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DISTRICT COURT

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
WESTERN DIVISION**

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,)	
)	
Plaintiff,)	CIVIL ACTION NO. 04 C 50375
v.)	
)	JUDGE REINHARD
THE BLOOMIN' APPLE ROCKFORD I, LLC)	MAGISTRATE MAHONEY
THE BLOOMIN' APPLE, LLC, and)	
HEARTLAND APPLE, INC.,)	
)	
Defendants.)	
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PLAINTIFF EEOC'S FIRST AMENDED COMPLAINT

NATURE OF THE ACTION

This is an action under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e et seq. ("Title VII"), 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 a class of female employees who were adversely affected by such practices. Plaintiff Equal Employment Opportunity Commission ("EEOC" or "Commission") alleges that The Bloomin' Apple Rockford I, LLC, The Bloomin' Apple, LLC, and Heartland Apple, Inc. (collectively "Applebee's") subjected Christina Javid, Susan Brennecka, Tracey Rangel, Vicki Miner and Erin Foster (collectively referred to hereafter as "Charging Parties"), and a class of female employees to harassment on the basis of sex. EEOC also alleges that Applebee's retaliated against Charging Parties Christina Javid, Vicki Miner, Erin Foster and a class of female employees by subjecting them to different terms and conditions of employment. EEOC

also alleges that Applebee's retaliated against Charging Party Susan Brennecka by terminating her employment. EEOC further alleges that Applebee's constructively discharged Charging Parties Erin Foster and Christina Javid and a class of female employees, in violation of Title VII. EEOC alleges that Applebee's engaged in an illegal pattern or practice of sex discrimination.

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) and Section 707(e) of Title VII, 42 U.S.C. § 2000e-5(f)(1) and (3) and § 2000e-6(e), and § 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981A.

2. The employment practices hereafter alleged to be unlawful were and are now being committed within the jurisdiction of the United States District Court for the Northern District of Illinois, Western Division.

PARTIES

3. Plaintiff, the Equal Employment Opportunity Commission, is an 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) and Section 707(e) of Title VII, 42 U.S.C. Section 2000e-5(f)(1) and (3) and § 2000e-6(e).

4. At all times relevant, Defendant The Bloomin' Apple Rockford I, LLC has continuously been doing business in the Northern District of Illinois and has continuously had

at least fifteen employees.

5. At all times relevant, Defendant The Bloomin' Apple Rockford I, LLC 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. Sections 2000e(b), (g) and (h).

6. At all times relevant, Defendant The Bloomin' Apple, LLC has continuously been doing business in the Northern District of Illinois and has continuously had at least fifteen employees.

7. At all times relevant, Defendant The Bloomin' Apple, LLC 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. Sections 2000e(b), (g) and (h).

8. At all times relevant, Defendant Heartland Apple, Inc. has continuously been doing business in the Northern District of Illinois and has continuously had at least fifteen employees.

9. At all times relevant, Defendant The Heartland Apple, 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. Sections 2000e(b), (g) and (h).

10. At all times relevant, Defendants, The Bloomin' Apple Rockford I, LLC, the Bloomin' Apple, LLC, and Heartland Apple, Inc. (collectively "Applebee's"), have operated as a single employer for purposes of Title VII, 42 U.S.C. 2000e, *et seq.*

STATEMENT OF CLAIMS

11. More than thirty days prior to the institution of this lawsuit, Charging Parties

filed charges with the Commission alleging violations of Title VII by Applebee's. All conditions precedent to the institution of this lawsuit have been fulfilled.

12. Since at least August 1998, Applebee's has engaged in unlawful employment practices at its restaurant located at 1675 East Riverside Boulevard in Rockford, Illinois, in violation of Sections 703(a)(1) and 704(a) of Title VII, 42 U.S.C. Sections 2000e(k) and 2(a). Such unlawful employment practices have included: 1) subjecting Charging Parties and a class of female employees to harassment and a hostile work environment because of their sex; 2) retaliating against some Charging Parties and a class of female employees by subjecting them to different terms and conditions of employment, and to termination; 3) constructively discharging some Charging Parties and a class of female employees; and 4) engaging in a pattern or practice of sex discrimination and retaliation.

13. The effect of the practices complained of above has been to deprive Charging Parties, and a class of female employees adversely affected by the discriminatory actions, of equal employment opportunities and otherwise adversely affect their status as employees because of their sex.

14. The unlawful employment practices complained of in paragraphs 12 and 13 above were intentional.

15. The unlawful employment practices complained of in paragraphs 12 and 13 above were done with malice or with reckless indifference to the federally protected rights of Charging Parties and a class of female employees because of their sex.

PRAYER FOR RELIEF

WHEREFORE, the Commission respectfully requests that this Court:

A. Grant a permanent injunction enjoining Applebee's, its officers, successors, assigns, and all persons in active concert or participation with it, from engaging in any employment practice which discriminates because of sex.

B. Order Applebee's to institute and carry out policies, practices and programs which eradicate the effects of its past and present unlawful practices.

C. Order Applebee's to make whole Charging Parties and the affected class 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 reinstatement where appropriate.

D. Order Applebee's to make whole Charging Parties and the affected class by providing compensation for past and future pecuniary losses resulting from the unlawful employment practices described in paragraphs 12 and 13 above, in amounts to be determined at trial.

E. Order Applebee's to make whole Charging Parties and the affected class by providing compensation for past and future non-pecuniary losses resulting from the unlawful practices complained of in paragraphs 12 and 13 above, including emotional pain and humiliation, in amounts to be determined at trial.

F. Order Applebee's to pay Charging Parties and the affected class punitive damages for their malicious and reckless conduct described in paragraphs 12 and 13 above, in amounts to be determined at trial.

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

H. 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.

Respectfully submitted,

Eric S. Dreiband
General Counsel

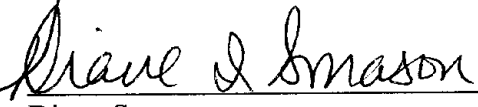
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