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IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

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EQUAL EMPLOYMENT OPPORTUNITY)
COMMISSION,)

1: CV)

02-1194

Plaintiff,)

CIVIL ACTION NO. 02-cv-984

v.)

FED EX EXPRESS CORPORATION,)
a subsidiary of Fed Ex Corporation,)

COMPLAINT FILED
JURY TRIAL DEMANDED

Defendant.)

FEB 26 2002

By MICHAEL E. KUNZ, Clerk
Dep. Clerk

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 to provide appropriate relief to the Charging Party, Marion Shaub, who was adversely affected by such practices. The Commission alleges that Ms. Shaub, who was employed as a tractor-trailer driver, was subjected to a hostile work environment and to different terms and conditions of employment due to her gender. The unlawful behavior took the form of anti-female remarks, threats and vehicle tampering by male co-workers, who also failed to assist her in loading her truck and threatened to take over her driving routes. Ms. Shaub notified management of the hostile behavior and working conditions and the vehicle tampering, but management failed to take prompt effective corrective action. The Commission also alleges that one of Ms. Shaub's driving routes was reclassified and awarded to one of the male harassers, who boasted openly about taking Ms. Shaub's route. Because she had become traumatized by the threats, sabotage to her vehicle, and hostile work environment, Ms. Shaub transferred to an office position. After the transfer, male

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co-workers disparaged Ms. Shaub and treated her in a condescending manner and she was not given the necessary equipment to perform her office duties. These factors, coupled with the cumulative effect of the hostile work environment and vehicle sabotage, caused Ms. Shaub to be constructively discharged.

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 Middle 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, FedEx Express Corporation ("Fed Ex") has continuously been and is now a Delaware corporation doing business in the State of Pennsylvania, and the City of Middletown, 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).

STATEMENT OF CLAIMS

6. More than thirty days prior to the institution of this lawsuit, Charging Party Marion Shaub filed a charge of discrimination with the Commission alleging violations of Title VII by Defendant Employer. All conditions precedent to the institution of this lawsuit have been fulfilled.

7. Since at least December, 1997, Defendant Employer has engaged unlawful employment practices at its Middletown, Pennsylvania facility in violation of Sections 703(a) (1) of Title VII, 42 U.S.C. § 2000e-2(a) (1) and 2000 (e)-3 (a) (1), by subjecting Ms. Shaub to a sexually hostile work environment and to discrimination in the terms and conditions of her employment, due to her gender. The unlawful employment practices included, but were not limited to, the following:

(A) As early as the winter of 1997, male co-worker Gordon Bowen complained about Ms. Shaub's hours, stating that she had better watch out or her "boat might sink." Ramp Agent Frank DeScehire told Ms. Shaub that women should be "barefoot and pregnant", and other male co-workers complained about Ms. Shaub's route and made anti-female remarks about Ms. Shaub as a tractor-trailer driver. The anti-female remarks continued throughout 1997 and 1998.

(B) Ms. Shaub complained to management about the co-workers' remarks in May, 1999.

(C) In the winter of 1999, male co-worker Steve Crumling made a series of sexually hostile remarks to Ms. Shaub. He told her that when she removed her glasses she "looked like a porn star", and, when she commented that the ground was slippery, he stated "that's what my wife said last night." He also told Ms. Shaub that if" [she] were his daughter he would abort her", and referred to her as a "damn broad" to other workers.

(D) Ms. Shaub informed management about Crumling's remarks in or about January, 2000.

(E) After Crumling learned that Ms. Shaub had complained about his conduct, he responded by thanking Ms. Shaub for “getting him in trouble” and proceeded to refuse to help Ms. Shaub load her trucks. Further, he instructed his subordinate employees to refuse to give her assistance, even though the loading was a duty of Crumling and his team to help the drivers load their trucks.

(F) In or about February 2000, Ms. Shaub reported to management that Crumling and his team were refusing to help her load her trucks.

(G) On January 25, 2000, the brake line in Ms. Shaub’s truck failed, causing a safety hazard. One of her male co-workers then warned her to “be careful” and “watch out for sabotage.”

(H) On February 3, 2000, Ms. Shaub became wedged between two one-ton cans that were being loaded on a truck. Her male co-workers stated that the can was pushed or “let go” in her direction, intending to harm her. Ms. Shaub reported the incident to management.

(I) On February 18, 2000, Ms. Shaub found dirt in her truck’s brake line, and the line was cut. She filed a Vehicle Incident Report, a police report, and also reported the incident to management. Defendant’s mechanic admitted that the type of damage to Ms. Shaub’s vehicle “would not happen by coincidence”, and that someone “could have introduced something” into the line.

(J) On March 24, 2000, Ms. Shaub experienced another brake failure and submitted a Vehicle Incident Report. Also, March, 2000, Ms. Shaub found the mail in her slot ripped up and had to ask management for another copy of a company vacation schedule.

(K) Ms. Shaub filed a formal written complaint on March 28, 2000, alleging that she had been threatened, her vehicle had been sabotaged, and she had been physically injured, and did not feel safe driving, despite the fact that she had already reported the hostile environment and work

problems to management several times.

(I) Shaub's brakes failed again on April 27, 2000 and a Vehicle Incident Report was made.

(J) On April 13, 2000, the truck normally driven by Ms. Shaub was taken out by a co-worker who found that a brake part had been pulled away. A Vehicle Incident Report was made. The co-worker stated that management tried to blame the broken line on him, but he stated that "the line broke on me."

(K) Ms. Shaub's male co-worker, Mike Pankake, had threatened to take Ms. Shaub's driving route. In or about April, 2000, her part-time route was reclassified as full-time, and was awarded to Pankake. After Pankake was awarded the route, he boasted to co-workers that he was responsible for having the route re-classified and Ms. Shaub removed, and that since he had the route, the harassment of Ms. Shaub would stop.

(L) After making repeated complaints to Defendant about the sexist comments, sabotage to her truck, and threats made by male co-workers, Ms. Shaub transferred to an office position. Thereafter, the male drivers spoke to her in a condescending and disparaging manner. Moreover, she was not given the necessary equipment to do the job. As a result of the hostile work environment created by her male workers, and Defendant's failure to take any remedial action, Ms. Shaub became emotionally and psychologically devastated by FedEx's course of conduct. Accordingly, Ms. Shaub was constructively discharged from her employment in September, 2000.

8. The effect of the practices complained of in paragraph 7 (A-L) above, has been to deprive Ms. Shaub of equal employment opportunities and otherwise adversely affect her status as an employee because of her sex.

9. The unlawful employment practices complained of in paragraph 7 were intentional.

10. The unlawful employment practices complained of in paragraph 7 were done with

malice or with reckless indifference to the federally protected rights of Marion Shaub.

PRAYER FOR RELIEF

Wherefore, the Commission respectfully requests that this Court:

A. Grant a permanent injunction enjoining Defendant Employer, its officers, successors, assigns, and all persons in active concert or participation with it, from engaging in sex discrimination, sexual harassment and any other employment practice which discriminates on the basis of sex.

B. Order Defendant Employer to institute and carry out policies, practices, and programs which provide equal employment opportunities for employees regardless of sex, which prohibit sexual harassment in the workplace, and which eradicate the effects of its past and present unlawful employment practices.

C. Order Defendant Employer to make whole Marion Shaub by providing appropriate backpay with prejudgment interest, 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 to make whole Marion Shaub by providing compensation for past and future pecuniary losses resulting from the unlawful employment practices described in paragraph 7, including but not limited to out-of-pocket losses in amounts to be determined at trial.

E. Order Defendant Employer to make whole Marion Shaub by providing compensation for past and future nonpecuniary losses resulting from the unlawful practices complained of in paragraph 7, including pain and suffering, humiliation, anxiety, depression, trauma, and loss of life's pleasures, in amounts to be determined at trial.

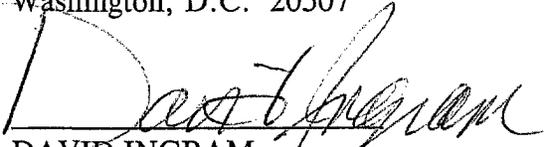
- F. Order Defendant Employer to pay Marion Shaub punitive damages for its malicious and reckless conduct described in paragraph 7, in amounts to be determined at trial.
- G. Grant such further relief as the Court deems necessary and proper in the public interest.
- H. Award the Commission its costs of this action.

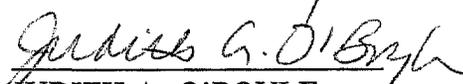
JURY TRIAL DEMAND

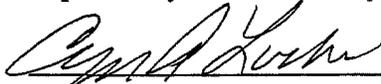
The Commission requests a jury trial on all questions of fact raised by its complaint.

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