

FILED
U.S. DISTRICT COURT
DISTRICT OF NEW MEXICO

IN THE UNITED STATES DISTRICT COURT 02 AUG 29 PM 2: 54

FOR THE DISTRICT OF NEW MEXICO

R. J. ...
CLERK

EQUAL EMPLOYMENT OPPORTUNITY)
COMMISSION,)

Plaintiff,)

v.)

BELL GAS INCORPORATED, A-X PROPANE)
INC., CORTEZ GAS COMPANY, BLACK)
GOLD ENERGY CORPORATION, d/b/a)
A-X EXPRESS MART and CONOCO #155,)

Defendant.)

CIV - 02 - 1090 WPJDJS
CIV

COMPLAINT

JURY TRIAL DEMANDED

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 retaliation, and to provide appropriate relief to Christine Romero who was adversely affected by such practices while employed by Defendant Bell Gas Incorporated, A-X Propane Inc., Cortez Gas Company, Black Gold Energy Corporation, d/b/a A-X Express Mart and Conoco #155 ("Defendant" or the "Employer"). The Commission alleges that Christine Romero was subjected to verbal and physical sexual harassment by her immediate supervisor, Ray Hidalgo, which created a hostile work environment. The Commission also alleges Christine Romero was retaliated against by the Defendant for complaining about the sexual harassment. As a result, Christine Romero was

either discharged or constructively discharged by the Defendant.

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 District of New Mexico.

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 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, New Mexico corporations operating as a joint employer, continuously did and is now doing business in the State of New Mexico in the City of Socorro as A-X Express Mart and Conoco #155. At all relevant times, Defendant has continuously had at least fifteen employees.

5. At all relevant times, the Defendant has continuously been and is now 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, Christine Romero 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 February 2000 Defendant has engaged in unlawful employment practices at its Socorro, New Mexico facility in violation of Section 703(a) of Title VII, 42 U.S.C. §§2000e-2(a). These practices include subjecting Christine Romero to verbal and physical harassment because of her sex, including a sexual assault, which created a hostile work environment, and failing to correct and remedy the hostile work environment. As a result of the sexual harassment and Defendant's failure to appropriately remedy the sexual harassment, Christine Romero was either discharged or constructively discharged by Defendant.

8. Since at least July 2000 Defendant has further engaged in unlawful employment practices in violation of Section 704(a) of Title VII, 42 U.S.C. §2000e-3(a), by discriminating against Christine Romero because she opposed the Defendant's unlawful employment practices. As a result of Defendant's retaliation and/or sexual harassment, Christine Romero was either discharged or constructively discharged by Defendant.

9. The effect of the practices complained of in paragraphs 7 and 8 above has been to deprive Christine Romero of equal employment opportunities and otherwise adversely affect her status as an employee because of her sex.

10. The unlawful employment practices complained of in paragraphs 7 and 8 above were intentional.

11. The unlawful employment practices complained of in paragraphs 7 and 8 above were done with malice and/or reckless indifference to the federally protected rights of Christine Romero.

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 it, from engaging in any employment practice that discriminates on the basis of sex, including sexual harassment.

B. Grant a permanent injunction enjoining Defendant, its officers, successors, assigns and all persons in active concert or participation with it, from engaging in any employment practice that discriminates against any of its employees or applicants for employment because she or he has opposed an unlawful employment practice, or because she or he has made a charge, testified, assisted, or participated in any manner in any investigation, proceeding, or hearing under Title VII.

C. Order Defendant to institute and carry out policies, practices and programs which provide equal employment opportunities for women and those who oppose discrimination and which eradicate the effects of its past and present unlawful employment practices.

D. Order Defendant to make whole Christine Romero by providing appropriate back pay with prejudgment interest, in amounts to be proved at trial, and other affirmative relief necessary to eradicate the effects of its unlawful employment practices, including, but not limited to, reinstatement of Christine Romero and front pay.

E. Order Defendant to make whole Christine Romero, by providing compensation for past and future pecuniary losses resulting from the unlawful employment practices described in paragraphs 7 and 8 above, including, but not limited to, job search expenses and medical expenses, in amounts to be determined at trial.

F. Order Defendant to make whole Christine Romero by providing compensation for past and future non-pecuniary losses resulting from the unlawful practices complained of in paragraphs 7 and 8 above, including but not limited to, emotional pain, suffering, inconvenience, mental anguish, humiliation, loss of enjoyment of life, and other non-pecuniary losses, in amounts to be determined at trial.

G. Order Defendant to pay Christine Romero punitive damages for its malicious and/or reckless conduct described in paragraphs 7 and 8 above, in an amount to be determined at trial.

H. Grant such further relief as the Court deems necessary and proper in the public interest.

I. Award the Commission its costs in this action.

JURY TRIAL DEMANDED

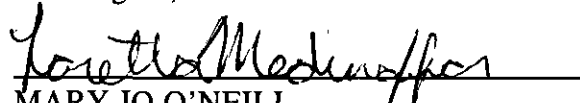
The Commission requests a jury trial on all questions of fact raised by its Complaint.

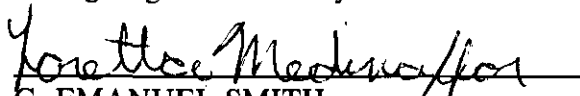
DATED this 29th day of August, 2002.

Respectfully submitted,

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