

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

UNITED STATES EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION,

01-7543

Plaintiff,

01-7543

MAGISTRATE
GARBER

v.

CIVIL ACTION NO.

MORTGAGE INFORMATION SERVICES, INC.,

COMPLAINT
JURY TRIAL DEMAND
INJUNCTIVE RELIEF REQUESTED

Defendant.

NIGHT BOX
FILED

SEP 28 2001

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NATURE OF THE ACTION

CLARENCE MADDOX
CLERK, USDC/SDFL/FTL

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 Maritza Osorio and other similarly situated females who were adversely affected by such practices. As stated with greater particularity in paragraph seven, the Commission alleges that Ms. Osorio and other similarly situated females were subjected to unwelcome verbal and physical conduct of a sexual nature by management officials of the Defendant. The conduct was sufficiently severe and pervasive to constitute a hostile and intimidating work environment. The Commission further alleges that Defendant unlawfully retaliated against Ms. Osorio by terminating her employment for engaging in a statutorily protected activity and forced similarly situated female employees to resign because of the intolerable working conditions.

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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, Fort 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, Defendant, Mortgage Information Services Inc. (the "Employer"), has continuously been an Ohio corporation doing business in the State of Florida and the City of Miramar, 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, Maritza Osorio 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 May 1998, certain members of management employed by Defendant have

engaged in unlawful employment practices at its Miramar facility, in violation of Sections 703(a)(1) and 704(a) of Title VII, 42 U.S.C. §§ 2000e-2(a) and 2000e-3(a). The practices included the sexual harassment of female employees including Maritza Osorio and the discriminatory discharge or constructive discharge of female employees.

- a) Certain management officials of the Defendant Employer subjected Maritza Osorio and similarly situated female employees to verbal and physical conduct of a sexual nature which was sufficiently severe and pervasive to create a hostile, intimidating work environment. The conduct included, but was not limited to, constantly rubbing female employees shoulders; caressing the inside of a female employee thigh; spanking a female employee when she bent over to perform a work related duty; commenting to a female employee that "my banana" is larger than the one that you are eating and continuously leering at female employees breast and genital area.
 - b) Defendant Employer is liable for the sexual harassment to which is subjected Maritza Osorio and similarly situated female employees during their employment.
 - c) The continuous sexual harassment created a hostile work environment which was so intolerable that female employees similarly situated to Maritza Osorio were compelled to resign their positions with Defendant Employer.
 - d) Defendant Employer terminated Maritza Osorio after she complained of the sexual harassment. Maritza Osorio's termination was in retaliation for her opposition to Defendant's sexual harassment.
8. The effect of the practices complained of in paragraph seven above has been to deprive Ms. Osorio and similarly situated individuals of equal employment opportunities and otherwise adversely affect their status as an employee because of their sex and because of retaliation.

9. The unlawful employment practices complained of in paragraphs seven above were intentional.

10. The unlawful employment practices complained of in paragraphs seven above were done with malice or with reckless indifference to the federally protected rights of Maritza Osorio 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 or retaliation and any other employment practice which discriminates on the basis of sex and retaliation.
- B. Order Defendant Employer 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 to make whole Maritza Osorio and any other similarly situated individuals, by providing appropriate backpay with prejudgment interest, in amounts to be determined at trial, and other affirmative relief necessary to eradicate the effects of its unlawful employment practices.
- D. Order Defendant Employer to make whole Maritza Osorio and any other similarly situated individuals, by providing compensation for past and future pecuniary losses resulting from the unlawful employment practices described in paragraphs seven and eight above, including out-of-pocket losses, job search expenses, in amounts to be determined at trial.
- E. Order Defendant Employer to make whole Maritza Osorio and any other similarly situated

individuals by providing compensation for past and future nonpecuniary losses resulting from the unlawful practices complained of in paragraph seven above, including humiliation, emotional pain, suffering, inconvenience, and loss of enjoyment of life, in amounts to be determined at trial.

F. Order Defendant Employer to pay Maritza Osorio and any other similarly situated individuals, punitive damages for its malicious and reckless conduct described in paragraph seven 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

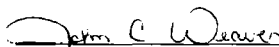
The Commission requests a jury trial on all questions of fact raised by its complaint.

NICHOLAS M. INZEO
Acting Deputy General Counsel

GWENDOLYN REAMS
Associate General Counsel

DELNER FRANKLIN-THOMAS
Regional Attorney

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Miami, Fl 33131
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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

01-7543

DEFENDANTS
 MORTGAGE INFORMATION SERVICES, INC.
CIV - SEITZ **MAGISTRATE JUDGE**
GARBER

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF
 (EXCEPT IN U.S. PLAINTIFF CASES)
 CALA D. OLIVER 7543

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT
 (IN U.S. PLAINTIFF CASES ONLY)
 BROWARD
 NOTE: IN LAND CONDEMNATION CASES, THE LOCATION OF THE TRACT OF LAND INVOLVED
NIGHT BOX FILED

(c) ATTORNEY'S FIRM NAME, ADDRESS, AND TELEPHONE NUMBER:
 JOHN WEAVER, TRIAL ATTORNEY, EEOC
 ONE BISCAYNE TOWER, 2 S. BISCAYNE BOULEVARD, #2700
 MIAMI, FLORIDA 33131 (305)530-6458

ATTORNEY'S (IF KNOWN):
 Seitz Garber
SEP 28 2001 ✓

(d) CIRCLE COUNTY WHERE ACTION AROSE DADE, MONROE, (BROWARD), PALM BEACH, MARTIN, ST. LUCIE, INDIAN RIVER, CLAY, VOLU, BREVARD, FLORIDA

CLARENCE MADDOX
CLERK, USDC/SD/FL

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)
 Citizen of This State PTF DEF
 Citizen of Another State 2 2
 Citizen or Subject of a Foreign Country 3 3
 Incorporated or Principal Place of Business in This State 4 4
 Incorporated and Principal Place of Business in Another State 5 5
 Foreign Nation 6 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 LABOR	A BANKRUPTCY	A OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miner 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"/> 160 Stockbroker's Suit <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Civil Rights (Federal Act)	<input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Flight Liability <input type="checkbox"/> 320 Auto, Bike & Scooter <input type="checkbox"/> 330 Federal Employees <input type="checkbox"/> 340 Age/sex <input type="checkbox"/> 345 Age/sex Frailty <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Frailty <input type="checkbox"/> 360 Other Frailty	<input type="checkbox"/> 362 Personal Injury: Men Malpractice <input type="checkbox"/> 365 Personal Injury: Product Liability <input type="checkbox"/> 368 Age/sex Personal Injury Product Liability <input type="checkbox"/> 370 Other Frailty <input type="checkbox"/> 371 Other Frailty <input type="checkbox"/> 380 Other Personal Injury: Damage <input type="checkbox"/> 385 Frailty: Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure (F.D.C.A. 201-210) (91) <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.F. & Turk <input type="checkbox"/> 650 Amuse Regs. <input type="checkbox"/> 660 Occupational Safety Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 151 A PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark	<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 Sensitive Service <input type="checkbox"/> 850 Securities Commodities Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Act <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Antitrust Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Accession Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions AOR B
A REAL PROPERTY	A CIVIL RIGHTS	PRISONER PETITIONS	B SOCIAL SECURITY	FEDERAL TAX SUITS	
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Eminent Domain <input type="checkbox"/> 230 Homeowner & Renter <input type="checkbox"/> 240 Title in Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 441 Civil Rights <input checked="" type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 510 Multiple Death Sentence <input type="checkbox"/> 520 Habeas Corpus <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Marriages & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Conditions	<input type="checkbox"/> 861 HIA (Title I) <input type="checkbox"/> 862 Black Lung Act <input type="checkbox"/> 863 DDC/DWC/405 Act <input type="checkbox"/> 864 SSI/Title XV <input type="checkbox"/> 865 Retirement	<input type="checkbox"/> 870 Taxes (vs Plaintiff or Defendant) <input type="checkbox"/> 871 IRS (Third Party 26 USC 7605)	

VI. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE BRIEF STATEMENT OF FACTS) This is an action under Title I of the Civil Rights Act of 1964 and Title II of the Civil Rights Act of 1964 to correct unlawful employment practices on the basis of sex and retaliation, and to provide appropriate relief to Maritza Usorib and other similarly situated females who were adversely affected by such practices.

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) (See instructions) **JUDGE** **DOCKET NUMBER**

DATE 9.28.01 **SIGNATURE OF ATTORNEY OF RECORD** John C. Weaver

FOR OFFICE USE ONLY
 RECEIPT # 6007 **AMOUNT** **APPLYING IFP** **JUDGE** **MAG JUDGE**