

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

EQUAL EMPLOYMENT OPPORTUNITY)	
COMMISSION,)	
)	
Plaintiff,)	
)	CIVIL ACTION NO.
v.)	
)	
DAN LEPORE & SONS COMPANY and)	<u>COMPLAINT</u>
L.F. DRISCOLL COMPANY,)	<u>JURY TRIAL DEMANDED</u>
)	
Defendants.)	
_____)	

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, female, and retaliation, and to provide appropriate relief to Charging Party Beth Anne Burroughs, who was adversely affected by such practices. The Commission alleges that Charging Party, a female stone mason, was sexually harassed by Defendant Dan Lepore's foreman and her male co-workers on two construction sites. The Commission further alleges that Ms. Burroughs was then subjected to disparate treatment based on her gender when she was evicted by the general contractor, Defendant L.F. Driscoll, from the job site because she was not wearing safety glasses, while male employees who failed to wear safety glasses and hard hats were not similarly evicted.

The Commission also contends that after Charging Party reported the sexual harassment to Defendant Dan Lepore, she was not hired for additional projects in retaliation for her complaints. As a result of the harassment, disparate treatment, and retaliation she experienced, Charging Party Burroughs incurred wage losses and suffered emotional distress damages.

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 § 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 and are now being committed within the jurisdiction of the United States District Court for the Eastern District of Pennsylvania.

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. § 2000(e)-5(f) (1) and (3).

4. At all relevant times, Defendant Dan LePore & Sons Company has continuously been and is now a Pennsylvania Corporation doing business in the State of Pennsylvania and the town of Conshohocken, and has continuously had at least fifteen (15) employees.

5. At all relevant times, Defendant Employer 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).

6. At all relevant times, Defendant L.F. Driscoll Company has continuously been and is now a Pennsylvania Corporation doing business in the State of Pennsylvania and the town of Bala Cynwyd, and has continuously had at least fifteen (15) employees.

7. At all relevant times, Defendant L.F. Driscoll Company 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, Charging Party Beth Anne Burroughs filed charges of discrimination with the Commission alleging violations of Title VII by Defendant Employer and by Defendant L.F. Driscoll Company. All conditions precedent to the institution of this lawsuit have been fulfilled.

7. Since at least July 2001, Defendant Dan LePore & Sons Company (Defendant Employer) has engaged unlawful employment practices at its Philadelphia, Pennsylvania construction sites in violation of Sections 703(a)(1) and 704(a) of Title VII, 42 U.S.C. §§ 2000e-2(a)(1) and 2000e-3(a) by subjecting Charging Party Beth Anne Burroughs to a sexually hostile work environment and retaliating against her after she complained about sexual harassment. The unlawful employment practices include but are not limited to the following:

(a) Starting in 2001, in the presence of Defendant Employer's foreman, male co-workers at a Philadelphia construction site on the University of Pennsylvania campus made sexually offensive remarks to Ms. Burroughs, such as telling her she needed to "get laid," and asking what color undergarments she was wearing;

(b) Also starting in 2001, co-workers talked about their sex lives, commented on the size of Ms. Burroughs' breasts, and placed a picture of a scantily-clad woman in the tool area used by the stone masons;

(c) After November 2001, when Ms. Burroughs was transferred to the Kimmel Center construction site, also in Philadelphia, a senior stone mason, in the presence of Defendant Employer's foreman, told Ms. Burroughs that he wanted to slap her "coolie" (Italian word for buttocks) as she bent over to do her job and further stated "nice girls put it in for you;"

(d) On or about November 27, 2001, Defendant Employer's foreman approached Ms. Burroughs on the work site and made a sexually-offensive comment, gesturing to her vaginal area; Ms. Burroughs objected to this remark by the foreman, telling him to "stop it" or "knock it off;"

(e) On November 29, 2001, in the presence of Defendant Employer's foreman, Ms. Burroughs was evicted from the Kimmel Center work site, allegedly because she was not wearing safety glasses; at that time, Ms. Burroughs reported the sexually offensive atmosphere at the work sites to the President of Defendant Employer, who told Ms. Burroughs that her allegations were inconsistent with the characteristics of his employees;

(f) After reporting the sexual harassment, Ms. Burroughs approached Defendant Employer's President on several occasions, seeking employment as a stone mason on other projects for which Defendant Employer was hiring;

(g) Despite her efforts, Ms. Burroughs was not offered a position as a stone mason after her complaints.

8. Since at least November 2001, Defendant L.F. Driscoll has engaged in unlawful employment practices at the Philadelphia, Pennsylvania construction sites on which it operates as General Contractor, in violation of Section 703(a) (1) of Title VII, 42 U.S.C. §§ 2000e-2(a) (1) by subjecting Charging Party Beth Anne Burroughs to disparate treatment based on her gender, female and interfering with her employment relationship with Defendant Employer. The unlawful employment practices by Defendant L.F. Driscoll include:

(a) On November 29, 2001, Ms. Burroughs was singled out for warnings because she was not wearing safety glasses while males working on the construction site were not similarly treated. Due to these warnings, Ms. Burroughs was evicted from the Kimmel Center site by

Defendant L. F. Driscoll's Safety Inspector, who did not warn or evict males who failed to wear hard hats and/or safety glasses;

(b) Due to Defendant L.F. Driscoll's disparate treatment of Ms. Burroughs, Defendant L.F. Driscoll assisted Defendant Employer in its retaliatory failure to hire Ms. Burroughs for other employment and thus interfered with Ms. Burroughs' employment opportunities in violation of Title VII.

9. The effect of the practices complained of in paragraphs 7 and 8, above, has been to deprive Beth Anne Burroughs of equal employment opportunities and otherwise adversely affect her status as an employee because of her gender and because of retaliation.

10. The unlawful employment practices complained of in paragraphs 7 and 8, above, were intentional.

11. The unlawful employment practices complained of in paragraphs 7 and 8, above, were done with malice or with reckless indifference to the federally protected rights of Beth Anne Burroughs.

PRAYER FOR RELIEF

Wherefore, the Commission respectfully requests that this Court:

A. Grant a permanent injunction enjoining Defendant Employer, Defendant L.F. Driscoll, their officers, successors, assigns, and all persons in active concert or participation with them, from engaging in sex discrimination, sexual harassment, failure to hire, and any other employment practice which discriminates on the basis of sex or retaliation.

B. Order Defendant Employer and Defendant L. F. Driscoll to institute and carry out policies and practices which effectively prohibit sex discrimination, sexual harassment, and retaliation in the work place, and which eradicate the effects of their past and present

unlawful employment practices.

C. Order Defendant Employer and Defendant L. F. Driscoll to make whole Ms. Burroughs by providing appropriate backpay with prejudgment interest, where applicable, 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 reinstatement or front pay.

D. Order Defendant Employer and Defendant L. F. Driscoll to make whole Ms. Burroughs by providing compensation for past and future pecuniary losses resulting from the unlawful employment practices described in paragraphs 7 and 8, above, including but not limited to out-of-pocket losses in amounts to be determined at trial.

E. Order Defendant Employer and Defendant L. F. Driscoll to make whole Ms. Burroughs by providing compensation for past and future nonpecuniary losses resulting from the unlawful practices complained of in paragraphs 7 and 8, above, including but not limited to pain and suffering, humiliation, loss of life's pleasures, depression, anxiety, stress, panic, and other physical and psychological symptoms and conditions, in amounts to be determined at trial.

F. Order Defendant Employer and Defendant L.F. Driscoll to pay Ms. Burroughs punitive damages for their malicious and reckless conduct described in paragraphs 7 and 8, 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.

Eric S. Dreiband
General Counsel

James L. Lee
Deputy General Counsel

Gwendolyn Young Reams
Associate General Counsel

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION
Washington, D.C. 20507

JACQUELINE H. McNAIR
Regional Attorney

JUDITH A. O'BOYLE
Supervisory Trial Attorney

CYNTHIA A. LOCKE
Trial Attorney
EEOC
21 S. 5th Street, Suite 400
Philadelphia, PA 19106
(215) 440-2683
Pennsylvania ID No. 37637