

U.S. Equal Employment Opportunity Commission
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**IN THE UNITED STATES DISTRICT COURT
 FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

EQUAL EMPLOYMENT OPPORTUNITY)	
COMMISSION,)	
)	
Plaintiff,)	CIVIL ACTION NO.:
)	
v.)	<u>COMPLAINT</u>
)	<u>JURY TRIAL DEMAND</u>
KVAERNER PHILADELPHIA)	
SHIPYARD, INC.)	
)	
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 that discriminate on the basis of sex and to provide appropriate relief to Kimberly Gibbons (“Ms. Gibbons”) who was adversely affected by such practices. As articulated with greater particularity in paragraph 7 below, the Commission alleges that during her employment, Ms. Gibbons was subjected to sexual harassment through constant sexual banter, inappropriate comments, threatening work radio/phone calls, sexually explicit and threatening graffiti which included obscene pictures and derogatory comments about Ms. Gibbons, all of which created a sexually hostile and offensive work environment for her as a female. The Commission further alleges that although Ms. Gibbons objected to and complained to Defendant about such conduct and the sexually hostile work environment, no remedial action was undertaken to prevent and stop the conduct. As a result of the sexual harassment, Ms. Gibbons suffered severe

emotional distress and was constructively suspended from her position when she was forced to take medical leave.

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. §19981 A.

2. The employment practices alleged to be unlawful were and are now being committed within the jurisdiction of the United States 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, Kvaerner Philadelphia Shipyard, Inc. ("Kvaerner"), has been and is now doing business in the Commonwealth of Pennsylvania and the City of Philadelphia and has continuously had at least 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. §§ 2000(e)(b), (g) and (h).

STATEMENT OF CLAIMS

6. More than thirty days prior to the institution of this lawsuit, Kimberly Gibbons filed a charge 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 March 2004, Defendant Employer has engaged in unlawful employment practices at its Philadelphia, Pennsylvania facility in violation of Section 703(a)(1) of Title VII, 42 U.S.C. § 2000(e)-2(a)(1), by subjecting Kimberly Gibbons, to a sexually hostile and offensive work environment based upon incidents which include, but are not limited to, the following:

(a) Kimberly Gibbons was employed with Defendant as a welder since November 1999. She was one of approximately seven (7) females working with several hundred men at the Kvaerner Shipyard facility. In December 2001, she was promoted to Team Leader (welding) in the Hull Erection Department. She was distinguished to be the first and only woman to serve as Team Leader in the industrial area at Kvaerner.

(b) During her tenure with Defendant, Ms. Gibbons was subjected to a sexually offensive environment which included sexual banter, inappropriate comments, and offensive, threatening graffiti comprised of obscene pictures and derogatory statements about her.

(c) In March of 2004, Ms. Gibbons learned that there were sexually obscene pictures, along with sexually intimidating and derogatory statements about her on the men's bathroom walls. One of the many offensive hand-drawn pictures depicted a nude woman spreading her legs showing her privates with the words, "It's Kimmy G." Another depiction suggesting to be Ms. Gibbons was a woman having oral sex with a gun pointed to her head. The sexually obscene graffiti remained on the men's bathroom walls for at least 10 days following Ms. Gibbons complaints to her immediate supervisor, William DeMaria. During this time period, male employees continued to frequent the same bathroom with the threatening and offensive graffiti..

(d) In May of 2004, Steve Keeth, the Hull Erection Supervisor, called Ms. Gibbons "the sick girl." In response, Chris Loy, a Team Leader, said, "I know why you were out; I heard that you

were giving head to your team the night before.” Although Ms. Gibbons reported the sexually inappropriate and offensive comments to Mr. DeMaria, neither Mr. Keeth nor Mr. Loy suffered any disciplinary action.

(e) In June of 2004, more sexually explicit pictures and derogatory comments about Ms. Gibbons covered the men’s bathroom walls. One of the comments stated “Give Kim a few beers and she will open up like the Red Sea.”

(f) Male co-workers would sexually harass and implicitly threaten Ms. Gibbons by calling her handheld work radio, disguising their voices and stating, “Kimmy, I’m watching you” and “We’re watching you.”

(g) Ms. Gibbons reported all incidents of harassment to her immediate supervisor, William DeMaria. As a result of the sexually hostile, offensive and intimidating work environment to which she was subjected, Ms. Gibbons feared for her physical safety and was forced to take medical leave on June 24, 2004. Since that time, she has been unable to return to work. Despite being out on medical leave, the harassment continued as her co-workers would call her personal cell phone with threatening comments to harass her.

(h) As a result of sexually hostile work environment, Ms. Gibbons was constructively suspended from her position.

8. The effect of the practices complained of in paragraphs 7 (a) through (h) above has been to deprive Kimberly Gibbons, as a female employee, of an harassment free work environment, equal employment opportunities and otherwise adversely affects her status as an employee because of her sex.

9. The acts complained of in paragraphs 7 (a) through (h) above were intentional and malicious.

10. The unlawful employment practices complained of in paragraphs 7 (a) through (h) above were done with reckless indifference to the federally protected rights of Kimberly Gibbons as a female employee.

PRAAYER 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 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 women, which provide for an harassment free work environment, and which eradicate the effects of its past and present unlawful employment practices.

C. Order Defendant Employer to institute and carry out anti-discrimination and sexual harassment policies and complaint procedures.

D. Order Defendant Employer to institute and carry out complaint procedures which encourage employees to come forward with complaints regarding violations of its policies against discrimination, harassment and retaliation.

E. Order Defendant Employer to institute and carry out a training program which shall promote supervisor accountability imposing on all managers and supervisory personnel a duty to actively monitor their work areas to ensure compliance with policies on non-discrimination and anti-harassment; and requiring all managers and supervisors to report any incidents and/or complaints of harassment and/or retaliation of which they become aware to the department charged with handling such complaints.

F. Order Defendant Employer to make whole Kimberly Gibbons by providing appropriate back pay and front pay with prejudgment interest, in amounts to be determined at trial, and other affirmative relief necessary to eradicate the effects of its unlawful employment practices.

G. Order Defendant Employer to make whole Kimberly Gibbons by providing compensation for past and future pecuniary losses resulting from the unlawful employment practices described in paragraphs 7 (a) through (h) above, including, but not limited to out-of-pocket losses, in amounts to be determined at trial.

H. Order Defendant Employer to make whole Kimberly Gibbons by providing compensation for past and future nonpecuniary losses resulting from the unlawful practices complained of in paragraphs 7 (a) through (h) above, including pain and suffering, humiliation, embarrassment, loss of life's enjoyment and pleasures, depression, anxiety and inconvenience, in amounts to be determined at trial.

I. Order Defendant Employer to pay Kimberly Gibbons punitive damages for its malicious and reckless conduct described in paragraphs 7 (a) through (h) above, in amounts to be determined at trial.

J. Grant such further relief as the Court deems necessary and proper in the public interest.

K. Award the Commission its costs of this action.

JURY TRIAL DEMAND

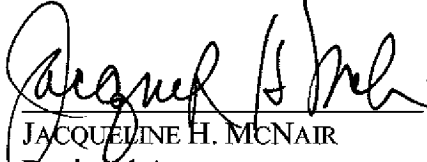
The Commission requests a jury trial on all questions of fact raised by its complaint.


ERIC S. DREIBAND
General Counsel

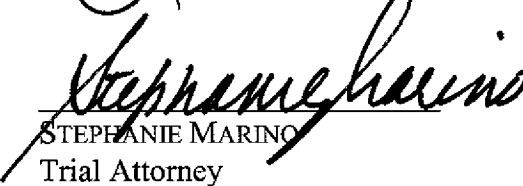
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