectfully submitted,

C. GREGORY STEWART
General Counsel

GWENDOLYN YOUNG REAMS
Associate General Counsel

DELNER FRANKLIN-THOMAS
Regional Attorney

MICHAEL J. FARRELL
Supervisory Trial Attorney (Acting)



KENNETH L. GILLESPIE
Trial Attorney
Florida Bar Number 0083054

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.)

I. (a) PLAINTIFFS

UNITED STATES EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION

DEFENDANTS

MIDNIGHT GAMBLER CASINO CRUISES

00-14289 CIV-ROETTGER MAGISTRATE JUDGE
LYNCH

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

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT Martin
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED

(c) ATTORNEY'S FIRM NAME, ADDRESS, AND TELEPHONE NUMBER
Keneth Gillespie, Sr. Trial Attorney
EEOC, 2 S. Biscayne Blvd., Suite 2700
Miami, FL 33131 (305)530-6007

ATTORNEYS, IF KNOWN:

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

- | | | | | | |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| | PTF | DEF | | PTF | DEF |
| 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)

| A CONTRACT | A TORTS | FORFEITURE/PENALTY | A BANKRUPTCY | A OTHER STATUTES |
|---|--|--|--|--|
| <input type="checkbox"/> 118 Insurance | <input type="checkbox"/> 310 Airplane | <input type="checkbox"/> 810 Agriculture | <input type="checkbox"/> 422 Appeal 28 USC 158 | <input type="checkbox"/> 488 State Reapportionment |
| <input type="checkbox"/> 129 Marine | <input type="checkbox"/> 315 Airplane Product Liability | <input type="checkbox"/> 820 Other Food & Drug | <input type="checkbox"/> 423 Withdrawal 28 USC 157 | <input type="checkbox"/> 410 Antitrust |
| <input type="checkbox"/> 136 Other Act | <input type="checkbox"/> 320 Assault, Libel & Slander | <input type="checkbox"/> 825 Drug Related Seizure of Property 21 USC 881 | A PROPERTY RIGHTS | <input type="checkbox"/> 430 Banks and Banking |
| <input type="checkbox"/> 140 Negotiable Instrument | <input type="checkbox"/> 330 Federal Employers Liability | <input type="checkbox"/> 830 Liquor Laws | <input type="checkbox"/> 829 Copyrights | <input type="checkbox"/> 450 Commercial/ICC Rates/etc |
| <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment | <input type="checkbox"/> 340 Marine | <input type="checkbox"/> 840 R.R. & Truck | <input type="checkbox"/> 830 Patent | <input type="checkbox"/> 460 Deportation |
| <input type="checkbox"/> 151 Medicare Act | <input type="checkbox"/> 345 Marine Product Liability | <input type="checkbox"/> 850 Airline Regs | <input type="checkbox"/> 840 Trademark | <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations |
| <input type="checkbox"/> 152 Recovery of Defaulted Student Loans Excl. Veterans | <input type="checkbox"/> 350 Motor Vehicle | <input type="checkbox"/> 860 Occupational Safety/Health | B SOCIAL SECURITY | <input type="checkbox"/> 810 Selective Service |
| <input type="checkbox"/> 153 Recovery of Overpayment of Veterans Benefits | <input type="checkbox"/> 355 Motor Vehicle Product Liability | <input type="checkbox"/> 890 Other | <input type="checkbox"/> 881 -IA 1395m | <input type="checkbox"/> 850 Securities/Commodities Exchange |
| <input type="checkbox"/> 180 Stockholders Suits | <input type="checkbox"/> 360 Other Personal Injury | A LABOR | <input type="checkbox"/> 882 Black Lung (923) | <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 |
| <input type="checkbox"/> 188 Other Contract | <input type="checkbox"/> 370 Other Fraud | <input type="checkbox"/> 710 Fair Labor Standards Act | <input type="checkbox"/> 883 D.W.C. D.W.W. (405sig) | <input type="checkbox"/> 881 Agricultural Acts |
| <input type="checkbox"/> 189 Contract Product Liability | <input type="checkbox"/> 371 Truth in Lending | <input type="checkbox"/> 720 Labor Mgmt. Relations | <input type="checkbox"/> 884 SSID Title XVI | <input type="checkbox"/> 882 Economic Stabilization Act |
| | <input type="checkbox"/> 380 Other Personal Property Damage | <input type="checkbox"/> 730 Labor Mgmt. Reporting & Disclosure Act | <input type="checkbox"/> 885 PS- 405sig) | <input type="checkbox"/> 883 Environmental Matters |
| | <input type="checkbox"/> 385 Property Damage Product Liability | <input type="checkbox"/> 740 Railway Labor Act | | <input type="checkbox"/> 884 Energy Allocation Act |
| A REAL PROPERTY | A CIVIL RIGHTS | <input type="checkbox"/> 790 Other Labor Litigation | FEDERAL TAX SUITS | <input type="checkbox"/> 895 Freedom of Information Act |
| <input type="checkbox"/> 210 Land Condemnation | <input type="checkbox"/> 441 Voting | <input type="checkbox"/> 791 Empl Ret Inc Security Act | <input type="checkbox"/> 879 Taxes (U.S. Plaintiff or Defendant) | <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice |
| <input type="checkbox"/> 220 Foreclosure | <input checked="" type="checkbox"/> 442 Employment | | <input type="checkbox"/> 871 IRS - Third Party 28 USC 7809 | <input type="checkbox"/> 950 Constitutionality of State Statutes |
| <input type="checkbox"/> 230 Rent Lease & Ejectment | <input type="checkbox"/> 443 Housing, Accommodations | PRISONER PETITIONS | | <input type="checkbox"/> 999 Other Statutory Actions A OR B |
| <input type="checkbox"/> 240 Torts to Land | <input type="checkbox"/> 444 Welfare | <input type="checkbox"/> 510 Motions to vacate Sentence | | |
| <input type="checkbox"/> 245 Tort Product Liability | <input type="checkbox"/> 448 Other Civil Rights | <input type="checkbox"/> 530 General | | |
| <input type="checkbox"/> 280 All Other Real Property | | <input type="checkbox"/> 535 Death Penalty | | |
| | | <input type="checkbox"/> 540 Mandamus & Other | | |
| | | <input type="checkbox"/> 550 Civil Rights | | |
| | | <input type="checkbox"/> 555 Prison Condition | | |

VI. CAUSE OF ACTION

(CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY.)

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 race, and to provide appropriate relief to Shirley Dandurand who was adversely affected by such practices.

LENGTH OF TRIAL: _____ days estimated (for both sides to by entire case)

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

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

9/27/02

[Signature]

FOR OFFICE USE ONLY

RECEIPT #

N/A

AMOUNT

N/A

APPLYING IFP

CCP 9/25/02

JUDGE

MAG. JUDGE