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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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:

UNITED STATES OF AMERICA,

Plaintiff,

COMPLAINT

01 Civ.

- v. -

CITY OF NEW YORK and NEW YORK CITY
HOUSING AUTHORITY,

Defendants.

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Plaintiff, United States of America (the "United States"), upon information and belief, alleges for its complaint as follows:

NATURE OF THE CASE

1. This is an action brought by the United States to enforce the provisions of Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e *et seq.*, as amended ("Title VII").

JURISDICTION AND VENUE

2. This Court has jurisdiction over the subject matter of this action pursuant to 42 U.S.C. § 2000e-5(f) and 28 U.S.C. §§ 1331 and 1345.

3. Venue is proper under 42 U.S.C. § 2000e-5(f)(3) and 28 U.S.C. § 1391.

THE PARTIES

4. Defendant, the City of New York (the "City"), is an employer within the meaning of 42 U.S.C. § 2000e(b).
5. Defendant, New York City Housing Authority (the "Housing Authority"), is a public authority created by N.Y. Public Housing Law § 401 to afford subsidized public housing to low-income City residents.
6. The Housing Authority is an employer, or an agent of an employer, within the meaning of 42 U.S.C. § 2000e(b).
7. Plaintiff, the United States, is authorized under Title VII to commence suit against the City and the Housing Authority in connection with individual charges of employment discrimination that are referred to the Department of Justice ("DOJ") by the New York District Office of the United States Equal Employment Opportunity Commission ("EEOC") pursuant to Title VII.
8. Tammy Auer, Tonja McGhee, Maria Gonzalez and Theresa Caldwell-Benjamin (collectively, the "individual complainants") are female participants in the City's Work Experience Program ("WEP") who filed employment discrimination charges with the EEOC under Title VII that were referred to DOJ by the EEOC.

FEDERAL WELFARE REFORM AND THE CITY'S WORK EXPERIENCE PROGRAM

9. WEP is a City program designed to comply with certain eligibility requirements of the federal welfare reform act known as the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (the "PRWORA"), Pub. L. No. 104-93, 110 Stat. 2105 (1996).
10. The PRWORA created a block grant system, known as Temporary Assistance to Needy Families ("TANF"), to provide grants to states that implement programs designed to end the dependence of public assistance recipients on government welfare benefits.
11. TANF replaced the pre-PRWORA public assistance entitlement known as Aid to Families with Dependent Children ("AFDC").
12. Pursuant to the PRWORA, states are required to submit a plan to the United States Department of Health and Human Services that ensures that parents and caretakers receiving TANF benefits engage in work activities.
13. The PRWORA affords the states flexibility in fashioning their work programs.
14. New York State administers its participation in the TANF program through local social service districts, including the City's Human Resources Administration ("HRA").
15. The City, through HRA, administers WEP.
16. WEP is a program designed to meet the eligibility requirements of the PRWORA.
17. Recipients of TANF benefits participate in WEP.

18. WEP participants are assigned by HRA to work for participating institutions, such as City agencies, public authorities and non-profit agencies.
19. Typical WEP work assignments include maintenance and clerical tasks.
20. The number of hours that a WEP participant is required to work is determined by dividing the amount of his or her TANF benefit by the minimum wage.
21. The participating institution to which a WEP participant is assigned is responsible for supervising the WEP participant.
22. Among other things, the participating institution to which a WEP participant is assigned establishes a weekly work schedule, trains the WEP participant and assigns the WEP participant to perform specific tasks within the institution.
23. A WEP participant's receipt of TANF benefits is contingent on the WEP participant's compliance with the terms of his or her WEP assignment.
24. WEP participants who, without good cause, fail to comply with the terms of their assignments can have their benefits reduced or terminated.
25. WEP participants who are injured during the course of their WEP assignment are covered by workers compensation.
26. WEP participants are reimbursed for their transportation costs to and from their WEP assignments.
27. WEP participants are reimbursed for authorized child care expenses.
28. WEP supervisors at the participating institutions are required to provide WEP participants with regular evaluations.

THE DISCRIMINATION SUFFERED BY THE COMPLAINANTS

29. The individual complainants were subjected to hostile work environments in violation of Title VII at their respective WEP work assignments.
30. In addition, defendants failed or refused to take reasonable action to prevent or promptly correct the discriminatory treatment of the individual complainants.

Tammy Auer

31. In or about January 1997, the HRA assigned Tammy Auer, a WEP participant, to work at the City's Department of Sanitation ("DOS").
32. DOS assigned Ms. Auer to do general office work at its Staten Island Borough Office.
33. Ms. Auer was supervised by Assistant Borough Superintendent James Soto.
34. From January 1997 until the summer of 1997, Ms. Auer's supervisor, Mr. Soto, repeatedly made inappropriate comments that were directed at Ms. Auer because of her sex.

35. For example, on her first day of work, Mr. Soto asked Ms. Auer whether she had a boyfriend.

36. Thereafter, on numerous occasions, Mr. Soto asked Ms. Auer to go on vacation with him and to move in with him.

37. Mr. Soto also told Ms. Auer, on numerous occasions, that together they could make a "beautiful baby."

38. On a daily basis, Mr. Soto would direct Ms. Auer into his office and demand that she turn around so that Mr. Soto could see what she was wearing that day and comment on her appearance.

39. During the summer of 1997, Ms. Auer took an approved leave of absence from her WEP assignment.

40. In the fall of 1997, HRA once again assigned Ms. Auer to work under Mr. Soto's supervision at the DOS's Staten Island Borough Office.

41. During the next few months, Mr. Soto resumed making inappropriate comments to Ms. Auer on a regular basis.

42. In the spring of 1998, Mr. Soto engaged in unwanted touching of Ms. Auer on several occasions.

43. Ms. Auer told Mr. Soto not to touch her, but he did not listen to her.

44. On several occasions, Mr. Soto warned Ms. Auer that he had the authority to terminate her WEP assignment.

45. In 1998, Ms. Auer complained to James Wynne, the new DOS Borough Commissioner about Mr. Soto's conduct toward her.

46. The City took no action in response to Ms. Auer's complaints to Mr. Wynne, and Mr. Soto's harassing conduct toward her continued.

47. In July 1998, Ms. Auer went to DOS's Manhattan offices to complain about Mr. Soto's conduct.

48. Following the July 1998 complaint, Ms. Auer was assigned to a different DOS facility on Staten Island.

49. Mr. Soto had supervisory responsibility over Ms. Auer's new work site as well.

50. When Mr. Soto learned that Ms. Auer was at this new work site, he drove over to the site and screamed at her.

51. Soon thereafter, Mr. Soto instructed Ms. Auer's supervisor not to give her any work to do.

52. On July 22, 1998, Ms. Auer told her supervisor that she was quitting because of the way in which she had been treated.

53. During the course of her WEP assignment, Ms. Auer was subjected to a hostile work environment on the basis of her sex that adversely affected the terms, conditions and privileges of her employment.

54. Ms. Auer filed a timely charge of discrimination with the EEOC on November 11, 1998.

55. In its determination dated September 29, 1999, the EEOC found reasonable cause to believe that the allegations in Ms. Auer's charge were true.

56. The EEOC referred Ms. Auer's charge to DOJ.

Tonja McGhee

57. In or about April 1998, HRA assigned Tonja McGhee, a WEP participant, to work for the Housing Authority.

58. After an approximate three-month stint as an office worker for the Housing Authority, Ms. McGhee was reassigned by the Housing Authority to a maintenance job at the Roosevelt Houses in Brooklyn.

59. At the Roosevelt Houses, Ms. McGhee was supervised by Choice Bennett.

60. Within a month of Ms. McGhee's assignment to the Roosevelt Houses, Mr. Bennett began a consensual sexual relationship with Ms. McGhee.

61. In or about August 1998, Ms. McGhee broke off her relationship with Mr. Bennett.

62. After Ms. McGhee broke off her relationship with Mr. Bennett, he began to harass her in a number of ways.

63. Mr. Bennett called Ms. McGhee at home on a daily basis, threatening that he was "going to get" her if she did not resume her relationship with him.

64. On numerous occasions, Mr. Bennett falsely told his superior, Matthew Algozino, that Ms. McGhee was not doing her work.

65. In or about October 1998, Mr. Bennett directed Ms. McGhee to enter his office, turned off the lights and told Ms. McGhee to take her pants down.

66. Ms. McGhee refused and ran out of Mr. Bennett's office.

67. On several occasions, Ms. McGhee complained to Thomas Daniels, Mr. Bennett's supervisor, about Mr. Bennett's harassing conduct.

68. Neither the City nor the Housing Authority took any action in response to Ms. McGhee's complaints to Mr. Daniels.

69. Ms. McGhee also complained to John Quintana, a WEP coordinator, about Mr. Bennett's harassing conduct.

70. Neither the City nor the Housing Authority took any action in response to Ms. McGhee's complaints to Mr. Quintana.

71. Ms. McGhee also complained to Matthew Algozino in or about January 1999.

72. Mr. Algozino arranged to transfer Ms. McGhee to the Sumner Houses, which are located several blocks away from the Roosevelt Houses.

73. After Ms. McGhee's transfer to the Sumner Houses, Mr. Bennett continued to call her and to threaten her.

74. Ms. McGhee complained to her supervisor at the Sumner Houses, Mr. Robinson, about Mr. Bennett's continuing harassment.

75. Neither the City nor the Housing Authority took any action in response to Ms. McGhee's complaint to Mr. Robinson.

76. Accordingly, in or about May 1999, when the harassment continued, Ms. McGhee stopped working at the Sumner Houses.

77. During the course of her WEP assignment, Ms. McGhee was subjected to a hostile work environment on the basis of her sex that adversely affected the terms, conditions and privileges of her employment.

78. Ms. McGhee filed a timely charge of discrimination with the EEOC on June 17, 1999.

79. In its determination dated October 5, 1999, the EEOC found reasonable cause to believe that the allegations in Ms. McGhee's charge were true.

80. The EEOC referred Ms. McGhee's charge to DOJ.

Maria Gonzalez

81. In or about the spring of 1997, Maria Gonzalez, a WEP participant, was assigned to a clerical position at HRA's offices at 250 Church Street, New York, New York.

82. During her WEP assignment, Ms. Gonzalez was supervised by Gregory Payne, an HRA employee.

83. Ms. Gonzalez's work responsibilities were clerical in nature.

84. Within the first week after Ms. Gonzalez began working under Mr. Payne's supervision, he began touching her without her consent.

85. During her first week of work, Mr. Payne attempted to grope Ms. Gonzalez in the area of her genitals, but she pushed him away.

86. After that, he frequently touched and twirled her hair and blew on her neck.

87. On several occasions when she wore long skirts, Mr. Payne would tug at her skirt and tell Ms. Gonzalez that the skirt "made it easier for [him] to get at her."

88. Because she rebuffed his advances, Mr. Payne subjected Ms. Gonzalez to a barrage of verbal abuse.

89. On numerous occasions, Mr. Payne called Ms. Gonzalez a "lesbian," a "bitch" and "hideous."

90. Mr. Payne also told Ms. Gonzalez on several occasions that "all [she] need[ed] was a man."
91. Mr. Payne frequently called Ms. Gonzalez at her home; when she answered the phone, he would curse at her and harass her.
92. Mr. Payne began taking Ms. Gonzalez's time cards in order to make it difficult for her to verify the hours she was working.
93. Ms. Gonzalez complained to Robert Estelle, Mr. Payne's supervisor, about Mr. Payne's conduct toward her.
94. Mr. Estelle told Ms. Gonzalez that she would have to deal directly with Mr. Payne to resolve the matter.
95. The City did not take any action in response to Ms. Gonzalez's complaint to Mr. Estelle.
96. In or about January 1999, the HRA office where Ms. Gonzalez and Mr. Payne worked was relocated to 60 Hudson Street.
97. On their first day at this new location, Mr. Payne cornered Ms. Gonzalez in an office and grabbed at her in an attempt to kiss her.
98. On two occasions in or about February and March 1999, Mr. Payne arrived at work intoxicated and threatened to have Ms. Gonzalez killed.
99. In or about March 1999, Ms. Gonzalez complained to Robert Fox, another of Mr. Payne's supervisors, about Mr. Payne's harassment of her.
100. Mr. Fox told Ms. Gonzalez to put her complaint in writing.
101. When Ms. Gonzalez returned to Mr. Fox with a written complaint, he transferred her to a different work location at 260 11th Avenue.
102. When Ms. Gonzalez reported to the 260 11th Avenue location, she was told that there was no need for a WEP worker at this location, and she was transferred to a different location.
103. Ms. Gonzalez stopped working as a WEP employee because of the poor working conditions at this new location.
104. During the course of her WEP assignment, Ms. Gonzalez was subjected to a hostile work environment on the basis of her sex that adversely affected the terms, conditions and privileges of her employment.
105. Following her complaints to Mr. Estelle and Mr. Fox, Ms. Gonzalez was the subject of retaliation.
106. Because of her complaint about Mr. Payne's harassing behavior, Ms. Gonzalez was subjected to death threats and continuing harassment from Mr. Payne.
107. Because of her complaint about Mr. Payne's harassing behavior, Ms Gonzalez was transferred to an

unfavorable location with extremely poor working conditions.

108. Ms. Gonzalez filed a timely charge of discrimination with the EEOC on April 29, 1999.

109. In its determination dated September 29, 1999, the EEOC found reasonable cause to believe that the allegations in Ms. Gonzalez's charge were true.

110. The EEOC referred Ms. Gonzalez's charge to DOJ.

Theresa Caldwell-Benjamin

111. Theresa Caldwell-Benjamin is an African-American woman.

112. In or about July 1996, HRA assigned Ms. Caldwell-Benjamin, a WEP participant, to work for the City's Department of Parks ("Parks Department").

113. Ms. Caldwell-Benjamin's work responsibilities involved general maintenance at City parks on Staten Island.

114. In or about March 1998, Ms. Caldwell-Benjamin was assigned to paint the interior of a two-story building, known as the Forestry, which was operated by the Parks Department on Staten Island.

115. On the first day of her assignment at the Forestry, Ms. Caldwell-Benjamin observed a noose hanging in one of the windows.

116. On the first day of her assignment at the Forestry, Ms. Caldwell-Benjamin also observed a drawing taped to one of the walls with racist caricatures of a black man and boy. 117. Ms. Caldwell-Benjamin complained to her WEP supervisor, Myrna Ramirez, a Parks Department employee, about the noose and caricature.

118. Ms. Ramirez told Ms. Caldwell-Benjamin that the other Parks Department employees "didn't mean anything by it."

119. The City did not take any action in response to Ms. Caldwell-Benjamin's complaint to Ms. Ramirez.

120. The noose remained in the window during the entire week that Ms. Caldwell-Benjamin painted the Forestry's interior.

121. The racist caricature was removed when the wall upon which it was taped was being painted, but was put back up after the painting was completed.

122. During the course of her WEP assignment, Ms. Caldwell-Benjamin was subjected to a hostile work environment on the basis of her race that adversely affected the terms, conditions and privileges of her employment.

123. Ms. Caldwell-Benjamin filed a timely charge of discrimination with the EEOC on December 29, 1998 and an amended charge on July 29, 1999.

124. In its determination dated October 4, 1999, the EEOC found reasonable cause to believe that the

allegations in Ms. Caldwell-Benjamin's charge were true.

125. The EEOC referred Ms. Caldwell-Benjamin's charge to DOJ.

Conditions Precedent to Suit

126. Each individual complainant filed a timely charge of discrimination with the EEOC.

127. The EEOC has found reasonable cause to believe that the allegations in each individual complainant's charge are true.

128. The EEOC has referred each complainant's charge of discrimination to DOJ after being unable to secure a conciliation agreement acceptable to the EEOC.

129. All conditions precedent to the filing of this suit have been satisfied.

CLAIMS FOR RELIEF

First Claim for Relief - Hostile Work Environment (Tammy Auer)

130. Paragraphs 1 through 132 are realleged and incorporated herein by reference.

131. The City discriminated against Tammy Auer on the basis of her sex in violation of 42 U.S.C. § 2000e-2(a) by engaging in and permitting acts that created a hostile work environment and that adversely affected the terms, conditions and privileges of her employment.

132. The City knew or should have known of the discriminatory treatment of Ms. Auer.

133. The City failed or refused to take reasonable action to prevent or promptly correct the discriminatory treatment of Ms. Auer.

134. Ms. Auer has suffered injuries as a result of the City's discriminatory treatment.

Second Claim for Relief -- Hostile Work Environment (Theresa Caldwell-Benjamin)

135. Paragraphs 1 through 132 are realleged and incorporated herein by reference.

136. The City has discriminated against Theresa Caldwell-Benjamin on the basis of her race in violation of 42 U.S.C. § 2000e-2(a) by engaging in and permitting acts that created a hostile work environment and that adversely affected the terms, conditions and privileges of her employment.

137. The City knew or should have known of the discriminatory treatment of Ms. Caldwell-Benjamin.

138. The City failed or refused to take reasonable action to prevent or promptly correct the discriminatory treatment of Ms. Caldwell-Benjamin.

139. Ms. Caldwell-Benjamin has suffered injuries as a result of the City's discriminatory treatment.

Third Claim for Relief - Hostile Work Environment (Tonja McGhee)

140. Paragraphs 1 through 132 are realleged and incorporated herein by reference.

141. The City and the Housing Authority discriminated against Tonja McGhee on the basis of her sex in violation of 42 U.S.C. § 2000e-2(a) by engaging in and permitting acts that created a hostile work environment and that adversely affected the terms, conditions and privileges of her employment.

142. The City and the Housing Authority knew or should have known of the discriminatory treatment of Ms. McGhee.

143. The City and the Housing Authority failed or refused to take reasonable action to prevent or promptly correct the discriminatory treatment of Ms. McGhee.

144. Ms. McGhee has suffered injuries as a result of the City and the Housing Authority's discriminatory treatment.

Fourth Claim for Relief - Hostile Work Environment (Maria Gonzalez)

145. Paragraphs 1 through 132 are realleged and incorporated herein by reference.

146. The City discriminated against Maria Gonzalez on the basis of her sex in violation of 42 U.S.C. § 2000e-2(a) by engaging in and permitting acts that created a hostile work environment and that adversely affected the terms, conditions and privileges of her employment.

147. The City knew or should have known of the discriminatory treatment of Ms. Gonzalez.

148. The City failed or refused to take reasonable action to prevent or promptly correct the discriminatory treatment of Ms. Gonzalez.

149. Ms. Gonzalez has suffered injuries as a result of the City's discriminatory treatment.

Fifth Claim for Relief -- Retaliation (Maria Gonzalez)

150. Paragraphs 1 through 132 are realleged and incorporated herein by reference.

151. The City retaliated against Maria Gonzalez in violation of 42 U.S.C. § 2000e-3 by taking adverse action against her because of her complaints of sexual harassment at her WEP assignment.

152. The City knew or should have known of the acts of retaliation against Ms. Gonzalez.

153. The City failed or refused to take reasonable action to prevent or promptly correct the acts of retaliation against Ms. Gonzalez.

154. Ms. Gonzalez has suffered injuries as a result of the City's discriminatory treatment.

Jury Demand

155. The United States hereby demands a trial by jury of all issues so triable pursuant to Rule 38 of the Federal Rules of Civil Procedure and Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981a.

WHEREFORE, the United States, prays that this Court enter judgment:

A. awarding compensatory damages to the individual complainants to fully compensate them for injuries caused by defendants' discriminatory conduct;

B. enjoining defendants, their agents, employees, successors, and all persons in active concert or participation with defendants, from engaging in discriminatory employment practices in the Work Experience Program;

C. directing defendants to take such affirmative steps as may be necessary to prevent and to remedy employment discrimination in the Work Experience Program; and

D. granting such further relief as the Court may deem just, together with the United States' costs and disbursements in this action.

Dated: New York, New York

_____, 2001

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