

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

CYNTHIA HUFFMAN, )  
WILLA BURKE, VIRGINIA KING and )  
EQUAL EMPLOYMENT OPPORTUNITY )  
COMMISSION, )

Plaintiff/Plaintiff-Intervenors, )

vs. )

NEW PRIME, INC. d/b/a/ PRIME, INC., )  
ABEL JOSEPH LORMAND, SAMUEL )  
TURNER )

and )

KENNETH LITTLEJOHN )  
Served at: 9500 South Heights Road )  
Little Rock, Arkansas 72209 )

Defendants. )

Case No. 01-3144-CV-S-3-ECF

JURY TRIAL DEMANDED

**COMPLAINT OF INTERVENOR VIRGINIA KING**

COMES NOW Plaintiff- Intervenor Virginia King by and through her undersigned attorneys, and for her cause of action against the Defendants state the following:

**PARTIES**

1. Plaintiff-Intervenor Virginia King is a resident of the State of Ohio, residing in Columbus, Franklin County, Ohio. She has the capacity to sue.

2. Plaintiff Equal Employment Opportunity Commission ("EEOC"), the federal agency charged with the administration, interpretation and enforcement of Title VII, brought the instant action pursuant to § 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). It has the capacity to sue.

3. Defendant New Prime, Inc. (hereafter "Prime") is a corporation of the State of Nebraska, with its principal place of business located at 2740 North Mayfair, Springfield, Missouri 65808. Defendant Prime is also registered with the State of Missouri under the name Prime, Inc. and conducts business in the State of Missouri under that name. It has the capacity to be sued.

4. Defendant Kenneth Littlejohn ("Littejohn") is a resident of the State of Arkansas, residing in Pulaski County. He has the capacity to be sued.

### **JURISDICTION AND VENUE**

5. Plaintiff-Intervenor King brings her cause of action pursuant to § 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 § 102(d) of the Civil Rights Act of 1991, 42 U.S.C. § 1981a. The jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 451, 1331, 1337, 1343 and 1345. Plaintiff King has the statutory right to intervene in the instant action pursuant to § 706(f)(1) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e-5(f)(1), and pursuant to F.R.C.P. 24(a)(1), which grants the right to intervene where a statute of the United States confers an unconditional right to intervene. Plaintiff-Intervenor King brings her state claims pursuant to Missouri Tort Law. This Court has jurisdiction over Plaintiff-Intervenor King's pendent and supplemental state claims pursuant to 28 U.S.C. § 1367.

6. Defendant Prime is an employer engaged within the meaning of Title VII, § 701(b), (g) and (h), 42 U.S.C. § 2000e-5(b),(g) and (h).

7. Plaintiff-Intervenor King filed her charge of discrimination with the EEOC.

8. Plaintiff-Intervenor King was employed in the State of Missouri by Defendant Prime.

9. Venue is proper in this Court pursuant to 42 U.S.C. § 2000e-5 and 28 U.S.C. §

1391(b) in that Defendant Prime maintains its principal office in this judicial district, and in that a substantial part of the events or omissions giving rise to Plaintiff-Intervenor King's claims occurred in this judicial district.

### **STATEMENT OF RELEVANT FACTS**

10. Plaintiff-Intervenor King incorporates and re-alleges Paragraphs 1 through 9 of this Complaint as is fully set forth herein.

11. Defendant Prime, at all relevant times, operated Prime, Inc. in Springfield, Greene County, Missouri, and employed Plaintiff-Intervenor King as a truck driver-trainee.

12. Plaintiff-Intervenor King was assigned to Hosea Washington, male trainer, who stated that he "don't think that women should be driving trucks..." and would not train King what she needed to learn. Plaintiff-Intervenor King requested to be removed from Washington's truck for failure to be trained.

13. Plaintiff-Intervenor King requested repeatedly to be placed with a female trainer, due to Washington's comments, prior to being assigned to the male trainer Defendant Littlejohn.

14. Plaintiff-Intervenor King was sexually assaulted, raped and molested at the hands of Defendant Prime's trainer, Defendant Littlejohn while in his truck.

15. Defendant Littlejohn drove Plaintiff-Intervenor King to a Motel Six in Texas shortly after the sexual assault.

16. Plaintiff-Intervenor King contacted Defendant Prime through dispatcher, Stan Auman, requesting to speak to a female and to be returned to either Springfield or her home via a female trainer or other means of transportation.

17. Defendant Littlejohn requested Defendant Prime to remove Plaintiff-Intervenor

King from Littlejohn's truck after he sexually assaulted, raped and molested her.

18. Dispatcher Stan Auman refused to contact a female and insisted upon placing King on a truck with another male trainer.

19. Plaintiff-Intervenor King contacted Defendant Prime to speak to another dispatcher, however, her call was routed back to Auman. Upon Plaintiff-Intervenor King's explanation that "men want sexual favors" as the reason why she was requesting to talk to a female dispatcher and only drive with a female instructor, Auman further traumatized King by yelling at her that "...the instructors were outstanding family men and they would not do anything of the sort..." or words to that effect, asserting to her that no female trainers were available and refusing to provide a female trainer to Plaintiff-Intervenor.

20. Plaintiff-Intervenor King was assigned to Gerald Felders, a male trainer, to take her back to Prime's headquarters in Springfield. King was told by Prime that Felders would be routed directly back to Springfield where he could drop her off. However, Prime falsely represented to Plaintiff-Intervenor that she would be routed directly back to Springfield. Defendant Prime through its dispatch knew that driver Felders was being routed to California before being routed back to Springfield, Missouri.

21. Upon entering Felders' truck, Plaintiff-Intervenor King was subjected to Felders' choice to play sexually explicit songs which described sexual assaults on women and other violent acts. King requested Felders' to turn off the offensive music and was told "this is my truck I will play the music I like..."

22. Plaintiff-Intervenor contacted Defendant Prime and complained to a female dispatcher, Kim Haynes, with regard to the offensive music and her need to get back to Prime or her home immediately.

23. Haynes contacted Felders with regard to his choice of music and asked that he not play such music. Felders later yelled at King for complaining about him to Haynes. Plaintiff was further traumatized by Felders.

24. Plaintiff-Intervenor King removed herself from Felders truck, contacted Defendant Prime through dispatcher Haynes, explained that she feared that she was pregnant or had contracted some disease from Littlejohn, and needed to see a doctor. Haynes finally sent King a bus ticket to return to her home.

25. Plaintiff-Intervenor King demanded to know what if anything had happened to Defendant Littlejohn in terms of discipline by Defendant Prime. Defendant Prime refused to divulge “personal information” to King.

26. Defendant Prime constructively discharged Plaintiff-Intervenor King on or about September 12, 1997 by creating intolerable working conditions for Plaintiff-Intervenor King, as in described herein and in violation of Section 703(a) of Title VII, 42 U.S.C. §2000e-2(a).

27. As a result of the actions alleged above, Plaintiff-Intervenor King has suffered and will continue to suffer emotional distress, loss of enjoyment of life, loss of reputation, humiliation, prolonged incapacity to work, and inconvenience, lost wages to date and lost wages in the future.

28. As a result of the actions alleged above, Plaintiff-Intervenor King has incurred and continues to incur counseling and medical expenses.

**COUNTS I AND II**  
**TITLE VII AND CHAPTER 214 RSMo. - SEXUAL HARASSMENT**  
**AND CONSTRUCTIVE DISCHARGE DEFENDANT PRIME**

29. Plaintiff-Intervenor King incorporates and re-alleges Paragraphs 1 through 28 of this Complaint as if fully set forth herein.

30. By the unlawful acts alleged above, Defendant Prime has violated Title VII.

31. As a direct and proximate result of Defendant Prime's unlawful acts, Plaintiff-Intervenor King has sustained and is reasonably likely to sustain in the future irreparable harm in the form of both pecuniary and nonpecuniary losses, including but not limited to, lost wages and benefits, emotional pain, suffering, inconvenience, humiliation, loss of enjoyment of life, loss of reputation, medical and counseling expenses, and attorneys' fees and expenses.

32. Defendant Prime acted with malice and with reckless indifference to Plaintiff-Intervenor King's right not to be discriminated against, thus making appropriate an award of punitive damages to punish the Defendant Prime and to deter the Defendant Prime and others from like conduct. Such malice or reckless indifference is part of a pattern of conduct engaged in by Defendant Prime on prior, similar occasions.

WHEREFORE, Plaintiff-Intervenor King prays that this Court enter judgment pursuant to Title VII in her favor and against Defendant Prime and enter an order:

- a. Declaring all acts in violation of Title VII;
- b. Enjoining and permanently restraining Defendant Prime from continued violations of Title VII;
- c. Directing Defendant Prime to take such affirmative action as is necessary to ensure that the effects of these unlawful practices are eliminated and to not continue to affect Plaintiff-Intervenor King's employment opportunities;
- d. Requiring Defendant Prime to compensate, reimburse, and make whole Plaintiff-Intervenor King for the full value of all pecuniary and nonpecuniary damages she has sustained in the past, and is reasonably

certain to sustain in the future, including, but not limited to, any and all back and front pay and benefits, medical and counseling expenses, offensive touching, embarrassment, humiliation, loss enjoyment of life, potential loss of reputation, and all consequent damages;

- e. Awarding her attorneys' fees, costs and all other damages and losses she is entitled to under the law and the facts of this case.

**COUNT III**  
**INTENTIONAL OR NEGLIGENT INFLICTION OF MENTAL DISTRESS**  
**DEFENDANT PRIME**

33. Plaintiff-Intervenor King restates paragraph 1 - 32 above as if fully restated herein and incorporates them by reference.

34. Defendant Prime was repeatedly contacted by Plaintiff-Intervenor with regard to the acts of the Defendant Littlejohn including his comments, general harassment both sexual and otherwise indicating a need for Plaintiff to be removed from the truck and returned home by Defendant Prime away from this specific trucker. Plaintiff-Intervenor further requested Defendant Prime, through its dispatchers, to specifically assign her to a female trainer and also to return her to Springfield or her home through the use of a female truck driver. At all times, Defendant Prime denied such requests.

35. Defendant Prime knew or should have known that Defendant Littlejohn had a propensity to sexually molest and potentially rape female trainees including Plaintiff-Intervenor King. With such knowledge Defendant Prime negligently assigned Plaintiff-Intervenor King to ride and be trained by Defendant Littlejohn.

36. Being given notice by the Plaintiff-Intervenor of Littlejohn's conduct during the trip, necessitated immediate action by the Defendant Prime to not only remove her from the truck

but also to make arrangements for her safety. Defendant Prime knew or should have known that Plaintiff-Intervenor King would be subjected to emotional damages by the conduct of Defendant Littlejohn and by the circumstances that would likely occur and that immediate attention necessitated the return of Plaintiff-Intervenor King to her home or to Springfield and the actions taken by Defendant Littlejohn properly addressed. To require her to remain in a hotel, by herself in Texas where she had no means to return home or to provide for herself, exacerbated and increased the emotional damages and trauma caused by Littlejohn's acts.

37. Defendant Prime knew or should have known that to assign Plaintiff-Intervenor King to Defendant Littlejohn would subject her to severe emotional distress.

38. Defendant knew or should have known that to leave Plaintiff-Intervenor King in the truck and assign as a trainer, Defendant Littlejohn, to the Plaintiff-Intervenor would subject her to a high likelihood of sexual harassment, sexual abuse, molestation, threats and potentially rape. Such acts by the Defendant Prime are negligent and Defendant Prime knew or should have known that both the assignment to Defendant Littlejohn as Plaintiff-Intervenor King's trainer and leaving her with Defendant Littlejohn for any extended period of time would result in and likely cause emotional harm and trauma to the Plaintiff-Intervenor.

39. After Plaintiff-Intervenor King had been raped by Defendant Littlejohn, the Defendant Prime was then notified by Defendant Littlejohn that he could not work with the Plaintiff and that she should be removed from the truck. Defendant Littlejohn and Defendant Prime, acting together dropped Plaintiff-Intervenor off in a Motel 6 somewhere in the state of Texas without any means for her to return home, return to Springfield, provide for herself, seek medical attention or otherwise be treated or cared for as a result of the injuries that she sustained at the hands of Defendant Littlejohn.



40. Plaintiff-Intervenor King contacted Defendant Prime, informed Prime of Littlejohn's sexual assault, her condition, the need for her to return to Springfield or her home, to have a female return a call to her to be able to talk to a female as to the things that had happened to her at the hands of Defendant Littlejohn and that she needed appropriate care for her condition. Defendant Prime negligently failed to provide for her any means for medical care or to address the injuries and damages she had sustained, and falsely portrayed to her that she would be immediately returned to Springfield by trucker Felders.

41. Defendant Prime provided transportation indirectly back to Springfield by providing trucker Felders to pick up Plaintiff-Intervenor King. Defendant Prime falsely stated to Plaintiff-Intervenor that Felders would take her directly to Springfield when in fact Defendant Prime routes Felders to the State of California to make a delivery and then return to Springfield.

42. Plaintiff-Intervenor King was further subjected to additional emotional trauma by Defendant's trucker Felders, by his on going playing and utilization of sexually explicit tapes that included references to abuse of women, including the rape of women, and his general dislike for women based upon his conduct towards her. Such facilitated and increased the emotional trauma to Plaintiff-Intervenor who had just been raped by another of Defendant Prime's truckers, trainer Littlejohn.

43. Plaintiff-Intervenor King removed herself from Defendant Felders' truck at the next stop and then once again, called Defendant Prime and informed them that she needed medical care, a bus ticket to return home and that she needed to speak to a woman. At some point in time Plaintiff-Intervenor then informed Kim Haynes, a female dispatcher that Defendant Littlejohn had raped her and that she was very concerned about the possibility of sexually transmitted diseases and/or pregnancy and her immediate need for medical care due to being

raped by Littlejohn

44. Defendant Prime took little or no action, and in fact, ultimately only provided her with a bus ticket back home, and eventually said that she could seek some medical care with regard to addressing her concerns as a result of the rape. The Defendant Prime was negligent in inflicting emotional distress to the Plaintiff-Intervenor after Defendant Littlejohn's rape of her in the following fashion:

- a. Failed to immediately remove her from Littlejohn's truck and get her back home safely to either Springfield or own home after she informed Defendant Prime of his conduct;
- b. Falsely portrayed to her that there was a trucker, Felders, who would treat her with dignity and respect and immediately bring her back to Springfield, when in fact, that was false and then subjected her to further sexual abuse and emotional trauma as described above with no intention of having her immediately return to Springfield. Defendant Prime told Plaintiff-Intervenor that she would be immediately returned to Springfield knowing such representation was false;
- c. Defendant Prime failed to address her concerns for her necessary medical care and treatment;
- d. Defendant Prime placed her Texas and other locations where she had no means to support herself, provide for herself, get medical care, or return home. All contributing to her emotional state of mind after being raped. Only after numerous phone calls and pleas was she provided a minimal amount of care addressing her emotional and physical concerns.

45. After Defendant Prime learned of Plaintiff-Intervenor King being raped by Defendant Littlejohn, then later subjected to the sexual harassment as described above by Defendant Prime's trucker Felders and after Defendant Prime knew of Plaintiff-Intervenor King being stranded in West Texas by herself, the Defendant Prime chose a further course of conduct which was intentional and made with the intent to scare, harm and cause emotional injury damages to Plaintiff-Intervenor King. Such acts of Defendant Prime taken against Plaintiff-Intervenor King were:

- a. Demanding that she reimburse Defendant Prime for cost for her staying in hotels and the cost for returning her to her home;
- b. Demanding that she pay \$5,000 for the 6 weeks of MTC "training" she received, her bus ticket, and her medical bills she sustained due to the sexually assault, rape and molestation of Defendant Littlejohn. Defendant Prime turned Plaintiff-Intervenor King over to a collection agency and ruined her credit report.
- c. Making further demand for various costs incurred due to her needing to be removed from the Littlejohn and Felders' trucks and clearly cease her training and her returning to her home;
- d. Defendant Prime's intentional deducting from Plaintiff-Intervenors' paycheck the above described costs;
- e. Instituting legal actions, service of process and ultimately attempted to garnishing Plaintiff-Intervenor King's wages for certain of the above described costs and reimbursement of such cost.

46. Such acts by Defendant Prime were taken to intimidate, scare, frighten and to cause such harm to Plaintiff that she would not pursue any causes of actions against the Defendant Prime for the acts of trucker Felders and trucker Littlejohn and more specifically for the cause of action of sexual harassment.

47. The Defendant Prime knew or should have known that the above actions as described in this count by Defendant Prime against Plaintiff would cause her severe emotional harm and injury and in fact such actions were in fact taken by Defendant Prime with the intention to cause such harm.

48. Such acts warrant an award of punitive damages.

WHEREFORE Plaintiff-Intervenor prays judgment in her favor and against the Defendant Prime on her claim of intentional or negligent infliction of mental distress and for an award of damages which will properly value the damages, injuries and losses that she has sustained by the acts of Defendant Prime, for an award of punitive damages and for an award for any and all other damages, losses or injuries that she is entitled to under the law and as supported by the facts.

**COUNT IV**  
**INTENTIONAL OR NEGLIGENT INFLECTION OF MENTAL DISTRESS**  
**DEFENDANT LITTLEJOHN**

49. Plaintiff-Intervenor King restates paragraph 1 - 48 above as if fully restated herein and incorporates them by reference.

50. Defendant Littlejohn contacted Plaintiff-Intervenor King by phone after leaving her at the Motel 6, to threaten her about telling Defendant Prime about the sexual assault, rape and molestation. Such acts caused further mental and emotional distress.

51. Defendant Littlejohn also stated to King that “Prime said for him to return her to Springfield...” or words to that effect, further traumatizing King. Plaintiff-Intervenor King contacted Defendant Prime to verify such statement.

52. Such acts by Defendant Littlejohn were taken to intimidate, scare, frighten and to cause such harm to Plaintiff-Intervenor that she would not pursue any causes of actions against Defendant Littlejohn and more specifically for the causes of action of sexual harassment, rape and molestation.

53. Defendant Littlejohn knew or should have known that the above actions as described in this count by Defendant Littlejohn against Plaintiff would cause her severe emotional harm and injury and in fact such actions were in fact taken by Defendant Littlejohn with the intention to cause such harm.

54. Such acts warrant an award of punitive damages.

WHEREFORE Plaintiff-Intervenor prays judgment in her favor and against the Defendant Littlejohn on her claim of intentional or negligent infliction of mental distress and for an award of damages which will properly value the damages, injuries and losses that she has sustained by the acts of Defendant Littlejohn, for an award of punitive damages and for an award for any and all other damages, losses or injuries that she is entitled to under the law and as supported by the facts.

Respectfully Submitted,

**ROGER G. BROWN AND ASSOCIATES**

By  /s/Roger G. Brown

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