

3. Venue is proper under 28 U.S.C. § 1391 (b)(1) and (2).

PARTIES

4. Plaintiff, FRANCES L. FLOWERS, is a female African American citizen of the United States who resides in Illinois.

5. Defendant, COMPASS GROUP USA, INC. d/b/a CHARTWELLS DINING SERVICES, is a Delaware corporation, which has continuously, and does now employ more than fifteen (15) employees, is engaged in an industry that affects commerce and continues to do business in Illinois.

COUNT I-42 U.S.C. § 1981-RACE DISCRIMINATION

6. Paragraphs one (1) through five (5) are incorporated by reference as if fully set out herein.

7. Plaintiff began her employment with Defendant in September 2008.

8. At all times material hereto, Plaintiff has performed to Defendant's reasonable satisfaction, and any assertion to the contrary is pretextual.

9. Since the inception of her employment with Defendant, Plaintiff has been subjected to the unwanted sexual advances of her male supervisor, Caucasian John Waiting.

10. On information and belief, Plaintiff's similarly situated Caucasian female coworkers were not subjected to the unwanted sexual advances of Plaintiff's supervisor, Caucasian John Waiting.

11. When Plaintiff began her employment with Defendant, Waiting began making sexual innuendoes against plaintiff by stating "I like what I'm looking at" in reference to Plaintiff's physical appearance.

12. In about October 2008, Plaintiff requested that Waiting provide her with time off of work in order to care for her child. Waiting indicated that her request would be honored only if he “sees” her at the White Castle located at 14700 Cicero Avenue in Midlothian, Illinois.

13. When Plaintiff met Waiting at White Castle, Waiting directed Plaintiff to go with him to Lover’s Lane where he purchased a dildo for use on Plaintiff later in the night. Waiting then forced Plaintiff to go with him to a hotel room where he forced Plaintiff to have sex with him and violated Plaintiff sexually with the dildo.

14. Following his forced sexual intercourse with Plaintiff, Waiting continued following Plaintiff at work and groping her breasts and buttocks with his hands and his mouth while at work and continually asked Plaintiff if he wanted to “see” her so he could continue the racially tinged sexually harassment.

15. In addition to sexually touching Plaintiff, Waiting made numerous offensive racial jokes against African Americans and directly told Plaintiff that he liked the “big booties” and “big breasts” of African American females.

16. On September 4, 2009, Waiting demanded Plaintiff meet her at the Comfort Inn & Suites hotel located at 2850 West 159th Street in Markham Illinois on September 6, 2009. During this conversation, Waiting told Plaintiff, “I hope you don’t let me down,” because his wife was “out of town,” indicating that Plaintiff’s job would be in jeopardy if she did not meet him at the hotel.

17. As Plaintiff feared her job would be in jeopardy if she did not meet Waiting, Plaintiff met Waiting at the hotel, and at the hotel, Waiting forced Plaintiff to have sex with him.

18. After September 6, 2009, Plaintiff increased her resistance to Waiting’s sexual advances and avoided Waiting at work.

19. As a result of Plaintiff began avoiding Waiting at work and resisting his sexual advances, Waiting stopped protecting Plaintiff from the pattern of race discrimination at Defendant, and began to allow Plaintiff's Caucasian manager, Barbara, to berate Plaintiff as she did Plaintiff's similarly situated African American coworkers, but not her Caucasian coworkers.

20. In about November 2009, Plaintiff had a verbal altercation with a Caucasian coworker, Patricia.

21. In response to the verbal altercation, John afforded Plaintiff a final written warning but, on information and belief, did not afford a final written warning to Patricia, a Caucasian.

22. Since soon after September 6, 2009, Plaintiff's Caucasian Manager Barbara began regularly berating Plaintiff and harassing her in a manner which was less favorable than the manner in which she addressed Plaintiff's similarly situated Caucasian coworkers.

23. On February 17, 2010, Plaintiff's manager, Barbara, began to verbally admonish Plaintiff and made race based insinuations about Plaintiff's tone of voice.

24. After being verbally harassed by Barbara because of her race, Plaintiff complained to her Union Steward Grace about Barbara and complained that Barbara's criticisms against Plaintiff were based on her race.

25. On February 18, 2010, at the request of Plaintiff, a meeting was held between Plaintiff, her Union Steward Grace, Plaintiff's supervisor, Waiting, and Plaintiff's manager Barbara.

26. At the February 18, 2010 meeting, Plaintiff complained about Barbara and complained about race discrimination and racial harassment. During this meeting, Plaintiff's Union Steward Grace supported Plaintiff's contention that Plaintiff was being treated less favorably because of her race, African American.

27. On February 22, 2010, Plaintiff received a call from her Union Steward Grace who relayed to Plaintiff that her employment would be terminated pursuant to the direction of her Caucasian supervisor, Waiting, purportedly for the incident between Plaintiff and her Caucasian manager Barbara which occurred on February 17, 2010.

28. On March 4, 2010, Plaintiff received a last chance agreement from Defendant which upheld the decision to suspend Plaintiff's employment and waive Plaintiff's right to grieve any future discipline against her in exchange for Plaintiff continuing her employment subject to a last chance agreement.

29. On March 8, 2010, Plaintiff attempted to return to work but was not allowed to continue her employment with Defendant.

30. The aforementioned acts and omissions of Defendant constitute intentional discrimination against Plaintiff on the basis of her race, African American, and have deprived Plaintiff the enjoyment of all benefits, privileges, terms, and conditions of his employment relationship in violation of 42 U.S.C. § 1981.

31. As a direct and proximate result of the above alleged willful and reckless acts or omissions of Defendant, Plaintiff has suffered damages, including but not limited to, lost and foregone wages and benefits, and physical and emotional harm.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff FRANCES L. FLOWERS, prays for judgement against Defendant and respectfully requests that this Court:

A. Declare the conduct of the Defendant to be in violation of rights guaranteed to Plaintiff under appropriate federal law;

B. Grant a permanent injunction restraining Defendant, its officers, successors, assigns, and all persons in active concert or participation with them, from engaging in any employment practices that unlawfully discriminates on the basis of race;

C. Order Defendant to make whole FRANCES L. FLOWERS by providing the affirmative relief necessary to eradicate the effects of the Defendant's unlawful practices;

D. Order Defendant to pay lost, foregone, and future wages to FRANCES L. FLOWERS;

E. Grant the Plaintiff consequential, compensatory, punitive and any other damages that the Court may deem appropriate;

F. Grant the Plaintiff her attorneys' fees, costs, and disbursements; and

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

COUNT II - 42 U.S.C. § 1981 - RACIAL HARASSMENT

32. Paragraphs one (1) through twenty-nine (29) are incorporated by reference as if fully set out herein.

33. Throughout Plaintiff's employment, she has been subjected to racially tinged sexual harassment from her supervisor, Caucasian John Waiting.

34. After Plaintiff elevated her resistance to the racially tinged sexual harassment, Plaintiff's Caucasian manager, Barbara, began constantly harassing Plaintiff on a regular basis in a manner not afforded to Plaintiff's similarly situated Caucasian coworker.

35. The racial harassment was sufficiently pervasive to alter the terms and conditions of Plaintiff's employment.

36. The consistent racial harassment Plaintiff culminated in the termination of Plaintiff's

employment on March 8, 2010.

37. The aforementioned acts and omissions of Defendant constitute intentional discrimination against Plaintiff on the basis of her race, African American, by subjecting her to a racially hostile work environment, and have deprived Plaintiff the enjoyment of all benefits, privileges, terms, and conditions of his employment relationship in violation of 42 U.S.C. § 1981.

38. As a direct and proximate result of the above alleged willful and reckless acts or omissions of Defendant, Plaintiff has suffered damages, including but not limited to, lost and foregone wages and benefits, and physical and emotional harm.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff FRANCES L. FLOWERS, prays for judgement against Defendant and respectfully requests that this Court:

- A. Declare the conduct of the Defendant to be in violation of rights guaranteed to Plaintiff under appropriate federal law;
- B. Grant a permanent injunction restraining Defendant, its officers, successors, assigns, and all persons in active concert or participation with them, from engaging in any employment practices that unlawfully discriminates on the basis of race;
- C. Order Defendant to make whole FRANCES L. FLOWERS by providing the affirmative relief necessary to eradicate the effects of the Defendant's unlawful practices;
- D. Order Defendant to pay lost, foregone, and future wages to FRANCES L. FLOWERS;
- E. Grant the Plaintiff consequential, compensatory, punitive and any other damages that the Court may deem appropriate.
- F. Grant the Plaintiff her attorneys' fees, costs, and disbursements; and

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

COUNT III - 42 U.S.C. § 1981-RETALIATION

39. Paragraphs one (1) through twenty-nine (29) and thirty-three (33) through thirty-six (36) are incorporated by reference as if fully set out herein.

40. Throughout Plaintiff's employment, she complained about race discrimination, racial harassment, and disparate treatment on the basis of her race to the appropriate supervisory employees at Defendant in addition to reporting the discrimination to her Union Steward Grace.

41. During a February 18, 2010 meeting between Plaintiff, her Union Steward Grace, her Manager, John Waiting, and her Supervisor Barbara, Plaintiff specifically complained that her manager, Barbara, subjected her to racial harassment and race discrimination.

42. On February 22, 2010, Plaintiff received a call from her Union Steward Grace who relayed to Plaintiff that her employment would be terminated pursuant to the direction of her Caucasian supervisor, Waiting purportedly for the incident between Plaintiff and her Caucasian manager Barbara which occurred on February 17, 2010.

43. On March 4, 2010, Plaintiff received a last chance agreement from Defendant which upheld the decision to suspend Plaintiff's employment and waive Plaintiff's right to grieve any future discipline against her in exchange for Plaintiff continuing her employment subject to a last chance agreement.

44. On March 8, 2010, Plaintiff attempted to return to work but was not allowed to continue her employment with Defendant.

45. The aforementioned acts and omissions of Defendant constitute retaliation against

Plaintiff based on his opposition to the discrimination she suffered at Defendant, and have deprived Plaintiff of the enjoyment of all benefits, privileges, terms and conditions of her employment in violation of 42 U.S.C. § 1981.

46. As a direct and proximate result of the above alleged willful and reckless acts or omissions of Defendant, Plaintiff has suffered injury, including, but not limited to, lost and foregone wages and severe physical and emotional harm.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, FRANCES L. FLOWERS, prays for judgment against Defendant and respectfully request that this Court:

A. Declare the conduct of Defendant to violate the rights guaranteed to Plaintiff under appropriate Federal Law;

B. Grant a permanent injunction restraining Defendant, its officers, successors, assigns, and all persons in active concert or participation with them, from engaging in any employment practice which retaliates against an individual for complaining of an unlawful employment practice;

C. Order Defendant to make whole FRANCES L. FLOWERS by providing the affirmative relief necessary to eradicate the effects of Defendant's unlawful practices;

D. Order Defendant to pay lost, foregone, and future wages to FRANCES L. FLOWERS;

E. Grant Plaintiff actual, consequential, compensatory, punitive and any other damages the Court may deem appropriate against Defendant;

F. Grant Plaintiff her attorney fees, costs, disbursements; and

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

COUNT IV - INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

47. Paragraphs one (1) through twenty-nine (29), thirty-three (33) through thirty-six (36) and forty (40) through forty-four (44) are incorporated by reference as if fully set out herein.

48. Plaintiff seeks respondeat superior liability against Defendant for the tortious conduct of her supervisors and supervisory personnel, including, without limitation, Supervisor John Waiting and Manager Barbara.

49. Plaintiff's direct supervisors have engaged in extreme and outrageous conduct in subjecting Plaintiff to an overt, unbridled, and malicious course of conduct designed to psychologically and emotionally abuse Plaintiff. Examples of such conduct have been detailed in the preceding paragraphs.

50. In addition to the extreme and outrageous behavior detailed in the preceding paragraphs, from about September 2008 through September 2009, Plaintiff's Supervisor John Waiting cornered Plaintiff, forced him to come in his office with the door closed and subjected Plaintiff to numerous sexual acts against her will which included, without limitation:

- a) Sucking on Plaintiff's breasts;
- b) Rubbing Plaintiff's buttocks; and
- c) Kissing Plaintiff all over her body.

51. Defendant, acting by and through its officers intended to cause Plaintiff severe emotional distress, or knew that there was a high probability that Plaintiff would suffer such distress, when it subjected Plaintiff to a course of conduct designed to psychologically and emotionally abuse Plaintiff.

52. In their positions with Defendant, Plaintiff's supervisors and Defendant's supervisory

personnel exercised a substantial degree of control over the terms and conditions of Plaintiff's employment and abused his authority over Plaintiff by subjecting her to outrageous conduct.

53. Plaintiff has suffered and continues to suffer severe emotional distress as a direct and proximate result of Defendant's extreme and outrageous conduct.

54. Defendant, acting by and through its officers intentionally subjected Plaintiff to egregious and abusive treatment which Defendant knew would cause Plaintiff to suffer severe emotional distress.

55. Plaintiff continues to suffer the severe emotional and psychological trauma inflicted upon her by Defendant and continues to struggle with the effects of Defendant's extreme and outrageous conduct.

56. The aforementioned acts and omissions of Defendant constitutes intentional infliction of emotional distress, in violation of the laws of the State of Illinois.¹

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, FRANCES L. FLOWERS, prays for judgment against Defendant and respectfully requests that this Court:

A. Order Defendant to make whole FRANCES L. FLOWERS by providing the affirmative relief necessary to eradicate the effects of Defendant's unlawful practices;

B. Grant Plaintiff actual, consequential, compensatory and any other damages that the Court may deem appropriate against Defendant; and

¹Despite the similar facts alleged in the previous counts of this Complaint, Plaintiff's claim for intentional infliction of emotional distress will not be subject to preemption by the Illinois Human Rights Act ("IHRA"), 775 ILCS 5/8-111(c), as Count III may be proven independent of the legal duties furnished by the IHRA. See Naeem v. McKesson Drug Co., 444 F.3d 593, 604 (7th Cir. 2006).

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

JURY TRIAL DEMAND

57. Plaintiff requests a jury trial on all issues of fact and law raised by the allegations in this Complaint.

Respectfully submitted,
FRANCES L. FLOWERS, Plaintiff,

By: s/Lisa Kane
Lisa Kane, Attorney for Plaintiff

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