

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
~~EASTERN~~ DIVISION
Southern

FILED

SEP. 24 2001

EQUAL EMPLOYMENT OPPORTUNITY)
COMMISSION,)
)
Plaintiff,)
)
v.)
)
TANDS, INC., d/b/a BOJANGLES,)
)
Defendant.)
_____)

DAVID W. DANIEL, CLERK
US DISTRICT COURT, EDNC
BY *[Signature]* DEP. CLERK

CIVIL ACTION NO.
7:01-CV-180BR1

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. Plaintiff, the Equal Employment Opportunity Commission (the "Commission"), alleges that Defendant Tands, Inc., d/b/a/ Bojangles ("Defendant"), discriminated against Teresa A. Cox and similarly situated female employees, including but not limited to Anita Beatty, Audra Hannan, and Debbie Leslie, because of their sex, female. The Commission further alleges that Defendant retaliated against Teresa A. Cox and similarly situated employees, including but not limited to Anita Beatty, Audra Hannan, and Debbie Leslie, because they engaged in protected activity under Title VII by opposing unlawful discrimination and/or participating in an investigation of unlawful discrimination.

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, 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) and (3).

4. At all relevant times, Defendant Tands Inc., d/b/a Bojangles, has continuously been a North Carolina corporation doing business in the State of North Carolina and the City of Jacksonville and has continuously had at least fifteen employees.

5. At all relevant times, Defendant Tands Inc., d/b/a Bojangles 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, Teresa A. Cox 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 August 2000, Defendant has engaged in unlawful employment practices at one or more of its restaurants located in Jacksonville, 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 subjected Teresa A. Cox and similarly situated female employees, including but not limited to Anita Beatty, Audra Hannan, and Debbie Leslie, to discrimination based on their sex by maintaining a sexually hostile work environment. The sexual harassment included unwelcome sexual touching, comments, and advances by a supervisor. Although the women complained about the sexual harassment, and Defendant otherwise knew or reasonably should have known about the sexual harassment, Defendant failed to take appropriate action to stop it.
- b. Defendant discharged or constructively discharged, and otherwise retaliated against Teresa A. Cox and similarly situated female employees, including but not limited to Anita Beatty, Audra Hannan, and Debbie Leslie, because they engaged in protected activity under Title VII by opposing unlawful discrimination and/or participating in an investigation of unlawful discrimination.

8. The effect of the practices complained of in paragraph 7 above has been to deprive Teresa A. Cox and similarly situated female employees, including but not limited to Anita Beatty, Audra Hannan, and Debbie Leslie, of equal employment opportunities and otherwise adversely affect their status as employees because of their sex, female, and because they engaged in protected activity under Title VII.

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 Teresa A. Cox and similarly situated female employees, including but not limited to Anita Beatty, Audra Hannan, and Debbie Leslie.

PRAYER FOR RELIEF

Wherefore, the Commission respectfully requests that this Court:

A. Grant a permanent injunction enjoining Defendant Tands, Inc., d/b/a Bojangles, its officers, successors, assigns, and all persons in active concert or participation with it, from sexual harassment or any other employment practice that discriminates on the basis of sex and from retaliating against employees who engage in protected activity under Title VII.

B. Order Defendant Tands, Inc., d/b/a Bojangles, 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 Tands, Inc., d/b/a Bojangles, to make whole Teresa A. Cox and similarly situated female employees, including but not limited to Anita Beatty, Audra Hannan, and Debbie Leslie, 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 the reinstatement of or front pay for the affected employees.

D. Order Defendant Tands, Inc., d/b/a Bojangles, to make whole Teresa A. Cox and similarly situated female employees, including but not limited to Anita Beatty, Audra Hannan, and Debbie Leslie, by providing compensation for past and future pecuniary losses resulting from the unlawful employment practices described in paragraph 7 above, including but not limited to job search expenses, in amounts to be determined at trial.

E. Order Defendant Tands, Inc., d/b/a Bojangles, to make whole Teresa A. Cox and similarly situated female employees, including but not limited to Anita Beatty, Audra Hannan,

and Debbie Leslie, by providing compensation for past and future non-pecuniary losses resulting from the unlawful employment practices described in paragraph 7 above, including but not limited to emotional pain, suffering, inconvenience, loss of enjoyment of life, and humiliation, in amounts to be determined at trial.

F. Order Defendant Tands, Inc., d/b/a Bojangles, to pay Teresa A. Cox and similarly situated female employees, including but not limited to Anita Beatty, Audra Hannan, and Debbie Leslie, punitive damages for its malicious and reckless conduct, as described in paragraph 7 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 24th day of September, 2001.

Respectfully submitted,

GWENDOLYN YOUNG REAMS
Associate General Counsel

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION
1801 L Street, N.W.
Washington, D.C. 20507


MINDY E. WEINSTEIN
Regional Attorney


LYNETTE A. BARNES
Supervisory Trial Attorney

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION
Charlotte District Office
129 West Trade Street, Suite 400
Charlotte, North Carolina 28202


KERITH COHEN
Trial Attorney

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION
Raleigh Area Office
1309 Annapolis Drive
Raleigh, North Carolina 27608

ATTORNEYS FOR PLAINTIFF