

ORIGINAL

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

MAY 16 2008

JAMES N. WATTEN, Clerk
By: *[Signature]* Deputy Clerk

Lichelle Smith)
)
Plaintiff,)
)
vs.)
)
Metropolitan Security)
Services, Inc.)
)
Defendant.)
)

CIVIL ACTION FILE

NO.

1:08-CV-1783

-JOB

COMPLAINT FOR INJUNCTIVE RELIEF AND DAMAGES

COMES NOW Lichelle Smith, Plaintiff herein, and hereby files this Complaint for Injunctive Relief and Damages, showing the Court the following:

Jurisdiction and Venue

1.

This is an action arising under Title VII of the Civil Rights Act of 1964, 42 U.S.C. §2000e, et seq. and Georgia state law. The jurisdiction of the Court is conferred pursuant to 28 U.S.C. §1331, and 28 U.S.C. §1367 for Plaintiff's state law claims.

2.

Plaintiff timely filed an EEOC charge (No. 410-2006-03054) of sexual harassment, hostile work environment, and retaliation and received a right to sue letter. Therefore, she has exhausted her administrative remedies and the instant action is

timely. Venue is proper in this court under 42 U.S.C. 2000e-(f) (3).

The Parties

3.

Plaintiff is female and was employed by Walden Security, a division of Metropolitan Security Services, Inc. (hereinafter referred to as "Walden/Metropolitan"). Ms. Smith is and was at all times herein a citizen and resident of the State of Georgia and entitled to bring actions of this kind and nature.

4.

Defendant Walden/Metropolitan is a Foreign Corporation doing business in the Northern District of Georgia, and is an "employer" within the meaning of Title VII of the Civil Rights Act of 1964.

Defendant may be served with process pursuant to Rule 4 of the Federal Rules of Civil Procedure, by serving its registered agent for service. The registered agent is National Registered Agents, Inc., 3761 Venture Drive, Duluth, GA 30096.

Facts

5.

Plaintiff was employed as a security officer at the Sungard Building beginning in 1999. Her employer until April 1, 2005 was SOS Security.

6.

Donald Porter was a co-worker beginning in 2003. Porter engaged in various acts of sexual harassment and creation of a hostile work environment against Plaintiff. Porter constantly made sexual comments and vulgar gestures to Plaintiff.

7.

Plaintiff repeatedly told Porter to stop the harassment, that it was unwelcome, upsetting, and that she didn't want to hear such comments or be subjected to such vulgar gestures. This created a sexually hostile work environment for the Plaintiff.

8.

Ms. Smith reported the harassment to Porter's supervisor, Felix Holiday, but the sexual harassment continued. In fact Porter retaliated against Plaintiff and began to subject her to even more harassment, creating a more hostile environment.

9.

On April 1, 2005, a new contractor, Allied Barton, took over as Sungard's security service. Through information and belief, because of the complaints of sexual harassment by Plaintiff and other women in the Sungard Building, and Porter

allegedly having a criminal record for sexual battery/assault, Porter was not hired for employment when Allied Barton took over.

10.

On May 1, 2006, Walden/Metropolitan, took over security for the Sungard Building. Despite Porter's alleged criminal record and the complaints of Plaintiff and other females in the building, Porter was brought back to work as a security guard in the Sungard Building in June, 2006.

Through information and belief Walden/Metropolitan hired Porter because of Porter's friendship with a Sungard official, who influenced Walden/Metropolitan to bring Porter back to the building.

Walden/Metropolitan hired Porter despite knowing of Porter's inappropriate conduct and alleged criminal background, because it wanted to obtain the Sungard contract and to please the Sungard official responsible for awarding the contract.

11.

Upon Porter's return to employment at the Sungard building his sexual harassment of Plaintiff resumed. On July 5, 2006 Porter sexually assaulted Plaintiff by grabbing her buttocks and breasts.

12.

Ms. Smith immediately reported this sexual assault to her new supervisor at Walden/Metropolitan, Mike Garrett, who told Plaintiff "I'll take care of it." On July 7, 2006 Garrett called Plaintiff into his office and terminated her.

Garrett told Plaintiff that she no longer worked for Walden, to give him her ID, and that he was going to escort her out of the building and make sure she left the premises.

Plaintiff gave Garrett her ID and Garrett escorted Ms. Smith out of the building. Garrett stood outside watching Plaintiff enter her car and leave the premises.

13.

Plaintiff suffered emotional distress because of the actions of Porter and the failure of Walden/Metropolitan officials to stop the harassment, and her retaliatory discharge.

Count One: Gender Discrimination/Retaliation

14.

Plaintiff realleges and incorporates herein all preceding paragraphs of this Complaint.

15.

Defendant's actions, by and through its employees, constitute unlawful discrimination in the terms and conditions

of Plaintiff's employment on the basis of her gender, including retaliatory discharge, in violation of Title VII of the Civil Rights Act of 1964, as amended by the Civil Rights Act of 1991, 42 U.S.C. 2000e, et seq.

16.

As a direct and proximate result of Defendant's violation of Title VII, Plaintiff has been damaged and is entitled to the relief set forth in her Prayer for Relief.

Count Two: Sexual Harassment

17.

Plaintiff realleges and incorporates herein all preceding paragraphs of this Complaint.

18.

Defendant's actions, by and through its employees, constitute sexual harassment and creation of a sexually hostile work environment, in violation of Title VII of the Civil Rights Act of 1964, as amended by the Civil Rights Act of 1991, 42 U.S.C. 2000e, et seq.

19.

As a direct and proximate result of Defendant's violation of Title VII, Plaintiff has been damaged and is entitled to the relief set forth in her Prayer for Relief.

Count Three: Intentional Infliction of Emotional Distress

20.

Plaintiff realleges and incorporates herein all preceding paragraphs of this Complaint.

21.

Defendant's actions as outlined above, by and through its employees, including retaliatory discharge, constitute intentional infliction of emotional distress so as to entitle Plaintiff to damages, including punitive, against Defendant, as specified in her Prayer for Relief.

22.

As a direct and proximate result of Defendant's intentional infliction of emotional distress on Plaintiff, she has been damaged and are entitled to the relief set forth in their Prayer for Relief.

Count Four: Negligent Hiring and Retention

23.

Plaintiff realleges and incorporates herein all preceding paragraphs of this Complaint.

24.

Defendant had notice of and knew that Porter had sexually harassed and discriminated against Plaintiff and female employees and committed other acts against women and Plaintiff.

Walden/Metropolitan's negligence in hiring Porter and failure to terminate Porter's employment before he could harass and/or continue to harass Plaintiff and other women constitutes negligent hiring and retention as defined by Georgia law.

25.

As a direct and proximate result of Defendant's negligent hiring and retention of Porter, Plaintiff has been damaged and is entitled to the relief set forth in her Prayer for Relief.

Count Five: Sexual Battery

26.

Plaintiff realleges and incorporates herein all preceding paragraphs of this Complaint.

27.

Porter's actions in touching, grabbing, and groping Plaintiff in her private areas constitute sexual battery as defined by Georgia law.

28.

As a direct and proximate result of the sexual battery of Plaintiff by Porter, she has been damaged and is entitled to the relief set forth in the Prayer for Relief.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully prays:

(a) for trial by jury;

(b) that she recover from Defendant lost pay, benefits, and interest due and payable;

(c) that she recover from Defendant an amount of damages to compensate her for the emotional pain and suffering she has endured as a result of Defendant's discriminatory, retaliatory, and tortious acts;

(d) that she recover from Defendant punitive damages under state and federal law in an amount sufficient to punish Defendant for its actions and to deter Defendant from discriminating, retaliating, and committing tortious acts against its employees in the future;

(e) that she be granted special damages including medical bills;

(f) that she be granted declaratory relief;

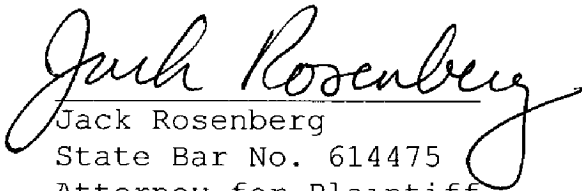
(g) that she be awarded injunctive relief to prevent Defendant from engaging in such discriminatory, retaliatory, and tortious conduct in the future;

(h) that she recover from Defendant the costs incurred in bringing this action, including her attorney's fees and expenses of litigation;

(i) that she be awarded prejudgment interest;

(j) that she have such other and further relief as the Court deems necessary.

Respectfully submitted this 16th day of May, 2008.

Handwritten signature of Jack Rosenberg in cursive script.

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