

FILED

APR 27 11:19:03
da

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

EQUAL EMPLOYMENT OPPORTUNITY)
COMMISSION,)
)
Plaintiff,)
)
v.)
)
PIZZA HUT OF AMERICA, INC.,)
)
Defendant.)
_____)

CIVIL ACTION NO. 99-219-CIV-FT

COMPLAINT
JURY TRIAL DEMAND

NATURE OF THE ACTION

This is an action under Title VII of the Civil Rights Act of 1964 and the 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 Jennifer L. Smith and other similarly situated females who were adversely affected by such practices. As stated with greater particularity in paragraph 7, the Commission alleges that Ms. Smith, and other similarly situated females, were sexually harassed at Pizza Hut of America, Inc.'s place of business in Cape Coral, Florida. The females were forced to endure a hostile environment while at work. Ms. Smith was constructively discharged when the harassment became intolerable.

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

da

/

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, Fort Myers 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 Pizza Hut of America, Inc. (the "Employer"), a Delaware Corporation, has continuously been doing business in the State of Florida and the City of Cape Coral, and has continuously had at least 15 employees.

5. At all relevant times, Defendant Pizza Hut of America, Inc., 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, Jennifer L. Smith filed a charge with the Commission alleging violations of Title VII by Defendant Employer Pizza Hut of America, Inc. All conditions precedent to the institution of this lawsuit have been fulfilled.

7. Since at least January 1997, Defendant Employer engaged in unlawful employment practices at its Cape Coral, Florida location in violation of Section 703(a) of Title VII, 42 U.S.C.

§ 2000e-2(a).

(A) Jennifer L. Smith and other similarly situated females were subjected to sex discrimination by Manager Kenneth Dickenson in the form of physical and verbal conduct of a sexual nature. This unwelcome sexual harassment created an intimidating, hostile and offensive work environment.

(B) The conditions imposed were so intolerable that Jennifer L. Smith was constructively discharged.

8. The effect of the conduct complained of in paragraph 7 above has been to deprive Jennifer L. Smith and other similarly situated females of equal employment opportunities and otherwise adversely affect their status as employees because of 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 Jennifer L. Smith and other similarly situated females.

PRAYER FOR RELIEF

Wherefore, the Commission respectfully requests that this Court:

A. Grant a permanent injunction enjoining Defendant Pizza Hut of America, 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 Pizza Hut of America, 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 Pizza Hut of America, Inc., to make whole Jennifer L. Smith, and any other similarly situated females, 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.

D. Order Defendant Pizza Hut of America, Inc. to make whole Jennifer L. Smith, and any other similarly situated females, 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 in amounts to be determined at trial.

E. Order Defendant Pizza Hut of America, Inc., to make whole Jennifer L. Smith and other similarly situated females, by providing compensation for past and future nonpecuniary losses resulting from the unlawful practices complained of in paragraph 7 above, including emotional pain, suffering, inconvenience, humiliation, and loss of enjoyment of life, in amounts to be determined at trial.

F. Order Defendant Pizza Hut of America, Inc., to pay Jennifer L. Smith and other similarly situated females 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

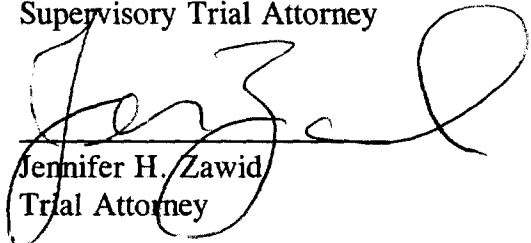
The Commission requests a jury trial on all questions of fact raised by its complaint.

C. GREGORY STEWART
General Counsel

GWENDOLYN YOUNG REAMS
Associate General Counsel

DELNER FRANKLIN-THOMAS
Regional Attorney

GILBERT CARRILLO
Supervisory Trial Attorney



Jennifer H. Zawid
Trial Attorney

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION
Miami District Office
Two South Biscayne Boulevard
One Biscayne Tower
Miami, Florida 33131
(305) 530-6005