

FILED
U.S. DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF LOUISIANA

LORETTA G. WHYTE
CLERK

EQUAL EMPLOYMENT OPPORTUNITY)
COMMISSION,)
)
Plaintiff)
)
v.)
)
BOH BROS. CONSTRUCTION CO., L.L.C.,)
)
Defendant.)

CIVIL ACTION NO. **09-6460**

COMPLAINT

JURY TRIAL DEMAND

SECT. B MAG. 2

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 of 1991, as amended, to correct unlawful employment practices on the basis of sex and retaliation, and to provide appropriate relief to Kerry S. Woods, who was adversely affected by such practices. As alleged with greater particularity in paragraphs 7 through 9 below, Defendant discriminated against Kerry S. Woods in violation of Title VII because of his gender by subjecting him to sexual harassment and/or a sexually hostile work environment that was perpetrated by his line supervisor. After Mr. Woods complained about his supervisor's harassment, Defendant retaliated against Mr. Woods in violation of Title VII by adversely transferring him, refusing to return him to his original worksite, and then terminating his 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

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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. Venue is proper in this Court under 28 U.S.C. § 1391 and Section 706(f)(3) of Title VII, 42 U.S.C. §2000e-5(f)(3). The employment practices alleged to be unlawful were committed within the district of this Court.

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 of the Civil Rights Act of 1964, as amended, 42 U.S.C. §§ 2000e-5(f)(1) and (3).

4. At all relevant times, Defendant Boh Bros. Construction Co., L.L.C. (hereafter referred to as the “Defendant” or the “Employer”), is a Louisiana-domiciled company that has continuously been doing business in the State of Louisiana and this District and has continuously had at least 15 employees.

5. At all relevant times, the Employer 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, Kerry S. Woods filed a charge with the Commission alleging violations of Title VII by the Employer. All conditions precedent to the institution of this lawsuit have been fulfilled.

7. Since at least April 2006 the Employer engaged in unlawful employment practices at its I-10 Twin Span and/or Chalmette facilities in violation of Section 703(a)(1) of Title VII, 42 U.S.C. § 2000e-2(a)(1), and Section 704 of Title VII, 42 U.S.C. § 2000e-3(a).

8. Boh Brothers' unlawful employment practices included the sexual harassment and/or sexually hostile work environment that was perpetrated by the Employer's Superintendent on the I-10 Twin Span repair project against Kerry S. Woods in 2006. For most of 2006, commencing shortly after this Superintendent assumed his line supervisor role at the Twin Span work site, he repeatedly subjected Kerry S. Woods to unwelcome verbal and physical sexual taunting, innuendo, and sexual advances at the work site, all of which Mr. Woods rebuffed and complained about to his coworkers and Defendant's supervisors. The harassment included, among other things, the Superintendent accusing Mr. Woods of being a homosexual by frequently calling Mr. Woods names that are associated with homosexuality; standing behind Mr. Woods and feigning having anal sex with him; and urging Mr. Woods to look at his [the Superintendent's] penis. This harassment caused extreme emotional stress for Mr. Woods, who feared, as well, the loss of his job.

9. The Employer's unlawful employment practices also included its retaliation against Mr. Woods because of his internal complaints about the sexual harassment and/or sexually hostile work environment that was perpetrated by the I-10 Twin Span repair project Superintendent. The retaliation included adversely and involuntarily transferring Mr. Woods to the Employer's Chalmette facility where he earned less and suffered other adverse consequences such as a longer commute; refusing to return Mr. Woods to his original worksite free of the site Superintendent's harassment; and termination of Mr. Woods's employment in early 2007 shortly after his involuntary transfer.

10. The effect of the unlawful practices complained of in paragraphs 7 through 9 above has been to adversely alter the terms and conditions of Kerry S. Woods's employment, deprive Mr. Woods of equal employment opportunities and otherwise adversely affect his status as an employee.

11. The unlawful employment practices complained of in paragraphs 7 through 9 above were intentional.

12. The unlawful employment practices complained of in paragraphs 7 through 9 above were done with malice or with reckless indifference to the federally protected rights of Kerry S. Woods.

PRAYER FOR RELIEF

Wherefore, the Commission respectfully requests that this Court:

A. Grant a permanent injunction enjoining the Employer, its officers, agents, servants, employees, attorneys, and all persons in active concert or participation with them from engaging in any employment practice which discriminates based on sexual harassment and/or a sexually hostile work environment and retaliates in violation of Title VII.

B. Order the Employer to institute and carry out policies, practices, and programs which prevent and remediate sexual harassment and/or a sexually hostile work environment and which eradicate the effects of its unlawful employment practices, including unlawful retaliation.

C. Order the Employer to make whole Kerry S. Woods, 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 reinstatement of Kerry S. Woods or front pay in lieu of reinstatement.

D. Order the Employer to make whole Kerry S. Woods, by providing compensation for his past and future pecuniary and non-pecuniary losses, including compensatory damages for

his emotional stress, financial burdens and impact on his marital and familial relationships, all resulting from the unlawful employment practices described in paragraphs 7 through 9 above, in amounts to be determined at trial.

E. Order the Employer to pay Kerry S. Woods and the United States government punitive damages for its malicious and/or reckless conduct described in paragraphs 7 through 9 above, in amounts to be determined at trial.

F. Grant such further relief as the Court deems necessary and proper in the public interest.

G. Award the Commission its costs of this action.

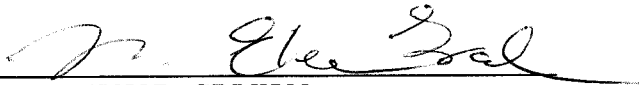
JURY TRIAL DEMAND

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

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