

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

EQUAL EMPLOYMENT OPPORTUNITY)	
COMMISSION,)	
)	
Plaintiff,)	
)	CIVIL ACTION NO.: 04-00726-cv-DW
and)	
)	
CINDY JOHNSTON,)	
)	
Plaintiff-Intervenor,)	JURY TRIAL DEMAND
)	
v.)	
)	
GARDEN CITY PLASTICS EQUIPMENT)	
AND SUPPLY CO., INC., and)	
PLASTIC PACKAGING CONCEPTS, INC.,)	
)	
Defendants.)	

PLAINTIFF’S FIRST AMENDED COMPLAINT

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 Cindy Johnston, who was adversely affected by such practices. The Commission alleges that Defendants’ supervisors sexually harassed Johnston and terminated her in retaliation for refusing her supervisors’ advances, as described with greater particularity below.

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 Section 706(f)(1) 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(d) of the Civil Rights Act of 1991, 42 U.S.C. § 1981a.

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

PARTIES

3. Plaintiff, the Equal Employment Opportunity Commission (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, Defendants have continuously been doing business in the State of Missouri and the City of Garden City. Defendants have also continuously operated as a single employer and together have at least 15 employees.

5. At all relevant times, Defendants have continuously been an employer within the meaning of Section 701(b) of Title VII, 29 U.S.C. § 2000e(b).

STATEMENT OF CLAIMS

6. More than thirty days prior to the institution of this lawsuit, Cindy Johnston filed a charge with the Commission alleging violations of Title VII by Defendants. All conditions precedent to the institution of this lawsuit have been fulfilled.

7. Since at least June 2002, Defendants have engaged in unlawful employment practices at their Garden City, Missouri facilities in violation of Sections 703(a) and 704(a) of Title VII, 29 U.S.C. §§ 2000e-2(a) and 2000e-3(a). These practices include the following:

- a. Defendants' supervisor subjected Cindy Johnston to unwelcome sexual harassment during her employment. This harassment included, but was not limited to, regular, repeated and unwelcome inappropriate comments and unwelcome touching that was sexual in nature.
- b. Ms. Johnston complained about this behavior to the appropriate management officials.
- c. After Ms. Johnston's complaints, Defendant failed to prevent and promptly correct this unwelcome and pervasive sexual harassment, and terminated Ms. Johnston's employment because she opposed the sexually inappropriate conduct.

8. The effect of the practices complained of in paragraph 7 above has been to deprive Johnston of equal employment opportunities and otherwise adversely affect her status as an employee, because of her sex.

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

10. The unlawful employment practices complained of in paragraph 7 above were done with malice or with reckless indifference to the federally protected rights of Johnston.

PRAYER FOR RELIEF

Wherefore, the Commission respectfully requests that this Court:

A. Grant a permanent injunction enjoining Defendants, their officers, successors, assigns, and all persons in active concert or participation with it, from engaging in harassment, retaliation and any other employment practice which discriminates on the basis of sex.

B. Order Defendants 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 Defendants to make Johnston whole by providing appropriate back pay with prejudgment interest, in amounts to be determined at trial, and other affirmative relief as necessary to eradicate the effects of its unlawful employment practices, including but not limited to, reinstatement.

D. Order Defendants to make Johnston whole by providing compensation for past and future pecuniary losses resulting from its unlawful employment practices described in paragraph 8 above in amounts to be determined at trial.

E. Order Defendants to make Johnston whole by providing compensation for past and future non-pecuniary losses resulting from the unlawful employment practices described in paragraph 8 above, including emotional pain, suffering, inconvenience, loss of enjoyment of life, loss of reputation, and humiliation, in amounts to be determined at trial.

F. Order Defendants to pay punitive damages for its malicious and reckless conduct described in paragraph 8 above in amounts to be determined at trial.

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

H. Award the Commission its costs of this action.

JURY TRIAL DEMAND

The Commission requests a jury trial on all questions of fact raised by this Complaint.

Respectfully submitted,

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