

NOV 10 2003

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

U.S. EQUAL EMPLOYMENT)
OPPORTUNITY COMMISSION,)

Plaintiff,)

CARRIE COLLANDER,)
n/k/a CARRIE SPILLANE,)

Intervenor,)

No. 03 C 6364

Judge Kennelly

v.

FILED

Magistrate Judge Mason

FIFTH THIRD BANK,)
NOV 7 2003)

Jury Trial Demanded

Defendant, MICHAEL W. DOUBINS
et al., U.S. DISTRICT COURT

INTERVENOR'S COMPLAINT

Intervenor CARRIE COLLANDER n/k/a CARRIE SPILLANE, by and through her attorneys, Favaro, Buzek & Gorman, Ltd., complains against, FIFTH THIRD BANK ("BANK").

NATURE OF ACTION

This is an action under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §2000(e) et. seq. (Title VII), and Title I of the Civil Rights Act of 1991, 42 U.S.C. §1981(a) seeking relief for Intervenor CARRIE COLLANDER n/k/a CARRIE SPILLANE for discrimination in the terms and conditions of her employment based on her sex, female and sexual harassment. Collander n/k/a Spillane brings this Complaint to intervene in the action brought by the U.S. Equal Employment Opportunity Commission ("EEOC").

JURISDICTION AND VENUE

1. This Court has jurisdiction pursuant to 28 U.S.C. §§ 1331, 1337 and 1343. The action is brought pursuant to Sections 706(f)(1) and (3) of Title VII, 42 U.S.C. 2000e-5(f)(1) and (3) and pursuant to §102 of the Civil Rights Act of 1991, 42 U.S.C. §1981a.

2. Venue is proper pursuant to 28 U.S.C. §1391 (b) and (c), and 42 U.S.C. §2000e-5(f)(3), for the employment practices hereafter alleged to be unlawful were committed within the jurisdiction of the United States District Court for the Northern District of Illinois, Eastern Division.

PARTIES

3. EEOC is an agency of the United States of America charged with the administration, interpretation and enforcement of Title VII. That Intervenor, CARRIE COLLANDER n/k/a CARRIE SPILLANE, is a female United States citizen residing in Sugar Grove, Kane County, Illinois, and she was an employee of Fifth Third Bank within the meaning of Title VII, 42 U.S.C. §2000e(f).

4. At all relevant times, the FIFTH THIRD BANK is a corporation, engaged in financial transactions, and doing business in Kane County, Illinois. The Bank has more than fifteen employees, and is an employer engaged in an industry affecting commerce within the meaning of Title VII, 42 U.S.C. §2000e(b)(g) and (h).

ADMINISTRATIVE PREREQUISITES

5. More than thirty (30) days prior to the institution of this lawsuit, Collander n/k/a Spillane filed a charge with the Commission alleging violations of Title VII by Fifth Third Bank. All conditions precedent to the institution of this lawsuit have been fulfilled.

STATEMENT OF CLAIMS

6. Collander n/k/a Spillane became employed by Fifth Third Bank in 1996. Her most recent position was that of Business Development Officer.

7. Since at least January, 2001, Defendant Fifth Third Bank has engaged in unlawful employment practices at its Business Development Group, including but not limited to locations at St. Charles and South Elgin, Illinois, in violation of Section 703(a) of Title VII, 42 U.S.C. Sections 2000e-2(a). Such unlawful employment practices have included subjecting Carrie Collander n/k/a Carrie Spillane to sexual harassment by male employees including but not limited to her supervisor in the form of unwanted gender-based and sexually offensive and derogatory remarks, comments and innuendoes which included but are not limited to the following:

- a. Comments were made criticizing a woman's brain;
- b. Comments and inquiries were made about a woman's body parts including parts of Intervenor's body;
- c. Comments were made regarding women's breasts;
- d. Intervenor was referred to as a "dyke" in front of customers by her immediate superior;
- e. Derogatory references were made to female employees, e.g., "queenie".

8. Collander n/k/a Spillane complained about the hostile work environment created by the behavior of the male workers, but the behavior continued.

9. Following her complaints regarding the unwanted and offensive behavior, Collander n/k/a Spillane was subjected to adverse reprisals including probationary status.

10. That in or around March, 2002 Intervenor was constructively discharged from her employment.

COUNT I

SEXUAL HARASSMENT

Intervenor restates and realleges paragraphs 1 through 10 above as though fully set forth herein.

11. That defendant by its agents and employees have engaged in sexual harassment of the Intervenor maliciously and with reckless indifference to Intervenor's rights under Title VII.

12. That the aforesaid treatment of Intervenor was because of her sex, female, in violation of Title VII, as amended.

13. That defendant created and allowed a hostile work environment to exist for Intervenor.

14. Intervenor has suffered and will continue to suffer irreparable injury caused by defendant's illegal conduct.

15. As a result of the acts complained of herein, Intervenor has suffered and will continue to suffer the effects of unlawful discrimination, extreme emotional distress and mental anguish, loss of career opportunities, loss of a job, damage to Intervenor's reputation and professional development, and other compensable losses and damage.

16. The conduct of the defendant constitutes unlawful employment discrimination on the basis of sex and constitutes a violation of the Intervenor's rights pursuant to Title VII of the Civil Rights Act of 1964 as amended by Title VII of the Civil Rights Act of 1991, and the defendant is liable to the Intervenor for civil relief and other damages for the violation of Intervenor's rights.

WHEREFORE, Intervenor, CARRIE COLLANDER n/k/a CARRIE SPILLANE, respectfully requests that this Court:

- a. Declare the acts complained of herein to be a violation of applicable law;
- b. Enter an Order enjoining and permanently restraining these violations of Title VII and its amendments;
- c. That the defendant be ordered to compensate, reimburse and make Intervenor whole for any benefits Intervenor would have received had it not been for defendant's illegal actions including but not limited to back pay and front pay;
- d. An Order that defendant pay for an award to compensate Intervenor for her pain and suffering and for the humiliation caused the defendant's unlawful treatment in an amount to be determined at trial;
- e. Intervenor prays for an award of punitive damages in an amount to be determined and which is appropriate pursuant to Title VII as amended to punish the defendant for the willful and malicious conduct necessary to deter defendant from engaging from such misconduct in the future;
- f. Intervenor prays this Court award Intervenor costs and expenses of this action and award Intervenor reasonable attorneys' fees as provided under Title VII; and
- g. That this Court grant such other and further equitable relief as is just and proper.

COUNT II

(SEX DISCRIMINATION - TITLE VII)

Intervenor restates and realleges paragraphs 1 through 10 above as though fully set forth herein.

17. That the above-referenced remarks as indicated in paragraph 7 above including subparts, are discriminatory within the meaning of Title VII.

18. That such remarks toward Intervenor reveal a gender-bias and gender stereotyping toward female employees within the workplace in violation of Title VII.

19. Intervenor has suffered and will continue to suffer irreparable injury caused by defendant's illegal conduct.

20. That the defendant's actions were willful and malicious and constituted a reckless indifference to Intervenor's rights under Title VII.

21. As a result of the acts complained of herein, Intervenor has suffered and will continue to suffer the effects of unlawful discrimination, extreme emotional distress and mental anguish, loss of career opportunities, loss of a job, damage to Intervenor's reputation and professional development, and other compensable losses and damage.

22. The conduct of the defendant constitutes unlawful employment discrimination on the basis of sex and constitutes a violation of the Intervenor's rights pursuant to Title VII of the Civil Rights Act of 1964 as amended by Title VII of the Civil Rights Act of 1991, and the defendant is liable to the Intervenor for civil relief and other damages for the violation of Intervenor's rights.

WHEREFORE, Intervenor, CARRIE COLLANDER n/k/a CARRIE SPILLANE, respectfully requests that this Court:

- a. Declare the acts complained of herein to be a violation of applicable law;
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- d. An Order that defendant pay for an award to compensate Intervenor for her pain and suffering and for the humiliation caused the defendant's unlawful treatment in an amount to be determined at trial;
- e. Intervenor prays for an award of punitive damages in an amount to be determined and which is appropriate pursuant to Title VII as amended to punish the defendant for the willful and malicious conduct necessary to deter defendant from engaging from such misconduct in the future;
- f. Intervenor prays this Court award Intervenor costs and expenses of this action and award Intervenor reasonable attorneys' fees as provided under Title VII; and
- g. That this Court grant such other and further equitable relief as is just and proper.

COUNT III

(RETALIATION - TITLE VII)

Intervenor restates and realleges paragraphs 1 through 10 above as though fully set forth herein.

23. That after Intervenor complained about the hostile work environment, Intervenor was subjected to adverse reprisals including probationary status.

24. That these adverse reprisals and Intervenor being placed on probationary status were in retaliation for her having complained about the hostile work environment in violation of Title VII.

25. Intervenor has suffered and will continue to suffer irreparable injury caused by defendant's illegal conduct.

26. That the defendant's actions were willful and malicious and constituted a reckless indifference to Intervenor's rights under Title VII.

27. As a result of the acts complained of herein, Intervenor has suffered and will continue to suffer the effects of unlawful discrimination, extreme emotional distress and mental anguish, loss of career opportunities, loss of a job, damage to Intervenor's reputation and professional development, and other compensable losses and damage.

28. The conduct of the defendant constitutes unlawful employment discrimination on the basis of sex and constitutes a violation of the Intervenor's rights pursuant to Title VII of the Civil Rights Act of 1964 as amended by Title VII of the Civil Rights Act of 1991, and the defendant is liable to the Intervenor for civil relief and other damages for the violation of Intervenor's rights.

WHEREFORE, Intervenor, CARRIE COLLANDER n/k/a CARRIE SPILLANE, respectfully requests that this Court:

- a. Declare the acts complained of herein to be a violation of applicable law;
- b. Enter an Order enjoining and permanently restraining these violations of Title VII and its amendments;
- c. That the defendant be ordered to compensate, reimburse and make Intervenor whole for any benefits Intervenor would have received had it not been for defendant's illegal actions including but not limited to back pay and front pay;

- d. An Order that defendant pay for an award to compensate Intervenor for her pain and suffering and for the humiliation caused the defendant's unlawful treatment in an amount to be determined at trial;
- e. Intervenor prays for an award of punitive damages in an amount to be determined and which is appropriate pursuant to Title VII as amended to punish the defendant for the willful and malicious conduct necessary to deter defendant from engaging from such misconduct in the future;
- f. Intervenor prays this Court award Intervenor costs and expenses of this action and award Intervenor reasonable attorneys' fees as provided under Title VII; and
- g. That this Court grant such other and further equitable relief as is just and proper.

COUNT IV

(CONSTRUCTIVE DISCHARGE)

Intervenor restates and realleges paragraphs 1 through 10 above as though fully set forth herein.

29. That after Intervenor verbally complained to defendant through its agents and employees that the above-mentioned conduct was unwelcome and harassing, defendant's conduct continued.

30. That as a result of the foregoing actions, Intervenor was forced to leave her job in or around March, 2002 and was thus constructively discharged.

31. Intervenor has suffered and will continue to suffer irreparable injury caused by defendant's illegal conduct.

32. That the defendant's actions were willful and malicious and constituted a reckless indifference to Intervenor's rights under Title VII.

33. As a result of the acts complained of herein, Intervenor has suffered and will continue to suffer the effects of unlawful discrimination, extreme emotional distress

and mental anguish, loss of career opportunities, loss of a job, damage to Intervenor's reputation and professional development, and other compensable losses and damage.

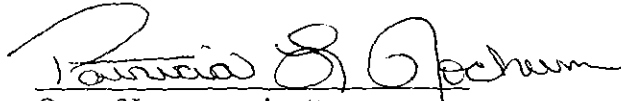
34. The conduct of the defendant constitutes unlawful employment discrimination on the basis of sex and constitutes a violation of the Intervenor's rights pursuant to Title VII of the Civil Rights Act of 1964 as amended by Title VII of the Civil Rights Act of 1991, and the defendant is liable to the Intervenor for civil relief and other damages for the violation of Intervenor's rights.

WHEREFORE, Intervenor, CARRIE COLLANDER n/k/a CARRIE SPILLANE, respectfully requests that this Court:

- a. Declare the acts complained of herein to be a violation of applicable law;
- b. Enter an Order enjoining and permanently restraining these violations of Title VII and its amendments;
- c. That the defendant be ordered to compensate, reimburse and make Intervenor whole for any benefits Intervenor would have received had it not been for defendant's illegal actions including but not limited to back pay and front pay;
- d. An Order that defendant pay for an award to compensate Intervenor for her pain and suffering and for the humiliation caused the defendant's unlawful treatment in an amount to be determined at trial;
- e. Intervenor prays for an award of punitive damages in an amount to be determined and which is appropriate pursuant to Title VII as amended to punish the defendant for the willful and malicious conduct necessary to deter defendant from engaging from such misconduct in the future;
- f. Intervenor prays this Court award Intervenor costs and expenses of this action and award Intervenor reasonable attorneys' fees as provided under Title VII; and
- g. That this Court grant such other and further equitable relief as is just and proper.

JURY DEMAND

Intervenor hereby demands a trial by jury on all counts properly
submissible to a jury.


One of Intervenor's attorneys

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