

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

S

EQUAL EMPLOYMENT OPPORTUNITY : NO: 02-CV-984  
COMMISSION,  
And  
MARION SHAUB, plaintiff intervenor

FILED  
2002

v.

FEDERAL EXPRESS CORPORATION : JURY TRIAL DEMAND  
A subsidiary of Fed Ex Corporation;  
defendant

1: CV 02-1194  
Dep. Clerk

COMPLAINT OF INTERVENOR MARION SHAUB

**I. PRELIMINARY STATEMENT**

1. In this action, Plaintiff, **MARION SHAUB**, hereinafter referred to as "Plaintiff" and/or "Ms. Shaub", seeks declaratory, injunctive, and equitable relief; liquidated compensatory, and punitive damages; and costs and attorney's fees for the sex discrimination, harassment, retaliation for complaining about sex discrimination, physical injury, and intentional infliction of emotional distress by Defendant, **FEDERAL EXPRESS CORPORATION**, hereinafter referred to as "Defendant" and/or "FedEx".

**II. JURISDICTION**

2. This action arises under Title VII, as amended by the Civil Rights Act of 1991, 42 U.S.C., §2000e, et seq.; the; the Pennsylvania Human Relations Act (PHRA), 43 P.S. §951, et seq.; the Constitution of the Commonwealth of Pennsylvania and the common law of the

Commonwealth of Pennsylvania.

3. Jurisdiction over the federal claims is invoked pursuant to 28 U.S.C. §1343 (4) and 29 U.S.C. §216 (b) and over the state law claims pursuant to the doctrine of pendent jurisdiction.

4. Jurisdiction over the additional claims of sex discrimination is appropriate because on or about November 1, 2000 Plaintiff's Complaint to the Equal Employment Opportunity Commission (EEOC) was filed and time-stamped and was timely cross-filed with the Pennsylvania Human Relations Commission (PHRC) regarding her treatment by FedEx. On or about February 28, 2002, the EEOC filed a complaint and demand for a jury trial in the Eastern District of Pennsylvania. The plaintiff, **Marion Shaub**, seeks to intervene in that action to assert her state and common law claims.

5. Declaratory and injunctive relief is sought pursuant to 28 U.S.C. §2001 and 2002 and Title VII, as amended by the Civil Rights Act of 1991 by the EEOC; and Marion Shaub seeks such relief under the Pennsylvania Human Relations Act (PHRA), 43 P.S. §962; and Article 1 section 28 of the Pennsylvania Constitution.

6. Compensatory and punitive damages are available under the Civil Rights Act of 1991; the Pennsylvania Human Relations Act (PHRA), 43 P.S. *et seq.*; and under the pendent state claims; and other damages are sought, including, but not limited to, back pay and front pay and other lost benefits under Title VII, as amended by the Civil Rights Act of 1991, the Pennsylvania

Human Relations Act (PHRA), 43 P.S. §951, et seq, and the common law of the Commonwealth of Pennsylvania.

7. Costs and attorney's fees may be awarded pursuant to Title VII, as amended by the Civil Rights Act of 1991, 42 U.S.C. § 2000e-5 (k); Rule 54 of the Federal Rules of Civil Procedure; and the Pennsylvania Human Relations Act (PHRA), 43 P.S. §962 (c.2).

### III. VENUE

8. This action properly lies in the United States District Court for the Eastern District of Pennsylvania, pursuant to 28 U.S.C. §1391 (b) because the claim arose in Pennsylvania and was filed by the EEOC in this district.

### IV. PARTIES

9. Plaintiff, **MARION SHAUB**, is a female adult individual who resides at 35 Amanda Lane, Wrightsville, PA 17368.

10. Defendant, **FEDERAL EXPRESS CORPORATION**, (Fed Ex) has continuously been and is now doing business in the State of Pennsylvania, engages in an industry affecting interstate commerce, and employs more than fifteen (15) regular employees.

**V. FACTS**

11. The plaintiff, **MARION SHAUB**, incorporates by reference all facts pled in the Complaint filed by the EEOC in this case.

12. Plaintiff, **MARION SHAUB**, was first employed by Defendant, **FEDERAL EXPRESS CORPORATION**, in October 1995 as a courier. In July 1997 she was promoted to a ramp transport driver. From 1997 to September 2000, Ms. Shaub worked out of the Middletown, Pennsylvania ramp. She was the only female tractor-trailer driver with FedEx who was assigned to Middletown.

13. Throughout Plaintiff's employment with FedEx in Middletown, PA, she was continuously subjected to poor work assignments because of her sex, subjected to constant pressure to quit her job because she was a woman, subjected to sexual innuendo and harassment, and subjected to physical damages and intimidation because the male drivers did not want to work with a female. Many internal complaints (both formal written and verbal) of sex discrimination were filed with FedEx throughout Ms. Shaub's employment.

14. Plaintiff initially was assigned to work on a route called the IPT route in November 1997. In what was to become a familiar discriminatory scenario, a male tractor-trailer driver, Brian Kaufman, wanted that route. He approached management who upgraded Ms. Shuab's route to full time and reassigned the route to Mr. Kaufman. There were four times during the next three years in which Ms. Shaub was removed from a favorable route so that the position could be given to a male truck driver, the last time occurring in August 2000.

15. By the summer of 1999, the plaintiff was suffering under a continuing level of hostility and anger towards her from the male employees because of her sex. She complained to senior management about the hostility and anger she was suffering from the other drivers.

16. Steve Crumbling, the deck captain in charge of loading freight into her truck, repeatedly referred to her as porn star, a damn broad and in January 2000 told her "if you were my daughter, I'd have had you aborted". This was immediately reported to management.

17. Other tractor-trailer drivers began acting distant from the plaintiff after this report. The male drivers were obviously upset when the plaintiff was assigned a newer tractor that they had. In January 2000, shortly after she complained about the sexual comments from Crumbling, she discovered a hole in the brake hose under the hood of her assigned tractor.

18. In February 2000, The deck captain purposefully ignored the need to load her truck. The plaintiff was severely physically injured while attempting to load freight without the help of the deck captain. The incident was immediately reported to Senior Manager Bob Flynn on February 3, 2000.

19. Ms. Shaub told Flynn that she was the focus of anger because of her sex and that Crumbling refused to load her truck causing her injury. She was told to make sure that she didn't work too many hours, so that the men would not resent her so much.

20. By January 2000, unknown male employees of Federal Express purposefully

sabotaged the brake lines on Ms. Shaub's truck. The actual sabotage to her truck occurred over and over again. The sabotage happened on January 25, 2000, February 18, 2000, March 24, 2000 April 13, 2000, and April 27, 2000 She was so shaken that she telephoned to the Managing Director in Baltimore for the help that she could not get from Senior Manager Flynn at the airport. She received no answer. The male drivers met together and decided that Ms Shaub should not have a new tractor. Then Terry Igenfritz asked to switch tractors with her, but when she warned him that someone was tampering with the brakes, he decided not take that truck.

21. By the 19<sup>th</sup> of February, she was scared to be alone at the ramp, a driver turning a corridor filled her with fear. Ms. Shaub received anonymous note in her mail slot warning her about hiding the keys at other times her mail was purposefully destroyed. On several occasions, she went outside of Fed Ex to report the brake sabotage to the state police. The male drivers told plaintiff that they thought she was planning on taking their routes

22. Throughout her employment in Allentown, certain tractor-trailer drivers, employees of defendant, have made constant sexually offensive and threatening statements to Plaintiff. These employees referred to Plaintiff as a porn star.

23. Plaintiff complained to her supervisors at the Middletown ramp about the sexual language and abuse and the physically threatening behavior, which she was experiencing. Plaintiff's supervisors knew of her prior reports of discrimination and refused to help her although she was so fearful of her intimidators that she had asked the local police for help.

24. Defendant did nothing to stop the sexual harassment, which Plaintiff was experiencing, but instead, allowed the perpetrators to know of Plaintiff's complaints which increased the threats to her person.

25. Plaintiff was warned of potential sabotage her truck, which could cause her serious injury. In February 2000 and again in March 1, 2000 the plaintiff was threatened by her fellow workers pushing heavy freight in her direction in an attempt to physically harm her. Her supervisors refused to believe that the intimidation was intentional.

26. Although the threats and physical acts of intimidation were reported to Defendant, Defendant took no action and allowed retaliation against Plaintiff in the form of harassment and threats against Plaintiff by employees and supervisors of Defendant.

27. The working environment became one of such hostility that no reasonable woman would have been expected to continue to remain employed.

28. By August 2000, the plaintiff's last route had been deliberately taken away from her and assigned to a man (whom she was forced to train.) The plaintiff only wanted to be able to driver a tractor-trailer. In September 2000 she gave notice, unable to work under the severe stress she was experiencing on the job.

29. On four different occasions, the Plaintiff discovered that whether her brake lines had been deliberately cut or dirt had been inserted into them to cause brake failure. Each act of

vandalism and intimidation was reported to management and on two occasions to the police.

30. Plaintiff knew that the damage was deliberate because it was exactly the sort of sabotage, which her fellow employees had warned her of and had been previously reported to management. In addition, male employees bragged about the harassment which they subjected her to.

31. Plaintiff's mental health suffered greatly because of the Defendant's actions. She was too terrified to continue her employment at Defendant's ramp. She then tried to work for a second trucking concern and found that she was too terrified to continue as a truck driver

32. The actions of FedEx and its employees by threatening Plaintiff's life and person were specifically and intentionally designed to cause Plaintiff intense emotional distress.

33. Fed Ex knew of the actions of its employees acting during the course of their employment, which were designed to cause Ms. Shaub extreme emotional distress and make her quit her job. FedEx refused to protect the plaintiff from the abuse of her co-employees.

34. On information and belief, Defendant practiced a continuing course of conduct of discrimination against Ms. Shaub as the only female employee at the Middletown ramp.

35. The plaintiff reluctantly was forced to resign from her position because Federal Express refused to afford her atmosphere free of degrading and insulting language and physical threats to her safety.



36. By the actions of its employees and supervisors, Defendant berated Plaintiff, treated her differently than the male employees, pressured her to quit her job, failed to protect her from physical danger and threats and otherwise carried out and condoned a systematic attack on her self-esteem, all of which caused Plaintiff extreme emotional distress, great disruption to her family life and monetary loss.

37. The defendant knew that the plaintiff's life was in danger from the sabotage to her truck and the incidents involving the loading of heavy freight. Management at Federal Express had had prior reports of this sort of sabotage to female truck drivers and maliciously, intentionally and purposefully refused to help Ms. Shaub.

## **VI. CAUSES OF ACTION**

### **A. FIRST CAUSE OF ACTION**

**(Sex Discrimination Under Title VII.**

**42 U.S.C. 2000)**

38. Plaintiff, **MARION SHAUB**, hereby incorporates Paragraphs 1-37 as if more fully set forth herein.

38. By the actions of its employees and management which are set forth in the foregoing paragraphs of this Complaint, Defendant unlawfully harassed and discriminated and retaliated against Plaintiff on the basis of gender/sex, in violation of Title VII.

39. Defendant maliciously, intentionally and with extreme indifference to the civil rights of the plaintiff allowed its employees to act in such a manner when it knew, or should have know, that such actions would discriminate against the plaintiff because of her sex and create a hostile working environment for Plaintiff.

40. The Defendant on the basis of gender/sex discrimination against Plaintiff in work assignments and pay.

#### **B. SECOND CAUSE OF ACTION**

**(Sex Discrimination Under 43 P.S. §955(a))**

41. Plaintiff, **MARION SHAUB**, hereby incorporates Paragraphs 1-40 as if more fully set forth herein.

42. By the actions of its employees and management which are set forth in the foregoing paragraphs of this Complaint, Defendant unlawfully harassed and discriminated against Plaintiff on the basis of gender/sex, and retaliated against her for her complaints in violation of 43 P.S. §953, 955(a) and 955(d).

43. Defendant knew, or should have known, that such actions would create a hostile working environment for Plaintiff.

44. Such harassing and discriminatory actions by Defendant on the basis of gender/sex

created a hostile work environment for Plaintiff and repeatedly reassigned her driving position to male employees, ultimately forcing her from her job.

**C. THIRD CAUSE OF ACTION**

(Intentional Infliction of Emotional Distress)

45. Plaintiff, **MARION SHAUB**, hereby incorporates Paragraphs 1-44 as if more fully set forth herein.

46. Defendant, by the actions alleged above, perpetrated by itself and its agents and employees, and has intentionally or recklessly inflicted great emotional distress upon Plaintiff.

47. The behavior of FedEx's employees, by physically threatening and hurting the plaintiff, by deliberately sabotaging her truck brake lines thereby threatening her life and intimidating and ignoring the plaintiff within the scope of their employment exceeded all bounds tolerated by a decent society. The perpetrators were motivated by personal malice towards the plaintiff. FedEx knew of its employees' conduct, in fact it knew of similar incidents involving other women truck drivers. Federal Express maliciously did nothing to provide the plaintiff with a safe working environment.

48. Plaintiff continues to seek medical help for her mental health. Plaintiff has suffered, and will continue to suffer, mental anguish, physical trauma and severe emotional distress, the full

amount of which is not yet known, all because of the Defendant's actions.

49. As a result of the actions of Defendant, Plaintiff has, and will continue in the future, to expend large amounts of money to cure herself.

**E. FIFTH CAUSE OF ACTION**

**(Retaliation under Title VII act)**

50. Plaintiff, **MARION SHAUB**, hereby incorporates Paragraphs 1-49 as if more fully set forth herein.

**F. FOURTH CAUSE OF ACTION**

**(Pennsylvania Constitution Article 1 § 28)**

54. Plaintiff, **MARION SHAUB**, hereby incorporates Paragraphs 1-53 as if more fully set forth herein.

55. By the actions of its employees and management which are set forth in the foregoing paragraphs of this Complaint, Defendant unlawfully harassed and discriminated against Plaintiff on the basis of gender/sex, and retaliated against her for her complaints and for other protected activity in violation of the Pennsylvania Constitution Article 1 § 28.

**VII. PRAYER FOR RELIEF**

56. **WHEREFORE**, Plaintiff, **MARION SHAUB**, respectfully requests that this Honorable Court:

- (a) Declare Defendant Federal Express Corporation's conduct to be in violation of Plaintiff's rights;
- (b) enjoin Defendant Federal Express Corporation from engaging in such conduct in the future;
- (c) restore Plaintiff to her rightful place as a tractor-trailer driver at the Allentown ramp.
- (d) award Plaintiff equitable relief of back pay and benefits up to the date of reinstatement and front pay and benefits accrual;

(e) award Plaintiff compensatory damages to which she is entitled for past and future pecuniary losses, emotional pain and suffering, physical pain and suffering inconvenience, loss of enjoyment of life, damages for breach of contract, and any other compensatory damages;

(f) award Plaintiff punitive damages to which she proves herself entitled;

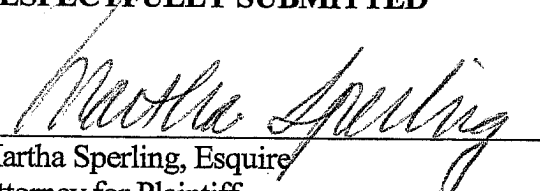
(g) award Plaintiff attorney's fees and costs; and

(h) grant such other relief as it may deem just and proper.

#### VIII. JURY DEMAND

55. Plaintiff, **MARION SHAUB**, demands a jury to try all claims triable by a jury.

**RESPECTFULLY SUBMITTED**

  
Martha Sperling, Esquire  
Attorney for Plaintiff

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Dated: 3/7/02