

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

DN (51)

CV 03 2900
SPATT, J.

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:
EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,
:

Plaintiff,

-against-

MR. GOLD, INC. d/b/a LA PIAZZA,
:

Defendant.
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:
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FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.
JUN 12 2003

Civil Action No.

LINDSAY, M.J.

* BROOKLYN OFFICE *

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 retaliation, and to provide appropriate relief to Barbara Marion, Susan Mullagan, Natalia Puteri, Kim Rico and other similarly situated employees affected by such unlawful practices. As alleged with greater specificity below, the Commission charges that Ms. Marion, Ms. Mullagan, Ms. Puteri, Ms. Rico and other similarly situated employees were sexually harassed by Defendant and retaliated against for complaining about the harassment. In addition, these employees have been discriminated against in other terms and conditions of employment based on their sex, female. As a result of Defendant's discrimination, the conditions of employment have been made so intolerable that female employees have been forced to resign.

JURIDICTION 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) and 707 of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e-5(f)(1)(3) and e-6 (“Title VII”) and Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981a.

2. The alleged unlawful employment practices were and are now being committed within the jurisdiction of the United States District Court for the Eastern District of New York.

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) and 707 of Title VII, 42 U.S.C. § 2000e-5(f)(1) and (3) and e-6.

4. At all relevant times, Defendant Mr. Gold, Inc. d/b/a La Piazza has continuously been a New York corporation doing business in the State of New York and the county of Nassau, and has continuously had at least 15 employees.

5. At all relevant times, Defendant 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 thirty days prior to the institution of this lawsuit, Barbara Marion, Susan Mullagan, Natalia Puteri and Kim Rico 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 1993, Defendant has engaged in unlawful employment practices in violation of Sections 703 and 704 of Title VII, 42 U.S.C. §§ 2000e-2 and e-3. These practices have included, but are not limited to, the following:

A. Defendant has subjected a class of female employees to a pattern or practice of frequent and pervasive sexual harassment which has included, but is not limited to, making unwelcome comments of a sexual nature to and about female employees, grabbing and touching female employees without their consent, and engaging in verbally and physically intimidating conduct directed at female employees, all because of their sex. Specifically, this has included, but is not limited to: a male manager throwing a female employee on a table and unhooking her bra; a male worker throwing a female employee into a freezer and attempting to lock her in and touch her; a male worker jumping on a female employee and simulating having sex with her; and male employees calling female employees derogatory names based on gender. Defendant's unlawful conduct subjected Barbara Marion, Susan Mullagan, Natalia Puteri, Kim Rico and other similarly situated female employees to a hostile work environment because of their sex.

B. Defendant knows or should have known, and female employees have complained, about the sexual harassment, but Defendant has failed to remedy the hostile work environment and has failed to prevent further harassment.

C. Defendant retaliated against female employees for complaining about the harassment, including but not limited to allowing cooks to delay their food orders—resulting in lower tips for female waitpersons—and threatening to take away lucrative shifts.

D. Defendant also discriminated against female waitpersons in other terms and conditions of employment, including penalizing them for making mistakes by forcing them to pay \$10 for each mistake at the end of their shifts and threatening to terminate them if they called in sick. Male waitpersons were not penalized for mistakes or treated adversely for calling in sick.

E. Defendant has constructively discharged female employees by maintaining a hostile work environment, failing to remedy the harassment, retaliating against the women for complaining, and treating employees differently in terms and conditions on the basis of sex.

8. The effect of the practices complained of above has been to deprive Barbara Marion, Susan Mullagan, Natalia Puteri, Kim Rico and other similarly situated employees of equal employment opportunities and otherwise adversely affect their status as employees because of their sex.

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

10. The unlawful employment practices complained of above were and are done with malice or with reckless indifference to the federally protected rights of Barbara Marion, Susan Mullagan, Natalia Puteri, Kim Rico and other similarly situated employees.

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 them, from engaging in

employment practices which discriminate 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 Defendant's past and present unlawful employment practices.

C. Order Defendant to make whole Barbara Marion, Susan Mullagan, Natalia Puteri, Kim Rico and other similarly situated female employees by providing appropriate backpay with prejudgment interest, in amounts to be determined at trial, and other affirmative relief necessary to eradicate the effects of their unlawful employment practices, including, but not limited to, front pay and reinstatement.

D. Order Defendant to make whole Barbara Marion, Susan Mullagan, Natalia Puteri, Kim Rico and other similarly situated female employees by providing compensation for past and future pecuniary losses resulting from the unlawful employment practices described above, in amounts to be determined at trial.

E. Order Defendant to make whole Barbara Marion, Susan Mullagan, Natalia Puteri, Kim Rico and other similarly situated female employees by providing compensation for past and future non-pecuniary losses resulting from the unlawful practices complained of above, including but not limited to pain, suffering, and humiliation, in amounts to be determined at trial.

F. Order Defendant to pay Barbara Marion, Susan Mullagan, Natalia Puteri, Kim Rico and other similarly situated female employees punitive damages for Defendant's 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

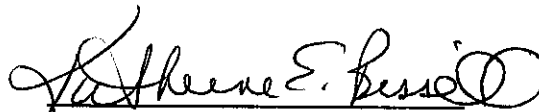
The Commission requests a jury trial on all questions of fact raised by its complaint.

Respectfully submitted,

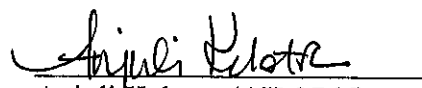
Gwendolyn Y. Reams
Acting Deputy General Counsel

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION

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