

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

EQUAL EMPLOYMENT OPPORTUNITY)
COMMISSION,)

Plaintiff,)

v.)

RPM AUTO SALES, INC.,)

Defendant.)

02-72357
CASE NO.

BERNARD A. FRIEDMAN

MAGISTRATE JUDGE CARLSON

COMPLAINT AND JURY TRIAL DEMAND

FILED
JUN 10 A 10 2002
U.S. DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

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 employees Janet Reddington and Lisa Bice, who were adversely affected by such practices. The EEOC alleges that Defendant, RPM Auto Sales, Inc., ("Defendant" or "RPM") subjected Reddington and Bice to a sexually hostile work environment and that the Defendant, despite knowledge of the harassment, failed to take prompt and effective action to correct and prevent the harassment. As a consequence, Reddington and Bice were both constructively discharged.

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, 42 U.S.C. 2000e-5(f)(1) and (3) ("Title VII"), and Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981a. 28 U.S.C. §§ 451, 1331, 1337, 1343

and 1345.

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 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, RPM Auto Sales has continuously been a corporation doing business in Flint, Michigan, 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, Janet Reddington and Lisa Bice filed charges 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 at least October 2000, Defendant Employer has engaged in unlawful employment practices at both its Saginaw and Flint, Michigan facilities, in violation of Section 703(a), 42 U.S.C. § 2000e-2(a). The Defendant’s unlawful employment practices include the following:

- a. The male employees, including managers and owners, at Defendant Employer’s Flint and Saginaw facilities engaged in behavior that created a hostile work environment

for both Bice and Reddington.

b. During Reddington's employment she was subjected to unwelcome sexual talk, innuendos, jokes and touching by male employees. Examples of such conduct include:

1. A Sales Manager put his arms around Reddington and asked her if she wanted to have sex with him.
2. A co-worker sent sexually suggestive e-mails. The same co-worker put his arms around her and attempted to kiss her neck. He also told her that if she could not take the harassment than she did not need to work there.
3. A manager leaned in close to Reddington and asked her when was the last time she had sex.
4. Reddington dropped some change on the floor and asked a co-worker to pick it up. He bent over, picked up the change and ran his hand up Reddington's leg all the way to the bottom of her skirt.
5. A co-worker approached Reddington with a catalog. On the cover of the catalog was an old woman with a large magnifying glass that lit up to help with her needlework. He told Reddington that he was thinking this would be a great tool for masturbating. It would magnify his penis. He further commented that the magnifying glass would make him feel "real big and feel good about himself.

c. During Bice's employment she was subjected to unwelcome sexual talk, innuendos, jokes and touching by the male employees. Examples of such conduct include:

1. A co-worker asked Bice to have sex with him.
2. A manager told Bice that it takes a special kind of person to work for RPM - - one that tolerates sexual harassment.
3. A co-worker said to Bice, come on tits, we know you want to. Don't you know we all have sex with each other up here?
4. After Bice was transferred to the Saginaw location, she had to stop by the Flint office on a daily basis. When she would stop, both owners would hug her. One owner told Bice that he could no longer hug her because it was exciting him sexually. He also told Bice that maybe someday you will let me show you what I can do with my tongue.
5. The Collections Manager at the Saginaw location followed Bice to the bathroom. When Bice turned around to see why he was following her, he grabbed and squeezed her breasts. When she came back out of the bathroom, Bice told him not to do that anymore and he responded, "Your breasts are so big and inviting that I could not resist."
6. A co-worker faxed Bice a hand-drawn picture of a penis and vagina with a reference to the weekend camping trip she would be taking with her boyfriend. He faxed it from the Flint location to Bice at the Saginaw location.
7. A co-worker told Bice he was taking \$40 to pay the girl waiting in the car for the sexual services she had performed.
8. One of the co-owners who had promised Bice days before that he would take care of the sexual harassment, hugged her and then squatted down, grabbed her buttocks and pulled her to him while thrusting his hips forward.

d. Reddington and Bice both complained to management about the unwelcome remarks and behavior. In spite of its knowledge of the harassment and the sexually hostile work environment, the Defendant failed to take reasonable care to prevent the harassment and to take corrective action to end the harassment. In fact, the supervisors were often engaging in, condoning and encouraging the harassment.

e. Defendant's failure to take reasonable care to prevent and correct the harassment resulted in Reddington and Bice both being constructively discharged.

8. The effect of the unlawful conduct complained of in paragraph 7, above, has been to deprive Reddington and Bice of equal employment opportunities and otherwise adversely to affect their status as employees because of their sex, female.

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

10. As the result of the unlawful employment practices, Reddington and Bice have suffered emotional pain, suffering, inconvenience, mental anguish, 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 Reddington and Bice.

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 practice which discriminates 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.

C. Order the Defendant Employer to make whole Reddington and Bice, 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 but not limited to reinstatement of Reddington and Bice to their former positions.

D. Order Defendant Employer to make whole Reddington and Bice, 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 Reddington and Bice by providing compensation for past and future nonpecuniary 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 Reddington and Bice punitive damages for its malicious or reckless conduct described in paragraph 7 above, in amounts to be proven at trial.

G. Order Defendant Employer to implement a sexual harassment policy, including but not limited to providing an effective reporting mechanism, and to provide training to its owners and employees regarding Title VII, including sexual harassment.

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

I. Award the Commission its costs of this action.


JURY TRIAL DEMAND

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

Respectfully submitted,

NICHOLAS M. INZEO
Acting Deputy General Counsel

6/10/02
DATE


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