

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA

EQUAL EMPLOYMENT)	
OPPORTUNITY COMMISSION,)	
)	
Plaintiff)	
v.)	Case No. CIV-05-1148-C
)	
GARDNER MANAGEMENT GROUP,)	
L.L.C.; GARDNER TANENBAUM)	
GROUP, L.L.C.; and G & G)	
CONSTRUCTION,)	
)	
Defendants)	

ORDER

Plaintiff filed the present action asserting the existence of a hostile work environment and retaliation. Plaintiffs identified five female employees as having been subject to improper working conditions. Defendants filed a Motion for Summary Judgment alleging that one of the women, Ms. Myrick, could not establish a prima facie case. Plaintiff objects to Defendants' motion arguing that Ms. Myrick has not brought a claim and Defendants are improperly attempting to analyze the claims in a piecemeal fashion.

As Plaintiff correctly notes, Ms. Myrick is not a party to this case. Rather, the action was brought by Plaintiff, a federal agency, seeking to vindicate the public interest in redressing discriminatory acts. See General Tel. Co. of the Nw., Inc. v. EEOC, 446 U.S. 318, 326 (1980) ("When the EEOC acts, albeit at the behest of and for the benefit of specific individuals, it acts also to vindicate the public interest in preventing employment discrimination."). The EEOC does not act in a representative capacity, but may recover

damages for an aggrieved person. Id. Further, as is the case here, the EEOC may seek injunctive relief to protect future parties from discriminatory actions. 42 U.S.C. § 2000e-5(g). It is the fact that Plaintiff seeks injunctive relief that requires denial of Defendants' motion. "During the liability phase of a lawsuit seeking injunctive relief, the EEOC need not necessarily make out a separate prima facie case of discrimination for each individual for whom it seeks relief." EEOC v. United Parcel Service, 94 F.3d 314, 318 (7th Cir. 1996). Rather than focus on the alleged wrongdoing as it relates to each individual claimant, the Court must focus on the entire course of events and determine if an injunction is warranted. Because the Court will be required to consider Ms. Myrick's story along with the stories of the other claimants in resolving the request for injunctive relief, it would waste judicial resources to, at this time, parse through evidence solely relating to Ms. Myrick.* While it may be that Plaintiff will be unable to recover damages based on the actions involving Ms. Myrick, the legal and factual questions surrounding that issue cannot be excised from the legal and factual issues necessary to resolve the injunctive relief issue. Accordingly, it would be inefficient to resolve the issue at this time. Indeed, it may well be that those issues cannot be resolved before trial, but must be considered pursuant to Fed. R. Civ. P. 50.

* This includes the question of who was Ms. Myrick's employer. Whether or not Plaintiff is entitled to an injunction against any, some, or all of the named Defendants can only be determined after consideration of all facts.

For the reasons set forth more fully herein, Defendants' Partial Motion for Summary Judgment (Dkt. No. 27) is DENIED.

IT IS SO ORDERED this 23rd day of February, 2007.



ROBIN J. CAUTHRON
United States District Judge