

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

UNITED STATES EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION,

Plaintiff,

And

TAMMY LEIGH AND TANYA MORRISON,

Plaintiff Intervenors,

v.

ROOMS TO GO, INC. and
R.T.G. FURNITURE CORP.,

Defendants.

CIVIL ACTION NO.
8:04-CV-2155-T24-TBM

AMENDED COMPLAINT

**JURY TRIAL DEMANDED
INJUNCTIVE RELIEF SOUGHT**

NATURE OF THE ACTION

Plaintiff, United States Equal Employment Opportunity Commission, files this Amended Complaint pursuant to the Court's order dated August 19, 2005. 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 race and to provide appropriate relief to Tammy Shelton-Leigh ("Ms. Shelton"), Tanya Young-Morrison ("Ms. Young") and any other similarly situated individuals who were adversely affected by such practices. As stated with greater particularity in paragraph nine (9) below, the Commission alleges that management and non-management officials of the Defendants subjected Ms. Shelton, Ms. Young, and any other similarly situated individuals, to harassment based on sex (Female) and/or race (Black) which was sufficiently severe and pervasive to constitute a hostile, intimidating work environment.

Defendants knew or should have known of the unlawful harassment, but failed to take prompt corrective action.

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, Tampa 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, Rooms to Go Inc., has continuously been a Florida corporation doing business in the State of Florida and the City of Seffner, and has continuously had at least 15 employees.

5. At all relevant times, Defendant, R.T.G. Furniture Corp., has continuously been a Florida corporation doing business in the State of Florida and the City of Seffner, and has continuously had at least 15 employees. Rooms to Go, Inc. and R.T.G. Furniture Corp. are referred to herein as “Employers.”

6. At all relevant times, Defendant Rooms to Go, 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).

7. At all relevant times, Defendant R.T.G. Furniture Corp. 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

8. More than thirty days prior to the institution of this lawsuit, Ms. Shelton and Ms. Young filed charges with the Commission alleging violations of Title VII by the Defendant Employers. All conditions precedent to the institution of this lawsuit have been fulfilled.

9. Since at least July of 1995, Defendant Employers have engaged in unlawful employment practices at its Seffner, Florida, location in violation of Section 703(a) of Title VII, 42 U.S.C. §2000e-2(a).

a. Tanya Young-Morrison was subjected to sexual harassment by a management official of the Defendant Employers in the form of unwelcome conduct of a sexual nature which was sufficiently severe and pervasive to constitute a hostile, intimidating work environment. The harassment included, but was not limited to, suggestions that she perform sexual acts on him or reveal parts of her body to him, touching her breasts and buttocks, making comments regarding her breasts, referring to her by derogatory sexual names and making vulgar sexual comments in her presence regarding female customers.

- b. Tammy Shelton-Leigh was subjected to sexual and racial harassment by management officials and coworkers of the Defendant Employers in the form of unwelcome conduct of a sexual and racial nature which was sufficiently severe and pervasive to constitute a hostile, intimidating work environment. The harassment included, but was not limited to, a management official suggesting that she perform sexual acts on him, making comments about her breasts, referring to her and female customers by derogatory sexual names, recounting sexual encounters with a Black female, referring to her as “Black Bitch,” and making racially offensive remarks to her regarding Black individuals and the fact that she was married to a White male. The harassment also included management and coworkers making racially offensive comments and using racial epithets such as “nigger” to refer to minority customers in her presence.
- c. Other similarly situated individuals were subjected to sexual and/or racial harassment by the Defendants.
- d. Ms. Young and Ms. Shelton complained of the unlawful harassment to which they were being subjected, but Defendants failed to take prompt, corrective action.

10. The effect of the conduct complained of in paragraph nine (9) above has been to deprive Ms. Shelton, Ms. Young and other similarly situated individuals of equal employment opportunities and otherwise adversely affect their status as employees because of their sex and/or race.

11. The unlawful employment practices complained of in paragraph nine (9) above were intentional.

12. The unlawful employment practices complained of in paragraph nine (9) above were done with malice or with reckless indifference to the federally protected rights of Ms. Shelton, Ms. Young and any other similarly situated individuals.

PRAYER FOR RELIEF

Wherefore, the Commission respectfully requests that this Court:

A. Grant a permanent injunction enjoining Defendant Employers, their officers, successors, assigns, and all persons in active concert or participation with Defendants, from engaging in sexual and/or racial harassment and any other employment practice which discriminates on the basis of sex and/or race.

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

C. Order Defendant Employers to make whole Ms. Shelton, Ms. Young and any other similarly situated individuals by providing compensation for past and future pecuniary losses resulting from the unlawful employment practices described in paragraph nine (9) above, including out of pocket losses in amounts to be determined at trial.

D. Order Defendant Employers to make whole Ms. Shelton, Ms. Young and any other similarly situated individuals by providing compensation for past and future nonpecuniary losses resulting from the unlawful practices complained of in paragraph nine (9) above, including emotional pain, suffering, inconvenience, humiliation, and loss of enjoyment of life, in amounts to be determined at trial.

E. Order Defendant Employers to pay Ms. Shelton, Ms. Young and any other similarly situated individuals punitive damages for their malicious and reckless conduct described in paragraph nine (9) above, in amounts to be determined at trial.

F. Grant such further relief as the Court deems necessary and proper in the public interest.

G. Award the Commission its costs in this action.

JURY TRIAL DEMAND

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

Dated: August 24, 2005.

Respectfully Submitted,

ERIC DRIEBAND
General Counsel

JAMES LEE
Deputy General Counsel

GWENDOLYN YOUNG REAMS
Associate General Counsel

DELNER FRANKLIN THOMAS
Regional Attorney

s/ Muslima Lewis

MUSLIMA LEWIS

Trial Attorney

Florida Bar No.0158305

UNITED STATES EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION

Miami District Office

One Biscayne Tower, Suite 2700

Two Biscayne Boulevard

Miami, Florida 33131

Tel. (305) 536-6001 Main

Fax (305) 536-4494

E-mail: Muslima.Lewis@eoc.gov

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on August 24, 2005, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system which will send a notice of electronic filing to the following: ***Richard C. McCrea, Jr., Esq.***, Zinober & McCrea, P.A., 201 E. Kennedy Boulevard, Suite 800, Tampa, FL 33602; ***Cally E. Catania, Esq.***, Cally E. Catania, P.A., 13336 North Central Avenue, Tampa, FL 33612; ***Mark Rodriguez, Esq.***, Mark Rodriguez, P.A., 501 E. Kennedy Boulevard, Suite 1200, Tampa, FL 33602.

s/ Muslima Lewis
MUSLIMA LEWIS
Trial Attorney