

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
STATESVILLE DIVISION

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EQUAL EMPLOYMENT)
OPPORTUNITY COMMISSION,)
)
Plaintiff,)
)
v.)
)
BUD FOODS, LLC d/b/a SHONEY'S)
RESTAURANT,)
)
Defendant.)
_____)

CIVIL ACTION NO. 504cv156-H

COMPLAINT

JURY TRIAL DEMAND

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 who were adversely affected by the practices. The Commission alleges that Defendant Bud Foods, LLC d/b/a Shoney's Restaurant ("Bud Foods") discriminated against Sonia Pohoski and other similarly situated female employees because of their sex, female. The Commission further alleges that Defendant Bud Foods constructively discharged Sonia Pohoski and other similarly situated female employees.

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 Western 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 of the Civil Rights Act and is expressly authorized to bring this action by Sections 706(f)(1) and (3) of Title VII, 42 U.S.C. §2000e-5(f)(1).

4. At all relevant times, Defendant Bud Foods has continuously been a North Carolina corporation doing business in the State of North Carolina and the City of Statesville and has continuously had at least fifteen employees.

5. At all relevant times, Defendant Bud Foods has continuously been an employer engaged in an industry affecting commerce under 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, Sonia Pohoski filed a charge with the Commission alleging violations of Title VII by Defendant Bud Foods. All conditions precedent to the institution of this lawsuit have been fulfilled.

7. Since around March 13, 2003, Defendant Bud Foods has engaged in unlawful employment practices at its restaurant located in Statesville, 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. Defendant Bud Foods subjected Sonia Pohoski and other similarly situated female employees to discrimination on the basis of their sex by subjecting them to sexual harassment that created a sexually hostile work environment. The harassment, which was perpetrated by a co-owner of Defendant Bud Foods, included but was not limited to unwelcome sexual comments, gestures and advances. Although the

women opposed the sexual harassment and Defendant Bud Foods otherwise knew or reasonably should have known about the sexual harassment, Defendant Bud Foods failed to take reasonable steps to prevent or correct the harassment.

b. As a result of the sexually hostile work environment at Defendant Bud Foods, Sonia Pohoski and other similarly situated female employees were forced to resign.

8. The effect of the practices complained of in paragraph 7 above has been to deprive Sonia Pohoski and other similarly situated female employees of equal employment opportunities and otherwise adversely affect their status as employees because of their sex, female.

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 Sonia Pohoski and other similarly situated female employees.

PRAYER FOR RELIEF

Wherefore, the Commission respectfully requests that this Court:

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

B. Order Defendant Bud Foods to institute and carry out policies, practices, and programs that provide equal employment opportunities for women and which eradicate the effects of its past and present unlawful employment practices.

C. Order Defendant Bud Foods to make whole Sonia Pohoski and other similarly situated female employees 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 Ms. Pohoski and other similarly situated female employees.

D. Order Defendant Bud Foods to make whole Sonia Pohoski and other similarly situated female employees by providing compensation for past and future pecuniary losses resulting from the unlawful employment practices described in paragraph 7 above, including medical expenses, in amounts to be determined at trial.

E. Order Defendant Bud Foods to make whole Sonia Pohoski and other similarly situated female employees by providing compensation for past and future non-pecuniary losses resulting from the unlawful practices complained of in paragraph 7 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 Defendant Bud Foods to pay Sonia Pohoski and other similarly situated female employees punitive damages for its malicious and reckless conduct, as described 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.

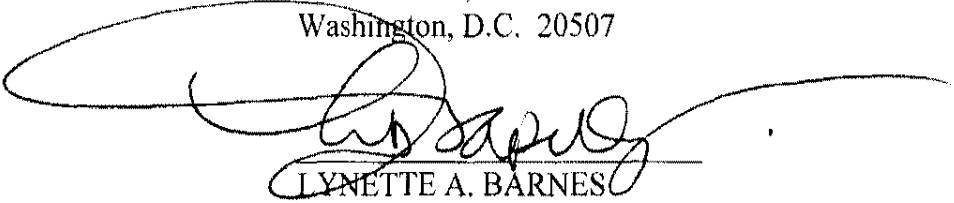
DATED this the 30th day of September 2004.

Respectfully submitted,


ERIC S. DREIBAND
General Counsel

JAMES L. LEE
Deputy General Counsel

GWENDOLYN YOUNG REAMS
Associate General Counsel
EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION
1801 L Street, N.W.
Washington, D.C. 20507



LYNETTE A. BARNES
Acting Regional Attorney



KARA GIBBON HADEN
Senior Trial Attorney
EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION
Charlotte District Office
129 West Trade Street, Suite 400
Charlotte, North Carolina 28202
Telephone: 704.344.6885
Facsimile: 704.344.6870
ATTORNEYS FOR PLAINTIFF