

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

United States Courts  
Southern District of Texas  
FILED

SEP 23 2004

HT

Michael N. Milby, Clerk of Court

EQUAL EMPLOYMENT  
OPPORTUNITY COMMISSION  
Plaintiff

v.

ISSARA SEAFOOD, INC. d/b/a  
BAYTOWN SEAFOOD RESTAURANT  
Defendant.

§  
§  
§  
§  
§  
§  
§  
§  
§  
§

CIVIL ACTION NO. \_\_\_\_\_

**H-04-3704**

JURY TRIAL DEMANDED

ORIGINAL COMPLAINT

1. This is an action under Title VII of the Civil Rights Act of 1964, *as amended*, and Title I of the Civil Rights Act of 1991, *as amended*, to correct unlawful employment practices on the basis of sex, and to provide appropriate relief to Heba Assouad who was adversely affected by such practices. The Defendant, Issara Seafood, Inc. d/b/a Baytown Seafood Restaurant unlawfully denied Ms. Assouad equal employment opportunities by subjecting her to sexual harassment in violation of Title VII. Additionally, Defendant unlawfully terminated Ms. Assouad in retaliation for opposing the sexual harassment.

JURISDICTION AND VENUE

2. 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, *as amended*, 42 U.S.C. §1981A.

3. Venue is proper in this court because the unlawful employment practices alleged below were and are now being committed within the jurisdiction of the United States District Court for the Southern District of Texas, Houston Division.

#### PARTIES

4. Plaintiff, the Equal Employment Opportunity Commission ("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 Section 706 (f)(1) and (3), 42 U.S.C. §2000e-5 (f)(1) and (3).

5. Defendant Issara Seafood, Inc. d/b/a Baytown Seafood Restaurant ("Baytown Seafood") has continuously been and is now doing business in the State of Texas and the City of Houston and has continuously had more than 15 employees. Baytown Seafood may be served with process by serving its registered agent in Texas, Buth L. Austin, 1010 W. Cavalcade Street, Suite B, Houston, Texas 77009.

6. At all relevant times, Baytown Seafood has continuously been an employer engaged in an industry affecting commerce with the meaning of Sections 701(b),(g) and (h) of Title VII, 42 U.S.C. §2000e(b), (g) and (h).

#### STATEMENT OF CLAIMS

7. More than thirty days prior to the institution of this lawsuit, Heba Assouad filed a charge of discrimination with the Commission alleging violation of Title VII by Baytown Seafood, her former employer. All conditions precedent to the institution of this lawsuit have been fulfilled.

8. Since at least 2004, Baytown Seafood has engaged in unlawful employment practices at its restaurant located at 9205 S. Main in Houston, Texas, in Houston, Texas, in violation of Sections 703(a)(1) and 704(a) of Title VII.

9. Beginning in January 2004, Baytown Seafood, by and through its agent, Sonny Preap, a manager at the restaurant, subjected Ms. Assouad and other female employees to unwelcome sexual propositions and comments, sexual gestures, and offensive touching because of their sex, female. Specifically, among other things, Mr. Preap told Ms. Assouad that he intended to have sex with her and that her breasts aroused him. He also touched Ms. Assouad's breasts and kissed her on the lips and neck. Mr. Preap also touched other female employees in a similar manner. Ms. Assouad objected to Mr. Preap's statements and his touching her and tried, to no avail, to prevent him from touching her. The complained of conduct was so sexually hostile and occurred with such frequency and severity that it affected the terms, conditions, benefits and privileges of employment and created a hostile work environment.

10. Baytown Seafood had no procedures in place that permit employees to complain if they are subjected to sexual harassment. Moreover, it had no policy prohibiting sexual harassment in the workplace.

11. Ms. Assouad continued to resist Mr. Preap's sexually harassing conduct.. The result of her resistance to Mr. Preap's advances and complaints about his misconduct, was that she was terminated in February 2004.

12. Mr. Preap, as a manager at the restaurant, had the authority to hire and fire employees for the restaurant including the authority to hire and fire Ms. Assouad.

13. Ms. Assouad was subjected to a series of separate, harassing acts that collectively constituted an unlawful employment practice.

14. The unlawful employment practices complained of above were intentional and based on the gender of Ms. Assouad.

15. The effect of the practices complained of above has been to deprive Ms. Assouad of equal employment opportunities and otherwise adversely affect her status as an employee, because of her gender, by requiring her to be subjected to sexual harassment in the workplace.

16. The unlawful employment practices described above were committed with malice or with reckless indifference for the federally protected civil rights of Ms. Assouad

#### PRAYER FOR RELIEF

WHEREFORE, the Commission respectfully requests that this Court:

17. Grant a permanent injunction enjoining Baytown Seafood, its officers, successors, assigns and all persons in active concert or participation with it, from engaging in employment practices which discriminate on the basis of sex;

18. Order Baytown Seafood to institute and carry out policies, practices and procedures which provide equal employment opportunities for women and which eradicates the sexually hostile work environment;

19. Order Baytown Seafood to make Ms. Assouad whole 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 the unlawful employment practices she was subjected to;

20. Order reinstatement into a comparable position for Ms. Assouad or award front pay in the amounts to be proven at trial if reinstatement is impractical;

21. Order Baytown Seafood to pay compensatory damages to Ms. Assouad for the past and future pecuniary losses resulting from the unlawful employment practices described above;

22. Order Baytown Seafood to pay compensatory damages to Ms. Assouad for the past and future non-pecuniary losses including emotional pain, suffering, inconvenience, mental anguish, loss of enjoyment of life, and other non-pecuniary losses she suffered as a result of the unlawful employment practices described above, in amounts to be proven at trial;

23. Award punitive damages to Ms. Assouad in amounts to be proven at trial;

24. Award pre-judgment and post-judgment interest on all amounts recovered as allowed by law;

25. Order all affirmative relief necessary to eradicate the effects of its unlawful employment practices;

26. Award the Commission its costs in this action; and

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

JURY TRIAL DEMANDED

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

Respectfully submitted,

EQUAL EMPLOYMENT  
OPPORTUNITY COMMISSION

ERIC S. DREIBAND  
General Counsel

JAMES L. LEE  
Deputy General Counsel

GWENDOLYN YOUNG REAMS  
Associate General Counsel

1801 L. Street, N.W.  
Washington, D.C. 20507

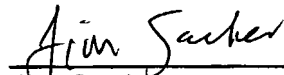
By:



Kathy D. Boutchee  
Attorney-in-Charge  
TBN: 02717500  
SDN: 10145  
Houston District Office  
1919 Smith Street, 7<sup>th</sup> Floor  
Houston, Texas 77002  
(713) 209-3399  
Fax: (713) 209-3402

ATTORNEYS FOR PLAINTIFF

OF COUNSEL



Jim Sacher  
Regional Attorney  
Houston District Office  
1919 Smith, 7<sup>th</sup> Floor  
Houston, Texas 77002  
(713) 209-3398  
Fax: (713) 209-3402

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I(a) PLAINTIFFS
EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DEFENDANTS
ISSARA SEAFOOD, INC. d/b/a BAYTOWN SEAFOOD RESTAURANT

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF
(EXCEPT IN U.S. PLAINTIFF CASES)

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT
(IN U.S. PLAINTIFF CASES ONLY)
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)
Kathy Boutchee, Trial Attorney
EEOC-Houston District Office
1919 Smith Street, 7th Floor
Houston, Texas 77002
(713) 209-3399

ATTORNEYS (IF KNOWN)

United States Courts
Southern District of Texas
FILED

SEP 23 2004

Michael R. Milby, Clerk of Court

H-04-3704

II. BASIS OF JURISDICTION (PLACE AN x IN ONE BOX ONLY)

- [x] 1 U.S. Government Plaintiff
[] 2 U.S. Government Defendant
[] 3 Federal Question (U.S. Government Not a Party)
[] 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN x IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

- PTF DEF PTF DEF
Citizen of This State [] 1 [] 1 Incorporated or Principal Place of Business in This State [] 4 [] 4
Citizen of Another State [] 2 [] 2 Incorporated and Principal Place of Business in Another State [] 5 [] 5
Citizen or Subject of a Foreign Country [] 3 [] 3 Foreign Nation [] 6 [] 6

IV. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSIFY)

Issara Seafood, Inc. d/b/a Baytown Seafood Restaurant engaged in unlawful employment practices by subjecting Ms. Assouad to sexual harassment in violation of Title VII. Ms. Assouad was also terminated in retaliation for opposing the sexual harassment.

V. NATURE OF SUIT (PLACE AN x IN ONE BOX ONLY)

Table with 5 columns: CONTRACT, REAL PROPERTY, TORTS (PERSONAL INJURY, CIVIL RIGHTS, PRISONER PETITIONS), FORFEITURE/PENALTY, LABOR, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES.

VI. ORIGIN (PLACE AN x IN ONE BOX ONLY)

- [x] 1 Original Proceeding
[] 2 Removed from State Court
[] 3 Remanded from Appellate Court
[] 4 Reinstated or Reopened
[] 5 another district (specify)
[] 6 Multidistrict Litigation
[] 7 Judge from Magistrate Judgment

VII. REQUESTED IN COMPLAINT: CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 DEMAND \$ JURY DEMAND: [X] YES [] NO

VIII. RELATED CASE(S) IF ANY (See instructions). JUDGE DOCKET NUMBER

DATE 9/23/04 SIGNATURE OF ATTORNEY OF RECORD

Handwritten signature of Kathy Boutchee