

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

EQUAL EMPLOYMENT OPPORTUNITY )  
COMMISSION, )  
 )  
Plaintiff, ) CIV  
 )  
v. )  
 )  
PVNF, L.L.C., d/b/a Chuck Daggett Motors and ) **COMPLAINT**  
Big Valley Auto ) **JURY TRIAL DEMANDED**  
 )  
 )  
Defendant. )  
\_\_\_\_\_ )

**NATURE OF THE ACTION**

This is an action under Title VII of the Civil Rights Act of 1964, as amended by the Pregnancy Discrimination Act of 1978 and Title I of the Civil Rights Act of 1991 to correct unlawful employment practices on the basis of sex, pregnancy and retaliation, and to provide appropriate relief to Tammy Hulce, Marla Segovia and a class of female employees, including at least Michelle Reid and Joanne Richmond, who were adversely affected by such practices during their employment with PVNF, L.L.C., d/b/a Chuck Daggett Motors, now known as Big Valley Auto (“Defendant Employer”). The Commission alleges that Tammy Hulce and a class of employees, including at least Michelle Reid, were subjected to pregnancy harassment, including mocking and taunting remarks disdaining pregnant women and their ability to work, which created a hostile work environment for them because of their sex, female. As to Ms. Reid, the

Commission alleges that the harassment based on pregnancy forced her to resign her employment with Defendant Employer. The Commission also alleges that Marla Segovia and a class of female employees, including at least Joanne Richmond, were subjected to gender and sex harassment, including sexist, anti-female remarks, which created a hostile work environment for them because of their sex, female. The Commission further alleges that Joanne Richmond and a class of similarly situated women were denied payment of medical insurance premiums because of their sex, female. Finally, the Commission alleges that Marla Segovia was subjected to retaliation for opposing unlawful employment practices and that Ms. Segovia was forced to resign her employment as a result of the Defendant Employer's sex discrimination and retaliation against her.

### **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 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 Employer has continuously been doing business in the State of New Mexico, including the Cities of Portales and Clovis, and has continuously had at least 15 employees.

5. At all relevant times, Defendant Employer has continuously been and is now 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).

6. Upon information and belief, on or about July 2003, Defendant PVNF, L.L.C., placed the Chuck Daggett Motors facilities in Portales and Clovis, New Mexico under the new business name of Big Valley Auto.

#### **STATEMENT OF CLAIMS**

7. More than thirty days prior to the institution of this lawsuit, Tammy Hulce and Marla Segovia filed charges with the Commission alleging violations of Title VII by Defendant Employer. All conditions precedent to the institution of this lawsuit have been fulfilled.

8. Since at least July, 2000, Defendant Employer has engaged in unlawful employment practices at its Portales, New Mexico facility in violation of Section 703(a) of Title VII, 42 U.S.C. §§2000e-2(a) because of sex. These practices include:

- a) the harassment of Marla Segovia and a class of female employees, including at least Joanne Richmond, which created a hostile work environment because of their gender or sex, female;

- b) the failure to pay medical insurance premiums for Joanne Richmond and a class of similarly situated women because of their sex, female; and
- c) the constructive discharge of Marla Segovia as a result of Defendant Employer's discrimination against her because of her sex, female.

9. Since at least February, 2001, Defendant Employer has engaged in unlawful employment practices at its Portales, New Mexico facility in violation of Section 703(a) of Title VII, 42 U.S.C. §2000e-2(a) and Section 701 (k) , 42 U.S.C. §2000e (k) (the Pregnancy Discrimination Act of 1978) because of sex, pregnancy. These practices include:

- a) the pregnancy harassment of Tammy Hulce, and a class of employees, including at least Michelle Reid which created a hostile work environment for them because of their sex, female; and
- b) the constructive discharge of Michelle Reid as a result of Defendant Employer's pregnancy harassment toward her because of her sex, female.

10. Since at least September, 2001, Defendant Employer has engaged in unlawful retaliatory employment practices at its Portales, New Mexico facility in violation of Section 704(a) of Title VII, 42 U.S.C. §§2000e-3(a). These retaliatory practices include:

- a) subjecting Marla Segovia to disciplinary action and adverse terms, conditions and privileges of employment after she expressed opposition to and made complaints about unlawful employment practices in early September, 2001; and
- b) the constructive discharge of Marla Segovia as a result of Defendant Employer's

retaliation against her because she opposed unlawful employment practices.

11. The effect of the practices complained of in paragraphs 8 and 9 above has been to deprive Tammy Hulce, Marla Segovia and a class of female employees, including at least Michelle Reid and Joanne Richmond of equal employment opportunities and otherwise adversely affect their status as employees because of their sex, female and/or pregnancy.

12. The effect of the practices complained of in paragraph 10 above has been to deprive Marla Segovia of equal employment opportunities and otherwise adversely affect her status as an employee because of her opposition to unlawful employment practices.

13. The unlawful employment practices complained of in paragraphs 8, 9 and 10 above were intentional.

14. The unlawful employment practices complained of in paragraphs 8, 9 and 10 above were done with malice and/or reckless indifference to the federally protected rights of Tammy Hulce, Marla Segovia and a class of female employees, including at least Michelle Reid and Joanne Richmond.

#### **PRAYER FOR RELIEF**

Wherefore, the Commission respectfully requests that this Court:

A. Grant a permanent injunction enjoining Defendant Employer, its officers, successors, assigns and all persons in active concert or participation with it, from engaging in harassment of employees because of sex and/or pregnancy and any other employment practice which discriminates on the basis of sex.

B. Grant a permanent injunction enjoining Defendant Employer, its officers, successors, assigns and all persons in active concert or participation with it, from engaging in any employment practice which

discriminates or retaliates against any individual because of the individual's opposition to perceived unlawful employment practices and/or because the individual filed a charge, testified, assisted, or participated in an investigation or proceeding under Title VII.

C. Order Defendant Employer to institute and carry out policies, practices and programs which provide equal employment opportunities for women, pregnant women and for those who oppose perceived unlawful employment practices and/or file charges, testify, assist or participate in an investigation or proceeding under Title VII, and which eradicate the effects of its past and present unlawful employment practices.

D. Order Defendant Employer to make whole Marla Segovia and a class of female employees, including at least Michelle Reid, 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 reinstatement of Marla Segovia and Michelle Reid or front pay in lieu of reinstatement.

E. Order Defendant Employer to make whole Tammy Hulce, Marla Segovia, and a class of female employees, including at least Michelle Reid and Joanne Richmond, by providing compensation for past and future pecuniary losses resulting from the unlawful employment practices described in paragraphs 8, 9 and 10 above, in amounts to be determined at trial.

F. Order Defendant Employer to make whole Tammy Hulce, Marla Segovia, and a class of female employees, including at least Michelle Reid and Joanne Richmond, by providing compensation for past and future nonpecuniary losses resulting from the unlawful practices complained of in paragraphs 8, 9 and 10 above, including but not limited to, emotional pain, suffering, inconvenience, mental anguish,

humiliation, loss of enjoyment of life, and other nonpecuniary losses, in amounts to be determined at trial.

G. Order Defendant Employer to pay Tammy Hulce, Marla Segovia, and a class of female employees, including at least Michelle Reid and Joanne Richmond, punitive damages for its malicious and/or reckless conduct described in paragraphs 8, 9 and 10 above, in amounts 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 \_\_\_\_ day of August, 2003

Respectfully submitted,

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