

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

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**EQUAL EMPLOYMENT OPPORTUNITY  
COMMISSION,**

**Plaintiff,**

**v.**

**FOX NEWS NETWORK, LLC.**

**Defendant.**

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**ECF CASE**

**CIVIL ACTION NO.  
05-cv-9419 (WHP/RLE)**

**COMPLAINT & JURY DEMAND**

**NATURE OF THE ACTION**

This is an action under Title VII of the Civil Rights Act of 1964, as amended, 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 Charging Party Kim Weiler (“Weiler”) and a class of similarly situated individuals who were adversely affected by such unlawful practices.

Plaintiff, Equal Employment Opportunity Commission (“EEOC” or “the Commission”) contends that Defendant Fox News Network, LLC (“Fox”) has engaged in discrimination against Weiler and a class of similarly situated individuals on account of their sex, female. The Commission contends that Fox subjected Weiler and a class of similarly situated individuals to sexual harassment and a hostile work environment because of their sex. The Commission further contends that Fox discriminated against Weiler and a class of similarly situated individuals by discriminating against them in terms, conditions and privileges of employment, all in violation of Title VII. The Commission also contends that Defendant retaliated against Weiler for asserting her rights under Title VII by complaining about sex discrimination. The Commission contends

that, as a result of the discrimination by Fox, Weiler and a class of similarly situated individuals were constructively discharged.

### **JURISDICTION AND VENUE**

1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 451, 1331, 1337, 1343 and 1353. This action is authorized and instituted pursuant to Section 706(f)(1) and (3) of the Civil Rights Act of 1964, as amended, 42 U.S.C. §§ 2000e-5(f)(1) and (3), and Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981a.

2. The unlawful employment practices were and are now being committed within the jurisdiction of the United States District Court for the Southern District of New York, within the New York County, City of New York, State of New York.

### **PARTIES**

3. Plaintiff Equal Employment Opportunity 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 relevant times Defendant Fox has continuously been a Delaware corporation doing business in the State of New York and the City of New York, with its headquarters located at 1211 Avenue of the Americas, New York, New York, and has continuously had at least 15 employees.

5. At all relevant times Defendant Fox has continuously been 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 30 days prior to the institution of this lawsuit, Weiler filed a charge with the Commission alleging violations of Title VII by Defendant Fox. All conditions precedent to the institution of this lawsuit have been fulfilled.

7. Since at least February, 2003, Fox has engaged in unlawful employment practices at its headquarters at 1211 Avenue of the Americas, New York, New York, in violation of Sections 703 and 704 of Title VII, 42 U.S.C. §§ 2000e-2 and e-3. These practices include, but are not limited to, the following intentional acts of discrimination:

- a. Defendant Fox, including through its Vice President Joe Chillemi (“Chillemi”), sexually harassed and subjected Weiler and a class of similarly situated female employees to a hostile work environment because of their sex. Chillemi routinely used gross obscenities and vulgarities when describing women or their body parts (referring, for example, to women’s breasts as “tits” and declaring that something was “as useless as tits on a bull”). He routinely used obscenities and vulgarities with women employees that he did not use with male employees (such as telling women that they had put his “cock” or “dick” “on the chopping block”). Chillemi routinely cursed at and otherwise denigrated women employees and treated them in a demeaning way (including telling women not to be a “pussy” but to “be a man”, and referring to women as being a “bitch”). He made a number of derogatory comments about pregnant women (such as regularly stating that a pregnant woman had “tits” that were “fucking huge” and like “cannons” or “melons” and the on-air talent’s breasts needed to be “covered” or not shown when the pregnant woman was being filmed). In addition, at a department discussion about a segment on sexism in the workplace, Chillemi said that in choosing who to hire “if it came down between a man or a woman, of course I’d pick the man. The woman would most likely get pregnant and leave.” Women in the Fox Advertising and Promotions departments supervised by Chillemi were also referred to in a derogatory way by a supervisor as his “Promo Girls.”

- b. Defendant Fox has discriminated against Weiler and a class of similarly situated female employees in the terms, conditions and privileges of their employment, including assigning women primarily to freelance positions with less benefits, less advancement potential and less job security and not appropriately assigning women to full staff positions.
- c. Defendant Fox retaliated against Weiler for complaining about discrimination.
- 8. Defendant Fox knew or should have known of the unlawful employment

practices, and has failed and continues to fail to exercise the requisite care to prevent and correct promptly the unlawful discrimination, harassment, and hostile work environment and has taken and continues to take insufficient or no appropriate remedial action.

9. The effect of the practices complained of above has been to deprive Weiler and a class of similarly situated female employees of equal employment opportunities and otherwise adversely affect their status as employees, because of their sex, and/or because they engaged in a protected activity, and has also resulted in emotional pain, suffering, loss of enjoyment of life, embarrassment, humiliation, and inconvenience to Weiler and a class of similarly situated female employees.

10. The effect of the practices complained of above has resulted in the constructive discharge of Weiler and a class of similarly situated female employees.

11. The unlawful employment practices complained of above were and are intentional.

12. The unlawful employment practices complained of above were and are willful and done with malice or with reckless indifference to the federally protected rights of Weiler and a class of similarly situated female employees.

## **PRAYER FOR RELIEF**

The Commission respectfully requests that this Court:

A. Grant a permanent injunction enjoining Defendant Fox, its officers, successors, assigns, and all persons in active concert or participation with it from engaging in any employment practices which discriminate on the basis of sex.

B. Grant a permanent injunction enjoining Defendant Fox, its officers, successors, assigns, and all persons in active concert or participation with it from retaliating against Weiler and any person for engaging in protected activity under Title VII or for opposing discrimination.

C. 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.

D. Order Defendant to make whole Weiler, and all those individuals affected by its unlawful employment practices, by providing appropriate backpay with prejudgment interest and frontpay, 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 rightful-place hiring and reinstatement.

E. Order Defendant to make whole Weiler, and all those individuals affected by its unlawful employment practices, by providing compensation for past and future pecuniary losses resulting from the unlawful practices described above, in amounts to be determined at trial.

F. Order Defendant to make whole Weiler, and all those individuals affected by its unlawful employment practices, by providing compensation for past and future nonpecuniary losses resulting from the unlawful practices described above, including but not limited to

emotional pain, suffering, inconvenience, loss of enjoyment of life, and humiliation, in amounts to be determined at trial.

G. Order Defendant to pay Weiler, and all those individuals adversely affected by its unlawful employment practices, punitive damages for Defendant's malicious and/or reckless conduct described 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 of this action.

**JURY TRIAL DEMAND**

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

**Respectfully submitted,**

Dated: November 7, 2005  
New York, NY

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