

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,
Plaintiff,
and
KIMBERLY HELM,
Plaintiff-Intervenor,

Case No.: 1:03-cv-10172
Hon. David M. Lawson

v

BENCHMARK RESIDENTIAL SERVICES,
INC.,
Defendant.

FILED
OCT 23 4 24 PM '03
U.S. DISTRICT COURT
EAST DIST. HIGH.
BAY CITY

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Equal Employment Opportunity Commission
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COMPLAINT OF INTERVENING PLAINTIFF - KIM HELM

Now comes Plaintiff, Kimberly Helm, by and through Counsel, Debra Freid, of Freid, Gallagher, Taylor and Assoc. P.C., and states the following in complaint against the Defendant:

COUNT I-CIVIL RIGHTS--SEXUAL HARASSMENT

1. Jurisdiction is invoked pursuant to 28 USC Sections 1331 and 1343(a)(4). This action is

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authorized pursuant to Title VII of the Civil Rights Act of 1964, as amended 42 USC 2000e-5(f)(1) and (3) and (g) and Section 102 of the Civil Rights Act of 1991, 42 USC Section 1981a.

2. Defendant is an employer within the meaning of the Sections 701(b), (g), and (h) of Title VII , 42 U.S.C. sections 2000e(b),(g), and (h).
3. Defendant is and has been, at all relevant times to this action, a corporation doing business in the City of Pinconning.
4. Plaintiff, Kimberly Helm, began work for the Defendant on or about June 5, 2001 as a behavioral technician. In or about December, 2001, Plaintiff was promoted to a position as an Assistant Coordinator.
5. In these positions, Defendant directed Plaintiff to work with co-employee, Jerry Fitch, who created a sexually hostile work environment for the Plaintiff by continually making sexually offensive and vulgar comments to the Plaintiff and to other females within Plaintiff's hearing.
6. Plaintiff and other female employees reported Fitch's behavior to the Defendant on several occasions
7. The Defendant knew or should have known that Jerry Fitch was creating a sexually hostile work environment and harassing the Plaintiff sexually.
8. The Defendant took no action to promptly and effectively remediate the harassment once it knew or should have known of same.
9. Further, Jerry Fitch touched plaintiff without her consent in a sexual manner and attempted to compel Plaintiff to engage in sexual relations with him by threats, including the threat in

- December, 2001, that he would get Plaintiff fired if she did not engage in oral sex with him.
10. At the time Fitch threatened Plaintiff's position as referred to in Paragraph 9, Fitch was Plaintiff's direct supervisor.
 11. Plaintiff refused to engage in sexual relations with Jerry Fitch.
 12. Plaintiff was suspended her and demoted in January, 2002.
 13. Plaintiff was suspended and demoted in January, 2002 in retaliation because she refused to submit to her supervisor's demands for sex.
 14. Defendant further manufactured false and malicious claims regarding the Plaintiff's job performance and her honesty in retaliation because Plaintiff refused to have sex with her supervisor.
 15. Defendant demanded Plaintiff sign a release regarding her federally protected civil rights after Plaintiff continued to report to Defendant regarding the behavior of Fitch.
 16. That Defendant further retaliated against the Plaintiff by discharging her on or about March 29, 2002, because she engaged in protected activity.
 17. These unlawful employment practices complained of in the preceding paragraphs 6 to 16 were intentional.
 18. These unlawful employment practices complained of in the preceding paragraphs 6 to 16 were done with malice or with reckless indifference to the federally protected rights of the Plaintiff.
 19. The conduct, as set forth in these preceding paragraphs, has denied and will continue to deny Plaintiff, Kimberly Helm, her civil rights to be free from sex harassment in employment and employment opportunities.

20. As a direct result of the Defendant's breach of statutory duties, the Plaintiff has suffered severe emotional distress, and mental anguish, as well as embarrassment, humiliation, shock and mortification.

21. As a direct result of the Defendant's breach of statutory duties, the Plaintiff has lost and will continue to lose income, including but not limited to, the loss of past and future wages and compensation, including fringe benefits and the costs and fees associated with this litigation, including attorneys fees.

WHEREFORE, your Plaintiff, Kimberly Helm, respectfully requests that this Honorable Court award all legal and equitable relief to which Plaintiff is entitled including compensation for all past and future economic and non-economic damages, where reinstatement would be intolerable, and punitive damages, as well as attorneys fees and the costs associated with this litigation.

COUNT II -INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

20. Plaintiff incorporates all preceding paragraphs herein as if each was fully restated.

21. The Defendant owed to the plaintiff, a duty not to intentionally or recklessly cause the Plaintiff severe emotional distress.

22. The Defendant did breach that duty by, among other conduct:

- a. Intentionally or recklessly depriving Plaintiff of employment rights and opportunities because of her sex;
- b. Intentionally or recklessly subjecting Plaintiff to a sexually hostile work environment and to quid pro quo sexual harassment and continuing abuses of the exercise of authority over the Plaintiff;
- c. Degrading, and humiliating Plaintiff by condoning and authorizing the sexually

hostile work environment;

- d. Suspending and demoting the Plaintiff because she refused to engage in sexual relations with her supervisor;
 - e. Discharging the plaintiff because she engaged in activity protected by our federal civil rights laws;
 - f. Manufacturing and publishing false and malicious claims regarding the plaintiff's job performance and her honesty during the course of her employment;
 - g. Demanding that Plaintiff sign a release regarding her federally protected civil rights during her employment and discharging her after she refused to do so;
23. The Defendant is vicariously responsible for the wrongful acts of its employees, which, while intentional, were done within the apparent scope of authority granted by the Defendant.
24. As a direct result of the intentional and egregious breach of duty by the Defendant, set forth in the preceding paragraphs, the Plaintiff has suffered severe emotional and physical distress as well as the losses set forth above in Paragraphs 20 and 21.

WHEREFORE, your Plaintiff, Kimberly Helm, respectfully requests that this Honorable Court award all legal and equitable relief to which Plaintiff is entitled including compensation for all past and future economic and non-economic damages, and exemplary damages, as well as attorneys fees and the costs associated with this litigation.

October 23, 2003

Respectfully Submitted,

Freid, Gallagher, Taylor & Assoc.

By:



Debra A. Freid (P33078)
Attorney for Plaintiff

JURY DEMAND

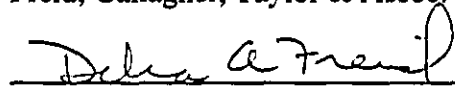
Plaintiff, Kim Helm, herein demands a jury by trial.

October 23, 2003

Respectfully Submitted,

Freid, Gallagher, Taylor & Assoc.

By:



Debra A. Freid (P33078)

Attorney for Plaintiff

PO Box 3305

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