

IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF PUERTO RICO

UNITED STATES EQUAL EMPLOYMENT	)	
OPPORTUNITY COMMISSION,	)	
	)	CIVIL ACTION NO.
Plaintiff,	)	
	)	
v.	)	
	)	<u>COMPLAINT</u>
LUPIS ENTERPRISES INC. d/b/a	)	
LUPIS MEXICAN GRILL & SPORTS CANTINA	)	
	)	JURY TRIAL DEMANDED
Defendant.	)	INJUNCTIVE RELIEF SOUGHT
_____	)	

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 and retaliation, and to provide appropriate relief to Lissette Betancourt, Yadira Rivera Martinez, Tania Cruz Romero and Jannessa Hammerle, who were adversely affected by such practices. As stated with greater particularity in paragraph 7, the Commission alleges that Ms. Betancourt, Ms. Rivera, Ms. Cruz and Ms. Hammerle were subjected to sexual harassment by a management official of the Defendant corporation. The Commission further alleges that Defendant subjected Ms. Betancourt to adverse terms and conditions of her employment for rejecting the management official's sexual advances and/or in retaliation for complaining of the sexual harassment. In addition, the Commission alleges that Defendant unlawfully retaliated against Ms. Betancourt for complaining of the unlawful sexual harassment by discharging her from her employment

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 Section 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 committed within the jurisdiction of the United States District Court for the District of Puerto Rico.

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. § 2000e-5(f)(1) and (3).

4. At all relevant times, Defendant, a Puerto Rico corporation, has continuously been doing business in Isla Verde and San Juan, and has continuously had at least 15 employees.

5. At all relevant times, Defendant 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 Ms. Betancourt, Ms. Rivera, Ms. Cruz and Ms. Hammerle filed charges with the Commission alleging violations of Title VII by the Defendant. All conditions precedent to the institution of this lawsuit have been fulfilled.

7. Since at least January of 2002, Defendant Employer engaged in unlawful employment

practices in violation of Section 703(a) and Section 704(a) of Title VII, 42 U.S.C. §2000e-2(a) and §2000e-3(a).

- a. Lissette Betancourt was subjected to sexual harassment by Defendant's Assistant Manager in the form of unwelcome physical and verbal conduct of a sexual nature which was sufficiently severe and pervasive to constitute an intimidating, hostile and offensive work environment. Defendant failed to take prompt corrective action when it knew or should have known of the sexual harassment.
- b. Defendant subjected Lissette Betancourt to adverse terms and conditions of her employment, including unfavorable work schedules and job assignments, for rejecting the sexual advances of Defendant's Assistant Manager and/or in retaliation for complaining of the sexual harassment.
- b. Defendant unlawfully retaliated against Lissette Betancourt for complaining of the unlawful sexual harassment by discharging her from her position.
- c. Yadira Rivera Martinez was subjected to sexual harassment by Defendant's Assistant Manager in the form of unwelcome physical and verbal conduct of a sexual nature which was sufficiently severe and pervasive to constitute an intimidating, hostile and offensive work environment. Defendant failed to take prompt corrective action when it knew or should have known of the sexual harassment.
- d. Tania Cruz Romero was subjected to sexual harassment by Defendant's Assistant Manager in the form of unwelcome physical and verbal conduct of

a sexual nature which was sufficiently severe and pervasive to constitute an intimidating, hostile and offensive work environment. Defendant failed to take prompt corrective action when it knew or should have known of the sexual harassment.

- e. Jannessa Hammerle was subjected to sexual harassment by Defendant's Assistant Manager in the form of unwelcome physical and verbal conduct of a sexual nature which was sufficiently severe and pervasive to constitute an intimidating, hostile and offensive work environment. Defendant failed to take prompt corrective action when it knew or should have known of the sexual harassment.

8. The effect of the conduct complained of in paragraph 7 above has been to deprive Ms. Betancourt, Ms. Rivera, Ms. Cruz and Ms. Hammerle of equal employment opportunities and otherwise adversely affect their status as employees because of their sex.

9. The effect of the conduct complained of in paragraph 7 above has been to deprive Ms. Betancourt of equal employment opportunities and otherwise adversely affect her status as an employee in retaliation for opposition to unlawful employment practices.

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

11. The unlawful employment practices complained of in paragraph 7 above were done with malice or with reckless indifference to the federally protected rights of Ms. Betancourt, Ms. Rivera, Ms. Cruz and Ms. Hammerle.

PRAYER FOR RELIEF

Wherefore, the Commission respectfully requests that this Court:

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

B. Order Defendant, to institute and carry out policies, practices, and programs which provide equal employment opportunities for females, and which eradicate the effects of its past unlawful employment practices.

C. Order Defendant to make whole Ms. Betancourt by providing appropriate back 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.

D. Order Defendant to make whole Ms. Betancourt, Ms. Rivera, Ms. Cruz and Ms. Hammerle by providing compensation for past and future pecuniary losses resulting from the unlawful employment practices described in paragraph 7 above, including out of pocket losses in amounts to be determined at trial.

E. Order Defendant to make whole Ms. Betancourt, Ms. Rivera, Ms. Cruz and Ms. Hammerle by providing compensation for past and future nonpecuniary losses resulting from the unlawful practices complained of in paragraph 7 above, including emotional pain, suffering, inconvenience, humiliation, and loss of enjoyment of life, in amounts to be determined at trial.

F. Order Defendant to pay Ms. Betancourt, Ms. Rivera, Ms. Cruz and Ms. Hammerle punitive damages for its malicious and reckless conduct described in paragraph 7 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 in this action.

JURY TRIAL DEMAND

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

Respectfully Submitted,

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