

**FILED**

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CHARLESTON SC

IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH CAROLINA  
CHARLESTON DIVISION

EQUAL EMPLOYMENT OPPORTUNITY	)	CIVIL ACTION 2:03-3055-18BG
COMMISSION,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	
	)	
HOOVER DODGE, INC.,	)	AMENDED COMPLAINT IN
HOOVER CHRYSLER, INC.,	)	INTERVENTION
HOOVER JEEP CHRYSLER, INC.,	)	(Sexual Harassment)
HOOVER CHRYSLER JEEP, INC.,	)	(Jury Requested)
and HOOVER MOTORS, INC.,	)	
	)	
Defendants.	)	
	)	
JESSICA KEEFER and	)	
LAURA FRANKS,	)	
	)	
Intervenors.	)	
	)	

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NATURE OF ACTION

1. Intervenor/Plaintiffs Jessica Keefer and Laura Franks (hereinafter, "Keefer" and "Franks"), bring this action to obtain redress for sex discrimination due to sexual harassment in the workplace, and constructive discharge from their employment with Defendant Hoover Dodge, Inc., d/b/a, "Hoover Dodge"; in violation of Title VII of the Civil Rights Act of 1964 (hereinafter, "Title VII"), 42 U.S.C. 2000e; the Civil Rights Act of 1991, 42 U.S.C. 1981a; for breach of contract, and breach of contract accompanied by fraudulent act.

2. Intervenors adopt and incorporate by reference paragraphs

42

*original*

1-15 of the Plaintiff's Second Amended Complaint filed on or about April 27, 2004.

### JURISDICTION

3. This Court has jurisdiction pursuant to 42 U.S.C. 2000e-5 (f) (1) and (3); 42 U.S.C. 1981a; and 28 U.S.C. 451, 1331, 1337, 1343, and 1345. Because the State law claims arise out of the same facts and events that gave rise to the claims under Title VII, the State claims form a part of the same case or controversy as the Title VII claim and the Court has supplemental jurisdiction over the State claims pursuant to 28 U.S.C. 1367. The employment practices alleged to be unlawful were committed within the jurisdiction of the United States District Court for the District of South Carolina, Charleston Division.

### PARTIES

4. Intervenor Jessica Keefer, at all times relevant to this Complaint, was and is a female citizen and resident of Dorchester County, South Carolina; and was employed by Hoover Dodge as a receptionist between November 2000 and June 2001.

5. Intervenor Laura Franks, at all times relevant to this Complaint, was a female citizen and resident of Dorchester County, South Carolina; and was also employed by Hoover Dodge as a sales person between March and June, 2001.

6a. Defendant Hoover Dodge, at all relevant times, has continuously been a South Carolina corporation doing business in Summerville, South Carolina, and has continuously had at least 15 employees.

6b. Defendant Hoover Chrysler, Inc., at all relevant times, has continuously been a South Carolina corporation doing business in Summerville, South Carolina, and elsewhere in the Charleston, South Carolina metropolitan area, and has continuously had at least 15 employees.

6c. Defendant Hoover Jeep Chrysler, Inc., at all relevant times, has continuously been a South Carolina corporation doing business in Summerville, South Carolina, and elsewhere in the Charleston, South Carolina metropolitan area, and has continuously had at least 15 employees.

6d. Defendant Hoover Chrysler Jeep, Inc., at all relevant times, has continuously been a South Carolina corporation doing business in Summerville, South Carolina, and elsewhere in the Charleston, South Carolina metropolitan area, and has continuously had at least 15 employees.

6e. Defendant Hoover Motors, Inc., at all relevant times, has continuously been a South Carolina corporation doing business in Summerville, South Carolina, and elsewhere in the Charleston, South Carolina metropolitan area, and has continuously had at least 15 employees.

7. At all relevant times, Defendant Hoover Dodge, and the other defendants named in paragraphs 6b-6e above, were an integrated enterprise of automobile dealerships doing business as "Hoover the Mover" on Old Trolley Road in Summerville, South Carolina, and elsewhere in the Charleston, South Carolina metropolitan area.

8. At all relevant times, Defendants have continuously been employers engaged in an industry affecting commerce within the meaning of 42 U.S.C. 2000e(b), (g), and (h).

## FACTS

9. From 2000 to 2001, Intervenors were subjected to numerous blatant and outrageous incidents of sexual harassment by several adult or senior car salesmen of Hoover Dodge. This created a severe and pervasive hostile work environment based on Intervenors' sex, female.

10. Said incidents of sexual harassment were uninvited and unwelcome, and involved outright propositions for sex, sexual advances, propositions for money, requests for dates, touching of private body parts and other sexually suggestive contact, and lewd gestures and comments of a sexual nature.

11. Said incidents of sexual harassment occurred during the course and scope of the car salesmen's employment at Hoover Dodge.

12. Intervenors and witnesses complained numerous times to management about the misconduct, but Hoover Dodge failed to effectively investigate the matter, stop the misconduct, or discipline offenders. Hoover Dodge also had constructive knowledge of the sexual harassment because of its pervasiveness and frequency of occurrence.

13. Due to the intolerable and hostile work environment created by Hoover Dodge, through its agents and servants, Keefer and Franks were forced to resign their positions in about June 2001.

14. More than 30 days prior to institution of this lawsuit, Keefer filed a charge with the EEOC alleging violations of Title VII by the Defendant Hoover Dodge. All conditions precedent to institution of this lawsuit have been fulfilled.

FOR A FIRST CAUSE OF ACTION  
(SEXUAL DISCRIMINATION)

15. The foregoing allegations 1-14 are incorporated by reference herein as if fully re-stated verbatim.

16. The actions of Defendant Hoover Dodge, by and through its agents and servants, in engaging in unwanted sexual propositions, sexually charged comments and gestures, and offensive physical contact, all toward Keefer and Franks, constituted illegal sex discrimination in violation of Title VII and the Civil Rights Act of 1991.

17. The actions of Defendant Hoover Dodge, by and through its agents and servants, in failing to remedy the aforesaid sexual harassment and provide a workplace free from hostile conduct of a sexual nature, were deliberate, not in good faith, and carried out in a manner which was malicious, outrageous, gross, wanton and willful, and in reckless disregard for the protected rights of Keefer and Franks.

18. Said sexual discrimination was so severe and pervasive as to alter the conditions of Keefer's and Franks' employment, interfere with their work performance, significantly affect their psychological well being, and create a hostile, abusive, and offensive work environment.

19. The effect of the practices complained of in paragraphs 10 and 16 herein has deprived Keefer and Franks, and other similarly situated female employees who worked at the Summerville, South Carolina automobile dealership on Old Trolley Road of equal employment oppor-

tunities and otherwise adversely affected their status as employees because of their sex, female.

20. As a direct and proximate result of the actions of Hoover Dodge, through its agents and servants, Keefer and Franks are entitled to actual damages for physical and personal injury, fear, anxiety, depression, severe emotional distress, mental anguish, humiliation, ridicule, loss of enjoyment of life, embarrassment, lost wages and benefits, anger, lost dignity, medical expenses, lost earning capacity, back pay with pre-judgment interest, hiring or front pay, and to punitive damages; all in amounts to be determined by the Court; and to reasonable attorney fees and costs.

FOR A SECOND CAUSE OF ACTION  
(CONSTRUCTIVE DISCHARGE)

21. The foregoing allegations 1-20 are incorporated by reference herein as if fully re-stated verbatim.

22. The actions and inactions of Hoover Dodge, by and through its agents and servants, in failing to provide Keefer and Franks with a workplace free of sexual harassment, constituted illegal sex discrimination in violation of Title VII and the Civil Rights Act of 1991.

23. Said actions and inactions of Hoover Dodge, by and through its agents and servants, were deliberately directed against Keefer and Franks, in that Hoover Dodge failed to correct the sexual harassment after it knew, or should have known, through its agents and servants, of its existence; and the work conditions thus created were

so intolerable that a reasonable person would not be expected to endure them.

24. As a proximate result of Hoover Dodge's actions and inactions, by and through its agents and servants, Hoover Dodge's workplace became intolerably hostile toward Keefer and Franks, resulting in their forced resignation and constructive discharge from employment, entitling them to actual damages for loss of salary, benefits, anxiety, depression, emotional distress, humiliation, and embarrassment; and to punitive damages; in amounts to be determined by the Court; and to reasonable attorney fees and costs.

FOR A THIRD CAUSE OF ACTION  
(BREACH OF CONTRACT)

25. The foregoing allegations 1-24 are incorporated by reference herein as if fully re-stated verbatim.

26. At all times relevant to this action, Hoover Dodge maintained a written company policy strictly forbidding verbal and physical sexual harassment in the workplace. This policy further stated that any such sexual harassment would not be tolerated by Hoover Dodge.

27. The above described policy altered Keefer's and Franks' at will status as employees and constituted an employment contract which Hoover Dodge was bound to honor with its employees. (Copy attached hereto)

28. Hoover Dodge intended that its employees, including Keefer and Franks, rely on this policy in continuing their employment, and

Keefer and Franks did, in fact, so rely.

29. Hoover Dodge violated and breached this policy in its actions and inactions toward Keefer and Franks in allowing the sexual harassment to occur, and in failing to remedy it once put upon notice of its existence.

30. As a proximate result of said breach of contract, Keefer and Franks are informed and believe that they are entitled to actual damages in amounts to be determined by the Court.

FOR A FOURTH CAUSE OF ACTION  
(BREACH OF CONTRACT ACCOMPANIED BY FRAUDULENT ACT)

31. The foregoing allegations 1-30 are incorporated by reference herein as if fully re-stated verbatim.

32. Accompanying the breach of the aforementioned contract, the Defendant Hoover Dodge, through its agents and servants, committed deceitful and fraudulent acts by: (a) having a sexual harassment policy for appearance purposes only, and with no intention or efforts expended to enforce it; (b) representing to Keefer and Franks, after complaints were made, that the sexual harassment would be stopped, as their policy required, when in fact, it only continued and intensified until they were forced to resign; (c) perpetrating willful, oppressive, and illegal acts and statements of sexual harassment against Keefer and Franks throughout their tenure of employment with

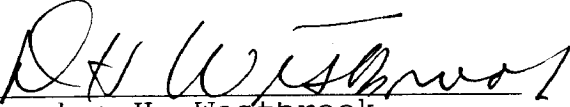


Hcoover Dodge; and (d), fabricating a disciplinary report on Keefer the day she resigned due to Defendant's sexual harassment. The aforestated misrepresentation in (b) was false, material, the Defendant knew it was false, Defendant intended it be relied upon, Keefer and Franks were ignorant of its falsity, they relied on the misrepresentation, they had a right to rely on it, and they suffered damages.

33. The acts committed by Hoover Dodge as hereinabove enumerated were done in violation of Keefer's and Franks' right to work in an environment free of sexual harassment; and said acts were committed fraudulently, intentionally, and willfully for the purpose of damaging Keefer and Franks, and making it impossible for them to continue work.

34. By reason of the fraudulent acts accompanying breach of contract by Defendant, Keefer and Franks are entitled to recover punitive damages, as well as the actual damages as hereinabove alleged.

WHEREFORE, Intervenor/Plaintiffs pray for judgment against the Defendants where appropriate, as follows: actual and punitive damages, costs, pre-judgment and post-judgment interest, reasonable attorney fees, and for such further relief as the Court deems just and proper.

  
Douglas H. Westbrook  
23 Broad Street  
Charleston, SC 29401  
(843) 853-9600  
D.C. #993

ATTORNEY FOR INTERVENOR/PLAINTIFFS

### NO HARASSMENT POLICY

Hoover Automotive does not and will not tolerate harassment of our employees, applicants, or customers. The term "harassment" includes, but is not limited to, slurs, jokes, and other verbal, graphic, or physical conduct relating to an individual's race, color, sex, religion, national origin, citizenship, age, or disability. "Harassment" also includes sexual advances, requests for sexual favors, offensive touching, and other verbal, graphic, or physical conduct of a sexual nature.

#### **VIOLATION OF THIS POLICY WILL SUBJECT AN EMPLOYEE TO DISCIPLINARY ACTION, UP TO AND INCLUDING IMMEDIATE DISCHARGE.**

If you feel that you are being harassed in any way by a co-worker, a customer, or a vendor, you should notify your supervisor or manager immediately. The matter will be thoroughly investigated and, where appropriate, disciplinary action will be taken.

Our supervisors and managers are also covered by this policy and are prohibited from engaging in any form of harassing conduct. Further, no supervisor or other member of management has the authority to suggest to any employee or applicant that the individual's employment, continued employment, or future advancement will be affected in any way by the individual's entering into (or refusing to enter into) any form of personal relationship with the supervisor or member of management. Such conduct is a direct violation of this policy.

If you believe that a supervisor or member of management has acted inconsistently with this policy, if you are not comfortable bringing a complaint regarding harassment to your immediate supervisor, or if you believe that your complaint concerning a co-worker, a customer, or a vendor has not been handled to your satisfaction, please immediately contact the dealer.

#### **YOU WILL NOT BE PENALIZED IN ANY WAY FOR REPORTING SUCH IMPROPER CONDUCT.**

Please do not assume that the Company is aware of your problem. Please bring your complaints and concerns to our attention so that we can resolve them.

Attn: Carla

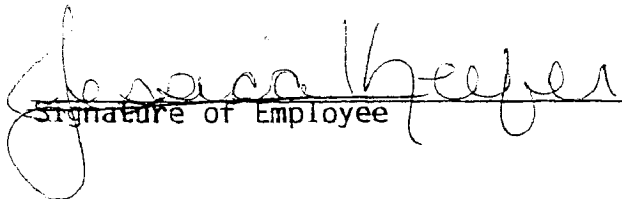
HOOVER CHRYSLER DODGE, INC.

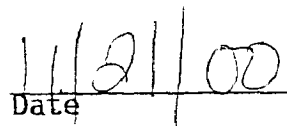
"HARASSMENT"

The company will not tolerate harassment of its employees. Any form of harassment related to an employee's race, color, sex, religion, national origin, age, or disability is a violation of this policy and will be treated as a disciplinary matter. For these purposes, the term "harassment" includes, but not necessarily limited to: slurs, jokes, or other verbal, graphic, or physical conduct relating to an individual's race, color, sex, religion, national origin, age, or physical or mental handicap. Harassment also includes sexual advances, requests for sexual favors, and other verbal, graphic, or physical conduct of a sexual nature. Violation of this policy by an employee shall subject that employee to disciplinary action, up to and including discharge.

If you feel you are being harassed by any other employee, you should at once make your feelings known to your immediate supervisor or other member of management to whom the employee feels comfortable reporting the incident. The supervisor will see that the matter is investigated and, where appropriate, disciplinary action taken. If you do not feel that the matter can be discussed with your supervisor, you may arrange for a conference with the company president. Any employee reporting harassment or assisting in an investigation of such charge will not be subject to any retaliating response from management.

Harassment of employees in connection with their work by non-employees (auditors, customers, salespersons) may also be a violation of this policy. Any employee who becomes aware of any harassment of an employee by a nonemployee should report such harassment to his/her supervisor.

  
\_\_\_\_\_  
Signature of Employee

  
\_\_\_\_\_  
Date