

FILED
UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO

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Robert W. Deaton
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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

CIV 98 1188 JP

EQUAL EMPLOYMENT OPPORTUNITY)
COMMISSION,)
)
Plaintiff,)
)
v.)
)
NEW MEXICO NEWSPAPERS, INC.,)
d/b/a THE DAILY TIMES,)
)
Defendant.)
_____)

CIV
WILLIAM W. DEATON
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 by the Equal Employment Opportunity Commission to correct unlawful employment practices on the basis of sex and retaliation and to provide appropriate relief to Jessica McGuire, Jennifer Ulibarri and a class of female employees and who were adversely affected by such practices. The Commission alleges that defendant subjected Jessica McGuire, Jennifer Ulibarri and other females to unwelcome physical and verbal conduct of a sexual nature, which created an intimidating, hostile, and abusive working environment. As a result of the sexual harassment Jessica McGuire was retaliated against by defendant and Jennifer Ulibarri was forced to resign her employment with 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 Sections 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 below 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 an 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 times relevant to this action, defendant, New Mexico Newspapers, Inc, d/b/a The Daily Times (the "defendant"), was a business in the State of New Mexico and the City of Farmington, and has continuously had at least fifteen employees.

5. At all times relevant to this action, defendant has continuously been an employer engaged in an industry affecting commerce within the meaning of Section 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, Jessica McGuire and Jennifer Ulibarri filed a charge with the Commission alleging violations of Title VII by the defendant. All conditions precedent to the institution of this lawsuit have been fulfilled.

7. Since at least February 1996, defendant engaged in unlawful employment practices in violation of Section 703(a) of Title VII, 42 U.S.C. §2000e-2(a). These practices include sexual

harassment of Jennifer Ulibarri and a class of female employees, and the discharge of Jennifer Ulibarri.

8. Since at least May 1996, defendant engaged in unlawful employment practices in violation of Sections 703(a) and 704(a) of Title VII, 42 U.S.C. §2000e-2(a) and §2000e-3(a). These practices include sexual harassment of Jessica McGuire and retaliation against Ms. McGuire.

9. The effect of the practices complained of in paragraphs 7 and 8 has been to deprive Jessica McGuire, Jennifer Ulibarri and a class of females of equal employment opportunities and otherwise adversely affect their status as employees because of their 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 or with reckless indifference to the federally protected rights of Jessica McGuire, Jennifer Ulibarri and a class of females.

PRAAYER FOR RELIEF

WHEREFORE, the Commission respectfully requests that this Court:

A. Grant a permanent injunction enjoining defendant, New Mexico Newspapers, Inc., d/b/a The Daily Times, their officers, successors, assigns and all persons in active concert or participation with them, from engaging in sexual harassment 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 Jessica McGuire, Jennifer Ulibarri and a class of females 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.

D. Order defendant to make whole Jessica McGuire, Jennifer Ulibarri and a class of females, by providing compensation for past and future pecuniary losses, resulting from the unlawful employment practices described above including, but not limited to, medical expenses, in amounts to be determined at trial.

E. Order Defendant to make whole Jessica McGuire, Jennifer Ulibarri and a class of females, by providing compensation for past and future non-pecuniary losses resulting from the unlawful practices complained of above, including damages for emotional distress, in amounts to be determined at trial.

F. Order Defendant to pay Jessica McGuire, Jennifer Ulibarri and a class of females, punitive damages for its malicious and reckless conduct 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 this Complaint.

DATED this 29th day of September 1998.

Respectfully submitted,

C. GREGORY STEWART
General Counsel

GWENDOLYN YOUNG REAMS
Associate General Counsel

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



RICHARD R. TRUJILLO
Regional Attorney



MARY JO O'NEILL
Supervisory Trial Attorney

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION
3300 N. Central Ave., Suite 690
Phoenix, Arizona 85012



VERONICA A. MOLINA
Trial Attorney

LORETTA MEDINA
Senior Trial Attorney

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION
Albuquerque District Office
505 Marquette, NW, Suite 900
Albuquerque, New Mexico 87102
Telephone : (505) 248-5231

Attorneys for Plaintiff