

FILED

SEP 22 1997

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CLERK

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH DAKOTA
SOUTHERN DIVISION

Civil Action No. 97-4160

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,
Plaintiff,

v.

TACO BELL CORP., d/b/a TACO BELL EXPRESS
and DOUBLE-D, INC.,

Defendants.

AMENDED COMPLAINT AND JURY TRIAL DEMAND

NATURE OF THE ACTION

This is an action under Title VII of the Civil Rights Act of 1964, as amended, to correct unlawful employment practices on the basis of sex and to make whole Karla Willuweit ("Willuweit") and Brenda Handiguard, formerly Brenda Miles ("Miles"), both former employees. This action alleges that Willuweit and Miles were subjected to a sexually hostile work environment while employed at Taco Bell Corp., d/b/a Taco Bell Express, and that Taco Bell Corp. and Double-D, Inc. failed to take appropriate corrective actions to eliminate the harassment.

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

et seq. ("Title VII"), and Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981(A).

2. The employment practices alleged to be unlawful were committed within the jurisdiction of the United States District Court for the District of South Dakota.

PARTIES

3. Plaintiff, Equal Employment Opportunity Commission (the "Commission"), is an 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 706(f)(1) of Title VII, 42 U.S.C. § 2000e-5(f)(1).

4. At all relevant times, Defendant, Taco Bell Corp., doing business as Taco Bell Express, has continuously been a California corporation doing business in the State of South Dakota and the City of Sioux Falls and has continuously had at least fifteen employees.

5. At all relevant times, Defendant, Taco Bell Corp., has continuously been an employer engaged in an industry affecting commerce within the meaning of Section 701(b), (g) and (h) of Title VII, 42 U.S.C. §§ 2000e-(b), (g) and (h).

6. At all relevant times, Defendant, Double-D, Inc., has continuously been a South Dakota Corporation doing business in the State of South Dakota and the City of Sioux Falls and has continuously had at least fifteen employees.

7. At all relevant times, Defendant, Double-D, Inc., has continuously been an employer engaged in an industry affecting

commerce within the meaning of Section 701(b), (g) and (h) of Title VII, 42 U.S.C. §§ 2000e-(b), (g) and (h).

STATEMENT OF CLAIMS

9. More than thirty days prior to the institution of this lawsuit, Willuweit and Miles filed charges with the Commission alleging violations of Title VII by Defendant Employers. All conditions precedent to the institution of this lawsuit have been fulfilled.

10. Since at least November, 1993, Defendant Employers have individually and jointly engaged in unlawful employment practices at its Sioux Falls facility, in violation of Sections 703(a)(1) and 704(a) of Title VII, 42 U.S.C. §§ 2000e-2(a)(1) and 3(a). Such unlawful employment practices have included the subjecting of Willuweit and Miles to a sexually hostile work environment.

11. In or about January of 1993, Defendant Taco Bell Corp. hired Defendant Double-D, Inc. to oversee or manage the Taco Bell Express Units. The relationship between the Defendants was informal and there is no written contract between the Defendants. At all relevant times Taco Bell Corp. owned the Taco Express Units.

12. Willuweit was hired by Taco Bell Express in November of 1993. Throughout her employment Willuweit was sexually harassed by her Manager, Scott Larson. Specifically, Larson used offensive language and engaged in unwelcome touching. Further, on a daily basis Larson discussed his sex life with Willuweit. This sexual harassment continued until approximately March 1994 when Willuweit transferred to another store. On July 14, 1994, Willuweit filed a

charge of discrimination with the Sioux Falls Human Rights Commission.

13. Miles was hired by Taco Bell Express on about November 1993. Larson sexually harassed Miles on virtually a daily basis. Specifically, Larson would unsnap her bra and pull it from under her shirt. Further, Larson made constant sexual innuendos and suggestions. On May 25, 1994, Miles filed her charge of discrimination with the Sioux Falls Human Relations Commission.

14. The effect of the practices complained of above has been to deprive Willuweit and Miles of equal employment opportunities and otherwise adversely affect their status as employees because of their sex.

15. The unlawful employment practices complained of in paragraphs 10-13 were intentional.

16. The unlawful employment practices complained of in paragraphs 10-13 were done with malice or with reckless indifference to the federally protected rights of Willuweit and Miles.

PRAYER FOR RELIEF

Wherefore, the Commission respectfully requests that this Court:

A. Grant a permanent injunction enjoining Defendant Employers, its officers, successors, assigns and all persons in active concert or participation with it, from engaging in any employment practice which discriminates on the basis of sex.

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

C. Order Defendant Employers to make whole Willuweit and Miles, by providing appropriate backpay with prejudgment interest, 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 or front pay where appropriate for Willuweit and Miles.

D. Order Defendant Employers to make whole Willuweit and Miles, by providing compensation for past and future pecuniary losses resulting from the unlawful employment practices described in paragraphs 10-13 above, including but not limited to job search expenses and any medical expenses not covered by the Employer's employee benefit plan, in amounts to be determined at trial.

E. Order Defendant Employers to make whole Willuweit and Miles by providing compensation for past and future nonpecuniary losses resulting from the unlawful practices complained of in paragraphs 10-13 above, including emotional pain, suffering, inconvenience, loss of enjoyment of life, and humiliation, in amounts to be determined at trial.

F. Order Defendant Employers to pay Willuweit and Miles punitive damages for its malicious and reckless conduct described in paragraphs 10-13 above, in amounts to be determined at trial.

G. Grant such further relief as the Court deems necessary and proper.

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.


Dated this 17th day of September, 1997.

Respectfully submitted,

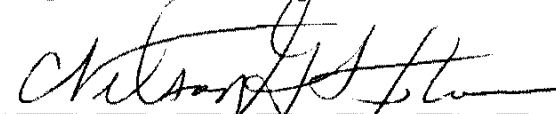
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PLEASE NOTE:

It is sufficient for purposes of service on the EEOC that pleadings, notices and any other court document be served on the Trial Attorney. Therefore, duplicate service is not required on the General Counsel or the Deputy General Counsel located in Washington, D.C.