

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

EQUAL EMPLOYMENT OPPORTUNITY)	
COMMISSION,)	
)	
Plaintiff,)	
)	CIVIL ACTION NO.
v.)	
)	
INTERSTATE BRANDS CORPORATION,)	<u>COMPLAINT</u>
)	<u>JURY TRIAL DEMANDED</u>
)	
Defendant.)	
_____)	

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 Charging Parties Gabrielle R. Tartaglia and Christine Robbins, and to a class of female employees who were adversely affected by such practices. The Commission alleges that Charging Parties and a class of female employees of Defendant's bakery were subjected to a hostile work environment due to sexual harassment and different terms and conditions of employment based on gender. The Commission further contends that female employees were denied the same opportunities for assignment to higher-paying positions in certain Bread Departments that were offered to males. As a result of the harassment and differential treatment in the terms and conditions of her employment, Charging Party Robbins was 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 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, Interstate Brands Corporation ("Interstate") has continuously been and is now a Delaware Corporation doing business in the State of Pennsylvania, and the City of Philadelphia, 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 Parties Gabrielle R. Tartaglia and Christine Robbins filed charges 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 1993, Defendant Employer has engaged unlawful employment

practices at its Philadelphia, Pennsylvania facility in violation of Section 703(a)(1) of Title VII, 42 U.S.C. § 2000e-2(a)(1), by subjecting Charging Parties Gabrielle R. Tartaglia and Christine Robbins and a class of female employees to gender-based distinctions in the terms and conditions of their employment. The unlawful employment practices included but are not limited to the following:

(a) Female employees were told by male supervisors and co-workers that they were not wanted for the jobs in the higher-paying make-up area, and that there are no women in the make-up area; and they were discouraged and deterred from applying for assignment to the make-up area through bidding or vacation relief;

(b) Ms. Tartaglia was frequently told that she could not be assigned to certain make-up jobs as a vacation relief employee, because she did not have training in those areas;

(c) Although many male employees were routinely trained in the make-up area without the need for specific requests on their part, other male employees were automatically placed in the higher-paying make-up jobs if they were unable or unwilling to do the wrap or packing jobs, whether or not they had received training;

(d) Despite requesting training from April, 1999 until at least December, 2001, Ms. Tartaglia did not receive the training she was told she needed to be assigned to the make-up area or the higher-paying jobs;

(e) Male jobbers or floaters with less seniority than Ms. Tartaglia, Ms. Robbins, and other female employees, were routinely selected to fill vacation relief positions on the higher-paying jobs in the make-up department;

(f) Ms. Robbins, who was hired on May 23, 1997, repeatedly requested training in the higher-paying jobs in the make-up area but did not receive any training of that type for years;

(g) From April, 2001 until June 19, 2002, Ms. Robbins did not receive vacation relief assignments for the higher-paying jobs in the make-up area despite her numerous requests;

(h) Despite complaints about differential treatment in the terms and conditions of employment for females, Defendant failed to correct the inequality.

8. Since at least 1992, Defendant Employer has engaged unlawful employment practices at its Philadelphia, Pennsylvania facility in violation of Section 703(a)(1)(1) of Title VII, 42 U.S.C. § 2000e-2(a)(1), by subjecting Charging Parties Gabrielle R. Tartaglia and Christine Robbins and a class of female employees to a sexually hostile work environment. The unlawful employment practices included but are not limited to the following:

(a) On or about June 20, 2002, Supervisor Louis McFarlin called to Gabrielle Tartaglia, saying “come here, bimbo” and when Ms. Tartaglia asked him if he just called her a bimbo, he replied “yes I did.”

(b) On or about June 23, 2002, Supervisor Matt Szakil approached Ms. Tartaglia while she was on the roll line and asked: “is this where the blow jobs are?”

(c) On or about June 17, 2002, a co-worker referred to Ms. Robbins as a “Kensington bitch” in the presence of a supervisor who did nothing to reprimand the employee. When Ms. Robbins complained to another supervisor, he responded that the co-worker was “stressed out” and did not take remedial action;

(d) Throughout her employment from 1997 until approximately June, 2002, Supervisor Matt Szakil consistently engaged in the following unwelcome behaviors toward Ms. Robbins: yelling across the production floor that he loved her “hooters”; telling male co-workers that he loved her “hooters”; grabbing her by the hips and banging his body against hers while she was working on the packing line; attempting to kiss her with his mouth and tongue. Robbins

complained to Assistant Superintendent Al King who condoned the behavior, stating “that’s Marty.”

(e) Supervisor Szakil would regularly walk around the production floor and openly wrap his arms around the bodies of female employees while they were working at their stations and he would also kiss or attempt to kiss them openly;

(f) Other female employees and class members were propositioned regularly by Supervisor Szakil, who asked for sex on numerous occasions, and made sexual gestures and remarks.

9. Due to the intolerable working conditions at Defendant’s facility, including but not limited to the unlawful employment practices described, Ms. Robbins was constructively discharged on or about June 9, 2002.

10. The effect of the practices complained of in paragraphs 7 through 9, above, has been to deprive Gabrielle R. Tartaglia, Christine Robbins, and a class of females employed at Defendant Employer’s Philadelphia facility of equal employment opportunities and otherwise adversely affect their status as employees because of their sex.

11. The unlawful employment practices complained of in paragraphs 7 through 9, above, were intentional.

12. The unlawful employment practices complained of in paragraphs 7 through 9, above, were done with malice or with reckless indifference to the federally protected rights of Gabrielle R. Tartaglia, Christine Robbins and a class of females employed at Defendant Employer’s Philadelphia, Pennsylvania facility.

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 and practices, which effectively prohibit sexual harassment in the work place, and which eradicate the effects of its past and present unlawful employment practices.

C. Order Defendant Employer to make whole Ms. Tartaglia, Ms. Robbins, and other member of the class 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.

D. Order Defendant Employer to make whole Ms. Tartaglia, Ms. Robbins, and other female class members by providing compensation for past and future pecuniary losses resulting from the unlawful employment practices described in paragraphs 7 through 9, above, including but not limited to out-of-pocket losses in amounts to be determined at trial.

E. Order Defendant Employer to make whole Ms. Tartaglia, Ms. Robbins and other female class members by providing compensation for past and future nonpecuniary losses resulting from the unlawful practices complained of in paragraphs 7 through 9, 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 to pay Ms. Tartaglia, Ms. Robbins and other female

class members punitive damages for its malicious and reckless conduct described in paragraphs 7 through 9, 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.

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