

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

EQUAL EMPLOYMENT OPPORTUNITY)	
COMMISSION,)	
Plaintiff,)	
)	CIVIL ACTION NO.
v.)	
)	
BODEGA BARS USA, LLC d/b/a MOSAIC)	JURY TRIAL DEMANDED
RESTAURANT,)	
)	
Defendant.)	

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 female employees, including Aimee Boss and Morgan Hagedon, who were adversely affected by such practices.

The Complaint alleges that while employed as bartenders by Defendant, Bodega Bars USA, d/b/a Mosaic Restaurant, Boss and Hagedon were subjected to egregious sexual harassment on account of their sex by Andrew Gladney with the full knowledge of Defendant's owners and managers, including Claus Schmitz and Greg Doyle. The sexual harassment altered the terms and conditions of their employment. Despite their complaints, Defendant failed to take appropriate corrective action following the sexual harassment and otherwise condoned the sexual harassment of Boss and Hagedon by Gladney.

The Complaint further alleges that the sexual comments, propositions and touchings by Gladney created a sexually hostile environment that was so oppressive that Boss and Hagedon were forced to resign their employment when Defendant unreasonably failed to take prompt and

effective action to end the sexual harassment, but rather allowed the harassment to continue unabated knowing that it would force Boss and Hagedon to resign.

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) 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").

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

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, Defendant, Bodega Bars USA, LLC, has continuously been a Missouri corporation doing business in the State of Missouri and the City of St. Louis, and has continuously had at least 15 employees.

5. At all relevant times, Bodega Bars USA, LLC d/b/a Mosaic Restaurant, 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, Boss and Hagedon each filed a charge with the Commission alleging violations of Title VII by Defendant. All conditions precedent to the institution of this lawsuit have been fulfilled.

7. Since at least December 3, 2004, Defendant has engaged in unlawful employment practices at its facility located at 1101 Lucas Avenue, St. Louis, Missouri, in violation of Section 703(a) of Title VII, 42 U.S.C. §2000e-2(a), as follows:

(a) Defendant subjected Boss and Hagedon, both bartenders, to unlawful sexual harassment during their employment in violation of Section 703(a) of Title VII, 42 U.S.C. §2000e-2(a). The unlawful conduct was directed toward Boss and Hagedon by Andrew Gladney on a nearly daily basis beginning with the opening of Defendant's restaurant and continuing until Boss and Hagedon were constructively discharged in January 2005 and February 2005, respectively.

Gladney made extremely graphic and offensive sexual comments to Boss and Hagedon, attempted to solicit sexual acts from each, and invited each to use cocaine while engaging in sexual activity with him. These remarks were made openly in the bar area of Defendant's restaurant in the presence of Boss' and Hagedon's supervisor, Greg Doyle, and in the presence of the majority owner of Defendant, Claus Schmitz. In addition, Gladney touched Hagedon on numerous occasions by patting her posterior, hugging her, and attempting to fondle her breasts. Boss complained to Doyle about Gladney's actions and Hagedon complained to both Schmitz and Doyle about Gladney's actions, but Defendant failed to take any measures to end Gladney's conduct prior to the constructive discharge of Boss.

The unlawful conduct was unwelcome, sexual in nature, and directed at Boss and Hagedon because of their sex. The unlawful conduct was sufficiently severe or pervasive to create a hostile working environment for Boss and Hagedon which altered the terms and conditions of their employment.

(b) As a result of Gladney's sexually harassing conduct and Defendant's failure to take prompt and effective measures to end such conduct, the working conditions for both Boss and Hagedon became so hostile and oppressive that each was compelled to end their employment with Defendant. Defendant had knowledge that the sexual harassment of Boss and Hagedon by Gladney caused their working conditions to be so intolerable that each would be forced to resign. Nevertheless, Defendant deliberately and unreasonably failed to take prompt and effective actions to end the harassment and knew that its inaction would result in the resignations of Boss and Hagedon.

8. The effect of the practice(s) complained of in paragraphs 7(a) and (b) above has been to deprive Boss and Hagedon of equal employment opportunities and otherwise adversely affect their status as employees because of their sex.

9. The unlawful employment practices complained of in paragraphs 7(a) and (b) above were intentional.

10. The unlawful employment practices complained of in paragraphs 7(a) and (b) above were done with malice or with reckless indifference to the federally protected rights of Boss and Hagedon.

PRAYER FOR RELIEF

Wherefore, the Commission respectfully requests that this Court:

A. Grant a permanent injunction enjoining Defendant, its officers, successors, assigns, and all persons in active concert or participation with them, from engaging in sexual harassment, intimidation, discharge, and any other employment practice which discriminates on the basis of sex.

B. Order Defendant 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 Defendant to make whole Boss and Hagedon, by providing appropriate backpay 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 rightful place reinstatement of Boss and Hagedon.

D. Order Defendant to make whole Boss and Hagedon, by providing compensation for past and future pecuniary losses resulting from the unlawful employment practices described in paragraphs 7(a) and (b) above, in amounts to be determined at trial.

E. Order Defendant to make whole Boss and Hagedon by providing compensation for past and future nonpecuniary losses resulting from the unlawful practices complained of in paragraphs 7(a) and (b), including emotional distress, pain, suffering, inconvenience, loss of enjoyment of life, loss of reputation, and humiliation, in amounts to be determined at trial.

F. Order Defendant to pay punitive damages for its malicious and reckless conduct described in paragraphs 7(a) and (b) 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 its complaint.

Respectfully submitted,

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