

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN

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U.S. DISTRICT COURT  
WEST MICH  
[Handwritten initials]

EQUAL EMPLOYMENT OPPORTUNITY  
COMMISSION,

Plaintiff,

Case No.

vs.

Honorable

1 05 000678

BW-WARRENVILLE OPERATIONS,

INC.,d/b/a/ Buffalo Wild Wings Bar & Grill

**COMPLAINT  
AND JURY DEMAND**

Defendant.

**Wendell A. Miles  
Senior, U.S. District Judge**

**NATURE OF THE ACTION**

This is an action brought under Title VII of the Civil Rights Act of 1964 to correct unlawful employment practices and to provide appropriate relief to Ricky Owens ("Owens") and similarly situated employees who were adversely affected by such practices. The Equal Employment Opportunity Commission ("The Commission"), alleges that Buffalo Wild Wings, ("Defendant"), discriminated against Owens when it permitted him to be racially harassed and subjected to a hostile work environment. The Commission further alleges that the Defendant failed to take prompt, effective, remedial action to stop the harassment and correct the hostile work environment.

**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 Sections

706(f)(1) and (3) of Title VII of the Civil Rights Act of 1964, as amended, and 42 U.S.C. 2000e-5(f)(1) and (3).

2. The employment practices alleged to be unlawful were committed within the jurisdiction of the United States District Court for the Western District of Michigan.

### **PARTIES**

3. Plaintiff, 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, has continually been a corporation doing business in the state of Michigan and the city of Muskegon, and has continuously had in excess of fifteen (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 sixty (60) days prior to the institution of this lawsuit, Ricky Owens filed a charge of discrimination with The Commission alleging a violation of Title VII. All conditions precedent to the institution of this lawsuit have been fulfilled.

7. Since at least June of 2004, Defendant engaged in unlawful employment practices in violation of Title VII, when it permitted Owens to be racially harassed by a supervisor and subjected to a hostile work environment.

8. The incidents of racial harassment in Defendant's facility were severe and pervasive.

9. Defendant had notice that Owens was being racially harassed and otherwise subjected to a hostile work environment. The harassment included, but was not limited to, the following incidents:

a) A hangman's noose hung in the office area where Owens worked each day ;

b) A picture of a confederate flag.

10. The effect of the conduct complained of in Paragraph 10, above, was to create a hostile work environment.

11. The effect of the unlawful employment practices complained of in paragraphs 7-10 was to deprive Owens of equal employment opportunities and otherwise adversely affect his status as employees because of his race.

12. As a result of the unlawful employment practices complained of above, Owens has suffered from fear, anxiety, emotional distress and loss of enjoyment of life.

13. The unlawful employment practices complained of above were and are done with malice or reckless indifference to the federally protected rights of Owens and other similarly situated individuals who were racially harassed and subjected to a hostile work environment.

### **PRAYER FOR RELIEF**

Wherefore, the Commission respectfully requests that this Court:

A. Order Defendant to provide training for all employees about diversity in the

workplace and Title VII's prohibitions against racial harassment;

- B. Order Defendant to devise an appropriate method of discipline for employees who violate the prohibitions of Title VII and for supervisors who fail to remedy racial harassment in a reasonable period of time;
- C. Order Defendant to post its new disciplinary rules for violating Title VII in a conspicuous place;
- D. Grant the Commission an injunction enjoining Defendant from participating in any unlawful employment practices;
- E. Order Defendant to make whole Ricky Owens by providing an appropriate amount of compensatory damages to be determined at trial along with any other affirmative relief necessary to eradicate the effects of the unlawful employment practices complained of above;
- F. Order Defendant to pay Owens punitive damages for its malicious or reckless conduct described above in an amount to be proven at trial;
- G. Order Defendant to pay similarly situated employees punitive damages for its malicious or reckless conduct described above in an amount to be proven at trial;
- H. Order Defendant to pay Owens nominal damages resulting from the unlawful practices complained of above;
- I. Order Defendant to pay Appropriate compensatory damages to any similarly situated employees in an amount to be proven at trial;
- J. Grant such further relief as the Court deems necessary and proper in the public interest;

K. Award the Commission its cost of this action.

**JURY TRIAL DEMAND**

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


Respectfully submitted,

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Dated: September 29, 200~~4~~<sup>5</sup>

  
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