

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
SOUTHERN DIVISION**

EQUAL EMPLOYMENT)	
OPPORTUNITY COMMISSION,)	
)	CIVIL ACTION NO. 5:06-CV-305
Plaintiff,)	
)	
v.)	
)	
S.G.T. CINELLI’S, INC.,)	<u>FIRST AMENDED COMPLAINT</u>
)	
and)	<u>JURY TRIAL DEMAND</u>
)	
CINELLI’S RISTORANTE, INC.,)	
)	
Defendants.)	
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)	

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 (female), and to provide appropriate relief to Meghan C. O’Connell, and a class of similarly situated women including Brittany McLaurin who were adversely affected by such practices. Specifically, Plaintiff, Equal Employment Opportunity Commission (the “EEOC” or the “Commission”) alleges that Defendants S.G.T. Cinelli’s, Inc. and Cinelli’s Ristorante, Inc. (“Defendants”) subjected Meghan C. O’Connell and a class of similarly situated women including , Brittany McLaurin, to a sexually hostile work environment. The Commission further alleges that Defendants constructively discharged Brittany McLaurin, and other similarly situated women as a result of the sexual harassment.

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") and Section 102 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 Eastern District of North Carolina.

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 S.G.T. Cinelli's, Inc. has continuously been doing business in the State of North Carolina and the Town of Cary, and has continuously had at least 15 employees.

5. At all relevant times, Defendant Cinelli's Ristorante, Inc. has continuously been doing business in the State of North Carolina and the Town of Cary, and has continuously had at least 15 employees.

6. At all relevant times, Defendant S.G.T. Cinelli's, Inc. 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).

7. At all relevant times, Defendant Cinelli's Ristorante, Inc. 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).

8. Upon information an belief, Defendants jointly owned and/or operated a restaurant in Cary, NC where the incidents alleged in paragraph 10 below occurred.

STATEMENT OF CLAIMS

9. More than thirty days prior to the institution of this lawsuit, Meghan C. O'Connell 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.

10. From around September 2003 until at least March 2004, Defendants have engaged in unlawful employment practices at a restaurant on Kildaire Farm Road in Cary, North Carolina, in violation of Section 703(a)(1) of Title VII, 42 U.S.C. § 2000e-2(a)(1) as set forth below:

a. Defendants subjected Meghan C. O'Connell and a class of similarly situated women including Brittany McLaurin to sexual harassment and a sexually hostile work environment based on her sex, female. The harassment included, but was not limited to, unwelcome sexual comments and gestures, as well as touching such as hugging, kissing and biting the women's buttocks. The harassment was perpetrated by one of Defendants' managers who was in the women's direct line of supervision.

b. Defendants constructively discharge Brittany McLaurin and a class of similarly situated women, by maintaining a sexually hostile work environment that was so intolerable that a reasonable person would have resigned, and by failing to take appropriate action to prevent and stop the harassment.

11. The effect of the practice complained of in paragraph 10 above has been to deprive Meghan C. O'Connell and a class of similarly situated women including Brittany McLaurin of equal employment opportunities and otherwise adversely affect their status as employees because of their sex, female.

12. The unlawful employment practices complained of in paragraph 10 above were intentional.

13. The unlawful employment practices complained of in paragraph 10 above were done with malice or with reckless indifference to the federally protected rights of Meghan C. O'Connell and a class of similarly situated women including Brittany McLaurin.

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 them, from creating or maintaining a sexually hostile work environment or 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 their past and present unlawful employment practices.

C. Order Defendants to make whole Brittany McLaurin and a class of similarly situated women 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 their unlawful employment practices, including but not limited to reinstatement or front pay.

D. Order Defendants to make whole Meghan C. O'Connell, and a class of similarly situated women including Brittany McLaurin, by providing compensation for past and future pecuniary losses resulting from the unlawful employment practices described in paragraph 10 above, including but not limited to medical expenses, in amounts to be determined at trial.

E. Order Defendants to make whole Meghan C. O'Connell, and a class of similarly situated women including Brittany McLaurin, by providing compensation for past and future non pecuniary losses resulting from the unlawful practices complained of in paragraph 10 above, including but not limited to emotional pain, suffering, inconvenience, loss of enjoyment of life, humiliation, loss of self-esteem and loss of civil rights, in amounts to be determined at trial.

F. Order Defendants to pay Meghan C. O'Connell, and a class of similarly situated women including Brittany McLaurin, punitive damages for its malicious and reckless conduct described in paragraph 10 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.

DATED this 16th day of November 2006.

Respectfully submitted,

RONALD S. COOPER
General Counsel

JAMES L. LEE
Deputy General Counsel