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ORIGINAL

UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF MICHIGAN

FILED

'04 APR 22 P1:47

EQUAL EMPLOYMENT OPPORTUNITY  
COMMISSION,

Plaintiff,

v.

MID-AMERICAN GUNITE

Defendant.

U.S. DIST. COURT CLERK  
EASTERN DISTRICT  
DETROIT, MI 48226  
Case No.: **04-71519**

**BERNARD A. FRIEDMAN**

**COMPLAINT**  
**AND JURY DEMAND**

**MAGISTRATE JUDGE MONA K. MAJZOUB**

**NATURE OF THE ACTION**

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 to provide appropriate relief to Shawn Rucker-Henderson, who was adversely affected by such practices. The EEOC alleges that Rucker-Henderson's supervisor and owner of Defendant, Mid-American Gunite, Larry Masserant, sexually harassed her and other similarly situated individuals. The Defendant, having knowledge of the harassment, failed to take prompt, reasonable action to end the harassment and prevent it from recurring.

**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) and 707(c) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e-5(f)(1) and (3) and 42 U.S.C. 2000e-6(e) ("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 and are now being committed within the jurisdiction of the United States District Court for the Eastern District of Michigan,

Southern Division.

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

4. At all relevant times, Defendant, Mid-American Gunite, (“Employer” or “Mid-American”), has continuously been a company doing business in the State of Michigan and the City of Newport, and has continuously had at least 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 thirty days prior to the institution of this lawsuit Shawn Rucker-Henderson filed a charge with the Commission alleging violations of Title VII by Defendant Employer. All conditions precedent to the institution of this lawsuit have been fulfilled.

7. Since May, 2001, Defendant Employer has engaged in unlawful employment practices at its Newport, Michigan facility, in violation of Section 703(a), 42 U.S.C. § 2000e-2(a). The Defendant’s unlawful employment practices include, but are not limited to, the following:

- a. Defendant’s owner, Larry Masserant, created a hostile work environment for Rucker-Henderson beginning in May, 2001, by making sexually offensive remarks and physically touching her inappropriately on a regular basis.
- b. Masserant talked about Rucker-Henderson’s body parts and commented that

he liked it when she wore a short skirt.

- c. Masserant made comments that the copy machine was Rucker-Henderson's sex toy.
- d. Masserant offered to give Rucker-Henderson his chair at a meeting and then touched the chair when she stood up and whispered to her that he could still smell her.
- e. On another occasion, while driving in the car to a work function, Masserant put his hand between Rucker-Henderson's legs and asked her if he could check to see if she still had a kidney infection.
- f. On several occasions, Masserant rubbed Rucker-Henderson's shoulders even though she told him to stop.
- g. Masserant was the owner of Mid-American Gunite.

8. The effect of the pattern and practice of conduct complained of in paragraph 7 above has been to deprive Rucker-Henderson and other similarly situated individuals of their equal employment opportunities and otherwise adversely affect their status as employees because of their sex.

9. The unlawful employment practices complained of in paragraph 7 above were and are intentional.

10. As the result of the unlawful employment practices, Rucker-Henderson and other similarly situated individuals have suffered emotional pain, suffering, inconvenience, mental anguish and loss of enjoyment of life.

11. The unlawful employment practices complained of in paragraph 7 above were done with malice or with reckless indifference to the federally protected rights of Rucker-Henderson and

other similarly situated individuals.

**PRAYER FOR RELIEF**

Wherefore, the Commission respectfully requests that this Court:

- a. GRANT a permanent injunction enjoining Defendant Employer, its officers, successors, assigns, and all persons in active concert or participation with it, from engaging in sexual harassment and any other employment practices which discriminate on the basis of sex. |
- b. ORDER Defendant Employer to institute and carry out policies, practices and programs which provide equal employment opportunities for women, and which eradicate the effects of its past and present unlawful employment practices, including the institution of a sexual harassment training program for each of its facilities.
- c. ORDER Defendant to provide individualized training to its employees concerning Title VII and its prohibitions against sexual harassment and retaliation.
- d. ORDER Defendant Employer to make whole Rucker-Henderson and other similarly situated individuals by providing compensation for past and future pecuniary losses resulting from the unlawful employment practices described in paragraph 7 above in amounts to be proven at trial.
- e. ORDER Defendant Employer to make whole Rucker-Henderson and other similarly situated individuals by providing nominal damages and compensatory damages for past and future non-pecuniary losses resulting from the unlawful practices complained of in paragraph 7 above, in amounts to be proven at trial.
- f. ORDER Defendant Employer to pay Rucker-Henderson and other similarly situated individuals punitive damages for its malicious or reckless conduct described in

paragraph 7 above, in amounts to be proven at trial.

- g. GRANT such further relief as the Court deems necessary and proper in the public interest.
- h. 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,

ERIC S. DREIBAND  
General Counsel

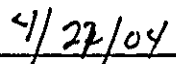
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Dated \_\_\_\_\_

Filed: April 22, 2004

FRIEDMAN / 7159 / MLM

MONROE D 26/15

JS 44 11/99

CIVIL COVER SHEET COUNTY IN WHICH THIS ACTION AROSE: MONROE

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for use of the Clerk of Court for the purpose of initiating the civil docket sheet.

I. (a) PLAINTIFFS

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

(b) County of Residence of First Listed

(c) Attorney's (Firm Name, Address, and Telephone Number)

Tammy C. Klein, (P60256) (313) 226-5673 Equal Employment Opportunity Commission 477 Michigan Ave., Rm 865, Detroit, MI 48226

DEFENDANTS

MID-AMERICAN GUNITE, INC.

BERNARD A. FRIEDMAN

County of Residence of First Listed MONROE

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

MAGISTRATE JUDGE MONA K. MAJZOUB

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
2 U.S. Government Defendant
3 Federal Question (U.S. Government Not a Party)
4 Diversity (Indicate Citizenship of Parties in Item 111)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State
Citizen of Another
Citizen or Subject of a Foreign Country
Incorporated or Principal Place of Business in This State
Incorporated and Principal of Business in Another State
Foreign Nation

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Table with columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Includes checkboxes for various legal categories like Insurance, Real Estate, Personal Injury, etc.

V. ORIGIN (PLACE AN "X" IN ONE BOX ONLY)

- 1 Original Proceeding
2 Removed from State Court
3 Remanded from Appellate Court
4 Reinstated or Reopened
5 Transferred from another district (specify)
6 Multi district Litigation
7 Judge from District Magistrate

VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write brief statement of cause. Do not cite jurisdictional statutes unless diversity.)

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

VII. REQUESTED IN COMPLAINT: CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 DEMAND CHECK YES only if demanded in complaint: JURY DEMAND: [X] Yes [ ] No

VIII. RELATED CASE(S) INSTRUCTIONS: IF ANY

JUDGE BERNARD A. FRIEDMAN DOCKET NUMBER

DATE 4/22/04

SIGNATURE OF ATTORNEY OF RECORD

[Signature]

# PURSUANT TO LOCAL RULE 83.11

1. Is this a case that has been previously dismissed?

Yes  
 No

If yes, give the following information:

Court: \_\_\_\_\_

Case No.: \_\_\_\_\_

Judge: \_\_\_\_\_

2. Other than stated above, are there any pending or previously discontinued or dismissed companion cases in this or any other court, including state court? (Companion cases are matters in which it appears substantially similar evidence will be offered or the same or related parties are present and the cases arise out of the same transaction or occurrence.)

Yes  
 No

If yes, give the following information:

Court: \_\_\_\_\_

Case No.: \_\_\_\_\_

Judge: \_\_\_\_\_

Notes:

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