

ORIGINAL

U.S. DISTRICT COURT  
DISTRICT OF WYOMING

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U.S. DISTRICT COURT

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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF WYOMING

Civil Action No. 08 CV 201-B

EQUAL EMPLOYMENT OPPORTUNITY )  
COMMISSION, )  
 )  
Plaintiff, )  
 )  
 )  
v. )  
 )  
M&N EQUIPMENT, INC., LLC, a Wyoming )  
limited liability company, )  
 )  
Defendant. )

**COMPLAINT**

**NATURE OF THE ACTION**

This action arises under Title VII of the Civil Rights Act of 1964 ("Title VII"), as amended, to correct unlawful employment practices on the basis of retaliation for opposing acts

made unlawful under Title VII, and to provide adequate relief to Clinton DeLambert, a former employee of Defendant, M & N Equipment, LLC. As set forth more fully below, the EEOC alleges that Defendant retaliated against Mr. DeLambert and ultimately terminated him from employment for his opposition to sexual harassment and a hostile work environment in violation of Sections 703(a) and 704(a) of Title VII, 42 U.S.C. §§ 2000e-2(a), 2000e-3(a).

### **JURISDICTION AND VENUE**

1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 451, 1331, 1337, 1343, 1345.
2. This action is authorized and instituted pursuant to Sections 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), and Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981(a).
3. The employment practices alleged to be unlawful were committed within the jurisdiction of the United States District Court for the District of Wyoming.

### **PARTIES**

4. Plaintiff, 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 under Sections 706(f)(1) and 707 of Title VII, 42 U.S.C. §§ 2000e-5(f)(1), 2000e-6.
5. At all relevant times, Defendant, M & N Equipment, LLC (hereinafter “M & N

Equipment” or “Defendant”), has continuously been a Wyoming limited liability corporation doing business in the State of Wyoming. The principals are Gary Brus and Mick McMurray. Defendant operates an oil field construction business, including delivery of supplies for digging wells and some aspects of constructing the wells.

6. At all relevant times, Defendant continuously employed at least fifteen employees.

7. At all relevant times, Defendant 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).

### **GENERAL ALLEGATIONS**

8. More than thirty days prior to the institution of this lawsuit, Mr. DeLambert filed a charge with the Commission alleging violations of Title VII by Defendant.

9. All conditions precedent to the institution of this lawsuit have been fulfilled.

10. Mr. DeLambert was employed by Defendant from on or about July 1, 2000, until he was discharged on March 2, 2001.

11. Throughout the time Mr. DeLambert was employed by Defendant, he worked at Defendant’s facility located at the Jonah Oil Field site near Pinedale, Wyoming.

12. Until February, 2001, Mr. DeLambert’s immediate supervisor was Richard Marx.

13. During his employment with Defendant, Mr. DeLambert engaged in protected

activity under Section 704(a) of Title VII, 42 U.S.C. § 2000e-4(a), by opposing unlawful employment practices at Defendant's Pinedale, Wyoming work site. On or about December 7, 2000, Mr. DeLambert accompanied several male co-workers, including Mr. Nicodemus and Mr. Schilling, to meet with Mr. Brus and to complain of sexual harassment of a female coworker by two M & N employees, Mr. Winkelman and Mr. Williams. This sexual harassment included, but was not limited to, such actions as male coworkers exposing their genitals and buttocks to the female coworker, telling her "show us your hooters" and attempting to put the female employee's hand on a male co-workers genitals. The group complained that they had heard that the harassers were to be promoted to foreman and they stated that such a move would be a problem because Mr. Williams and Mr. Winkelman would retaliate against individuals who complained of misbehavior.

14. After Mr. DeLambert complained about the sexual harassment of a female co-worker, Defendant, acting through its managers and supervisors, retaliated against Mr. DeLambert because of his protected activity. After his complaints regarding sexual harassment, Defendant began to harass Mr. DeLambert by yelling at and verbally abusing him, arbitrarily changing his work assignments, denying him tools and equipment necessary to perform his duties, and denying his requests for equipment repairs.

15. Karen Stepp, a former M & N employee, reported that, sometime after December 8, 2000, Mr. Winkelman told her that DeLambert had "slit his throat" by making his complaint

16. After several employees, including Mr. DeLambert complained about sexual harassment and retaliation by Mr. Winkelman and Mr. Williams, both were promoted to a supervisory position in February 2001.

17. Defendant took insufficient actions to investigate Mr. DeLambert's complaints about retaliation, and instead, increased the harassment the more he complained. Defendant continued to harass Mr. DeLambert by yelling at and verbally abusing him, arbitrarily changing his work assignments, denying him tools and equipment necessary to perform his duties, and denying his requests for equipment repairs.

18. The harassment and retaliation culminated on or about March 2, 2001, when Mr. DeLambert was discharged.

19. The events and employment practices alleged in the foregoing paragraphs constitute retaliation in violation of Section 704(a) of Title VII, 42 U.S.C. § 2000e-3(a).

20. As a result of Defendant's unlawful retaliation, Mr. DeLambert has suffered damages, including but not limited to emotional distress, lost earnings and benefits, medical and job search expenses, in amounts subject to proof.

21. The unlawful employment practices complained of in the foregoing paragraphs were intentional, or were committed with reckless disregard for the federally protected rights of Mr. DeLambert.

## **PRAYER FOR RELIEF**

Wherefore, the Commission respectfully requests that the Court:

A. Grant a permanent injunction enjoining Defendant, its officers, successors, assigns, and all persons in active concert or participation with it, from engaging in retaliation and any other discriminatory employment practice.

B. Order Defendant to institute and carry out policies, practices, and programs that proscribe harassment and retaliation against individuals who oppose unlawful discrimination, and that eradicate the effects of its past and present unlawful employment practices.

C. Order Defendant to make Mr. Clifton DeLambert whole by providing appropriate back pay, including all attendant rights and benefits, with prejudgment interest, in amounts to be determined at trial;

D. Order Defendant to make Mr. Clinton DeLambert whole, by providing compensatory damages for past and future pecuniary losses resulting from the unlawful employment practices described herein, in amounts to be determined at trial.

E. Order Defendant to pay Mr. DeLambert punitive damages, in amounts to be determined at trial, as punishment for Defendant's intentional conduct carried out with malice or reckless disregard for the federally protected rights of Mr. DeLambert.

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

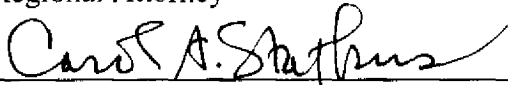
proper in the public interest.

G. Award the Commission its costs in pursuing this action.

Dated: September 30, 2003

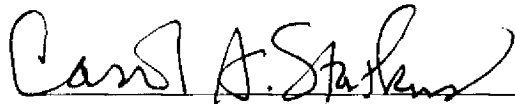
Respectfully submitted,

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EQUAL EMPLOYMENT OPPORTUNITY  
COMMISSION

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