

COMMONWEALTH OF MASSACHUSETTS

WORCESTER, SS.

SUPERIOR COURT DEPARTMENT
OF THE TRIAL COURT
CIVIL ACTION NO.

PATRICIA A. LEBOEUF,)
 Plaintiff)
)
 vs.)
)
 TOWN OF WARREN AND)
 RAYMOND BLAIS)
 Defendants)
 _____)

FILED

COMPLAINT AND
DEMAND FOR TRIAL BY JURY

OCT 05 2003

ATTEST:

Del. Hall CLERK

INTRODUCTION

1. This is a complaint in two (2) counts requesting back pay, front pay, emotional distress damages, compensatory and punitive damages for sexual harassment, sex discrimination and unlawful retaliation in violation of Mass. Gen. Laws c. 151B, (Massachusetts Fair Employment Practices Act). The complaint also requests damages from Raymond Blaise for intentional infliction of emotional distress.

PARTIES

2. Plaintiff, Patricia A. LeBoeuf (hereinafter "LeBoeuf"), a natural person, presently resides in Warren, Worcester County, Massachusetts.
3. Defendant, Town of Warren, is a town in Worcester County, Massachusetts.
4. Defendant, Raymond Blais (hereinafter "Blais"), a natural person, presently resides in Massachusetts.

COMPLAINT

5. LeBoeuf, a female, has worked for the Town of Warren as a full time truck driver and laborer in the Highway Department since July of 2006.
6. Blais, a male, has been employed by the Town of Warren as a foreman in the Highway Department throughout the course of LeBoeuf's employment. As a foreman, Blais has exercised supervisory authority over LeBoeuf and other employees.

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7. Throughout the course of LeBoeuf's employment, she has been discriminated against and sexually harassed by Blais on an ongoing and continuing basis.
8. Blais subjected LeBoeuf to a steady barrage of abusive treatment, sex discrimination and unwelcome sexual comments to the point where her work environment has been permeated by severe and pervasive sexual, gender-based and retaliatory harassment.
9. For example, Blais threatened LeBoeuf by stating "If you ever became a nun, I would rape you."
10. For example, Blais asked LeBoeuf if she had given oral sex to a state police officer.
11. For example, Blais advised LeBoeuf to stop having sex with a co-worker when LeBoeuf had no sexual involvement with the co-worker.
12. For example, Blais repeatedly made discriminatory statements in LeBoeuf's presence such as "women are useless."
13. For example, in March of 2008, Blais implied LeBoeuf was involved in a relationship with a lesbian couple.
14. For example, in September of 2008, Blais implied that LeBoeuf needed to get tested for a sexually transmitted disease once a month. In September or October of 2008, LeBoeuf was conversing with a male friend who was younger than she was when Blais said, "Zachary, Patty likes them young."
15. For example, Blais sexually battered LeBoeuf by grabbing her buttocks.
16. Blais made other sexually offensive and discriminatory comments on a regular basis.
17. On or about October 7, 2008, LeBoeuf spoke with Blais face to face about his offensive behavior, sexual comments and intimidating and hostile attitude toward LeBoeuf because of her sex. Blais responded, "That's your fucking problem."
18. On or about October 14, 2008, LeBoeuf complained in writing to the Town of Warren Board of Selectmen that she was being sexually harassed by Blais.
19. On October 14, 2008, the Board of Selectmen was all male.
20. The Town of Warren Board of Selectmen held a hearing at which LeBoeuf's allegations were substantiated. In response, Blais was suspended for 3 days and he thereafter returned to his job.

21. Because Blais to remained on the job, he posed a serious threat to LeBoeuf while she was a work. Blais's aggressive and violent disposition, his prior threatening behavior, his consumption of alcohol on and off the job, and his ongoing belligerence toward LeBoeuf sustained the threatening and intimidating work environment that LeBoeuf had complained about in the first place.
22. On April 9, 2009, LeBoeuf filed a charge of discrimination with the Massachusetts Commission Against Discrimination ("MCAD").
23. A copy of LeBoeuf's charge of discrimination is attached hereto as Exhibit "A."
24. The Town of Warren and Blais received a copy of the charge of discrimination and participated in proceedings at the MCAD.
25. LeBoeuf repeatedly objected to, complained about and opposed the sexual harassment, sex discrimination and retaliation she experienced as an employee of the Town of Warren, including filing a timely charge of discrimination with the MCAD naming Blais and the Town of Warren.
26. In response to LeBoeuf's complaints, Blais and other employees of the Town of Warren have engaged in further discrimination and retaliation against LeBoeuf.
27. In the time period since LeBoeuf has complained to Blais, the Selectmen and the MCAD, Blais has publicly referred to LeBoeuf as a "cunt" and has publicly defamed LeBoeuf by claiming that LeBoeuf's controversy with the town over employment discrimination is all her fault. When LeBoeuf learned that Blais was making disparaging and offensive statements about her, she was offended and upset. The ongoing hostile and discriminatory statements made by Blais are in retaliation for LeBoeuf's opposition to discrimination and have heightened LeBoeuf's concern for her safety and have caused her serious emotional distress.
28. The Town of Warren, through its agents and employees, including Blais, Supervisor Gary Odiorne and Jean McCaughey, have subjected LeBoeuf to different terms and conditions of employment on the basis of her sex and in retaliation for her complaints of discrimination and retaliation in violation of G.L.c. 151B, Section 4 (4). For example, LeBoeuf was repeatedly threatened with termination from her employment after she complained to the Selectmen and the MCAD unless she obtained a hydraulics license while similarly situated male employees were not required to obtain and maintain such a license. As a consequence, the terms and conditions of LeBoeuf's employment were altered and she was required to expend funds for training, to attend training and to submit to testing by the Commonwealth.

29. LeBoeuf repeatedly objected to, complained about and opposed the sexual harassment, sex discrimination and retaliation she experienced as an employee of the Town of Warren.
30. The Town of Warren tolerated, permitted, acquiesced in, ratified and condoned discrimination, harassment and retaliation by Blais and participated in discriminating against and retaliating against LeBoeuf through its agents and employees.
31. The Town of Warren has a custom, policy and practice of discriminating against female employees on the basis of their sex, and of tolerating discrimination against female employees and applicants on the basis of their sex.
32. The Town of Warren, Blais and other town employees and agents acted jointly with one another and aided and abetted one another in discriminating against, retaliating against and harassing LeBoeuf.
33. LeBoeuf was embarrassed, humiliated, offended, intimidated, and caused to suffer mental anguish, severe anxiety, sleep deprivation and physical pain by the discrimination, harassment and retaliation she was subjected to by Blais, the Town of Warren and its agents and employees.
34. The Town of Warren, Blais and other town employees and agents coerced, intimidated, threatened, and interfered with LeBoeuf in the exercise and enjoyment of rights granted or protected by ch. 151B in violation of G.L.c. 151B, Section 4 (4A).
35. At all relevant times, the Town of Warren knew or should have known about the sexually hostile work environment experienced by LeBoeuf that was pervaded with inappropriate and discriminatory behavior but failed to take adequate remedial actions.
36. The Town of Warren failed to promote a workplace free of sexual harassment as required and encouraged by G.L. c. 151B, §3A.
37. The Town of Warren's and Blais's failure to adequately and properly respond to LeBoeuf's complaints of discrimination and harassment amounted to further discrimination and retaliation.
38. The Town of Warren's and Blais's discrimination, harassment and retaliation against LeBoeuf was so severe that the material terms, benefits, conditions and privileges of LeBoeuf's employment were modified.

39. The Town of Warren is vicariously liable for the acts of Blais and its other supervisors and employees based on principles of agency, strict liability, the doctrine of respondeat superior and based on other laws, rules, regulations, guidelines, decisions and equitable principles.
40. The Town of Warren and Blais intentionally and maliciously discriminated against, harassed and retaliated against LeBouf, were deliberately indifferent to the violation of her rights, and engaged in a pattern of reckless, reprehensible and abusive conduct toward LeBouf.
41. LeBouf continues to be subjected to discrimination and retaliation and was subjected to ongoing and continuing discrimination, including serial acts of discrimination and systemic discrimination, such that the Town of Warren and Blais are liable for all of the acts of discrimination, harassment and retaliation alleged herein based on the continuing acts doctrine and based on other principles of law and equity.
42. The limitations period for filing claims of discrimination against the Town of Warren and Blais with the MCAD and with this court was waived and tolled based on LeBoeuf's utilization of the Town of Warren's internal complaint procedures, based on the acts of the Town of Warren in discouraging LeBoeuf from filing a complaint, based on principles of equitable tolling and estoppel and based on other equitable principles.
43. As a direct and proximate result of the wrongful actions of the Town of Warren and Blais as set forth herein, LeBoeuf has suffered great pain of body and anguish of mind; has suffered and will continue to suffer injury to her good name and reputation; has lost and will continue to lose money and wages; has suffered diminished earning capacity; has incurred other expenses she would not have otherwise incurred; has suffered emotional distress, and her ability to enjoy life has been adversely affected.

COUNT I

EMPLOYMENT DISCRIMINATION

44. The allegations in paragraphs one through forty-three, above, are re-alleged and incorporated by reference as if fully set forth herein.
45. The Town of Warren and Blais violated G.L. c. 151B by engaging in sex discrimination and retaliation, causing injury and harm to LeBoeuf.
46. To the extent that any defendant is not subject to ch. 151B, that defendant violated ch. 214 sec. 1C and is liable for damages thereunder.

COUNT II


INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

47. The allegations in paragraphs one through forty-six, above, are re-alleged and incorporated by reference as if fully set forth herein.
48. Blais's conduct toward LeBoeuf was cruel, beyond all bounds of civilized decency and utterly intolerable in a civilized society.
49. Blais intentionally inflicted extreme emotional distress on LeBoeuf and he is liable to her for the resulting harm and injury.

WHEREFORE, plaintiff demands:

- A. trial by jury on all matters so triable;
- B. back pay, front pay, emotional distress damages, compensatory damages;
- C. punitive damages;
- D. interest, costs and a reasonable attorney's fees;
- E. a permanent injunction against defendants prohibiting them from sexually harassing, discriminating against or retaliating against LeBoeuf or any other similarly situated employee;
- F. judgment against defendants, jointly and severally;
- G. such other relief as is just, equitable or proper.

Respectfully submitted,
Patricia LeBoeuf,
by her attorney,



J. Whitfield Larrabee
251 Harvard Street, Suite 9
Brookline, MA 02446
(617) 566-3670
BBO # 553499

"A"

The Commonwealth of Massachusetts
Commission Against Discrimination
455 Main St, Room 100, Worcester, MA 01608
Phone: (508) 799-8010 Fax: (508) 799-8490

MCAD DOCKET NUMBER: 09SEM00824
FILING DATE: 04/09/09

EEOC/HUD CHARGE NUMBER: 16C-2009-01210
VIOLATION DATE: 03/19/09

Name of Aggrieved Person or Organization:

Patricia A. LeBoeuf

Primary Phone: _____ ext. _____

Named is the employer, labor organization, employment agency, or state/local government agency who discriminated against me:

Town of Warren
Attn to: Board of Selectman
P.O. Box 609
Warren, MA 01083
Primary Phone: (413)436-5702 ext. _____

Raymond Blais, Foreman
Town of Warren Highway Dept
48 High St
Warren, MA 01083
Primary Phone: (413)436-7677 ext. _____

Gary Odiorne, Highway Supervisor
Town of Warren Highway Dept
48 High St
Warren, MA 01083
Primary Phone: (413)436-7677 ext. _____

Jean McCaughy, Secretary
Town of Warren
48 High St
Warren, MA 01083
Primary Phone: (413)436-5702 ext. _____

No. of Employees: 25+

Work Location: Warren, MA

Cause of Discrimination based on:

Sex, Sex discrimination / Sexual Harassment: Sexual Orientation, Sexual orientation/affectional/sexual preference (perceived gay or lesbian); Paragraph 4, Retaliation.

The particulars are:

I, Patricia A. LeBoeuf, the Complainant believe that I was discriminated against by Town of Warren, Raymond Blais, Foreman, Gary Odiorne, Highway Supervisor, Jean McCaughy, Secretary, on the basis of Sex, Sexual Orientation, Other. This is in violation of M.G.L. Chapter 151B Section 4 Paragraph 1,4, 4A, 5 and Title VII.


1. I am a female. I am a heterosexual.
2. I have worked for the Respondent Town of Warren in the Highway Department as a fulltime Truck Driver / Laborer since July 2006.
3. I allege that I was sexually harassed by Respondent Raymond Blais, Foremen (male) on a continual basis since the beginning of my employment.

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4. In March of 2008, the Pontbriands had a fire that destroyed their home and Respondent Blais asked Larry Pease, mechanic (male) and I if we knew whose house had burnt. I replied, "No" and Respondent Blais said to me "You know whose house burnt, they were your girlfriends." I tried to make light of this remark and said "Knock it off Ray, I don't like girls" and he responded by saying "Yeah, you don't like guys either." Armand Valois (male) Larry Pease (male) and Zachary Lemieux (male) overheard Respondent Blais say this to me. They are all Truck Driver/Laborers.
5. In June Mr. Pease, Mr. Valois and I talked to Respondent Odiorne, Highway Supervisor (male) regarding the abuse that we have been getting from Respondent Blais for quite sometime. Respondent Odiorne told us that he had to talk to Respondent Blais about this issue.
6. In September 2008, while I was working on East Road with Respondent Blais and Mr. Lemeiux, I scraped my arm on a barrel block (concrete block) and Mr. Lemeiux said to me "Patty, you're bleeding" and I said "Don't worry my blood is clean." Then Respondent Blais looked at Mr. Lemeiux and laughed saying "Yeah, she has to go get tested once a month." About two weeks later a friend drove by the job site and stopped to talk to me about fixing my car and when he left, Respondent Blais said "Zachary, Patty likes them young."
7. On or about October 7, 2008, I tried to talk with Respondent Blais face to face about his offensive behavior, sexual comments and his intimidating hostile attitude towards me and his response to me was "That's you're fucking problem." Right after that, I went into the building and talked to Respondent Odiorne about it. I informed Respondent Odiorne that I had had enough and would file a grievance. Respondent Odiorne told me not to file a grievance and that he would take care of the issue.
8. I approached Respondent Odiorne on several occasions complaining about Respondent Blais sexually offensive behavior with no corrective or immediate action being taken.
9. Due to Respondent Odiorne's inaction to address the sexually offensive work environment, I refused to work with Respondent Blais or to be in the same work area as him in order to remove myself from the sexually hostile work environment.
10. On October 14, 2008, I reported in writing to the Board of Selectman (all male) that I was being sexually harassed.
11. In November 2008, the Board of Selectman held a hearing on the matter.
12. The Board of Selectman suspended Respondent Blais for three days without pay. They ordered all town employees to take a sexual harassment class
13. I allege Respondent Town of Warren did not take appropriate remedial action.
14. Respondent Odiorne informed me that the board of Selectman told him to keep me and Respondent Blais in separate work areas.
15. I allege that Respondent Odiorne is retaliating against me for engaging in a protected activity and opposing discriminatory practices.
16. On or about March 2009, Respondent Odiorne ordered me to work alone with Respondent Blais. I reminded Respondent Odiorne that the Board of Selectman had ordered I not work with Respondent Blais. At this point Respondent Odiorne handed me a card for the Employee Assistance Program and told me that if I need counseling to deal with the issue to go for counseling.
17. In a memo dated March 19, 2009, Respondent Odiorne stated that if I failed to perform work assignments discipline may follow. This was in reference to Respondent Odiorne requiring me to work with Respondent Blais.
18. On or about March 27, 2009, I provided Respondent Odiorne with documentation from my doctor that I was suffering from anxiety disorder and sleep disorder from the sexually hostile work environment that I had been subjected to and continue to be subjected to.
19. Respondent Odiorne provided me with a memo dated March 19, 2009, which stated I needed to obtain a hydraulic license in order to retain my employment.
20. I am aware that Armand Valois (male) has not been approached by Respondent Odiorne to obtain such a license and he does not have a hydraulic license.
21. I completed the Hydraulic license test on March 24, 2009, and I am waiting for the test results.
22. On several occasions Respondent Odiorne has approached me to sign a letter that I will obtain a Hydraulic license within 90 days. I have refused to sign this letter.
23. I am aware that Respondent Odiorne has been telling people he will lay me off for not obtaining a Hydraulic License.
24. I allege that Chad Sablack, (male), Steve Wardsworth (male), Mike Samed (Male), Bob LNU (male), Ed Saigong (male) and Andy Scotholis (male) were all hired without a Hydraulics License. Mr. Scotholis did not have a CDL license when he was hired. All of these employees are Truck Drivers/Laborers.
25. Respondent Jean McCaughy, (female) Secretary to the Selectman required that I sign this letter also. When I informed her that I would not sign it she told me she would bring it to the Board of Selectman's attention.
26. Respondent McCaughy tried to talk me out of filing a sexual harassment complaint against Respondent Blais.

27. When I informed Respondent McCaughy that Respondent Odiorne had told me that I would not be required to obtain a Hydraulics License prior to filing complaint with the Board of Selectman but now he is retaliating against me by requiring me to obtain one now. She told me that it was my word against his word.
28. I allege that Respondent McCaughy is interfering with my enjoyment of civil rights protected by law.
29. I allege that I have been subjected to a sexually hostile work environment by Respondent Blais based on my sex (female) and perceived sexual orientation (lesbian).
30. I allege that Respondents have interfered with my enjoyment of civil rights protected under law due to not taking appropriate remedial action regarding my sexual harassment complaint.
31. I allege that I am being retaliated against due to opposing discriminatory practices.
32. I allege that I am being required to obtain a Hydraulic License is pretext for retaliation.

I hereby verify, under the pains and penalties of perjury, that I have read this complaint and the allegations contained herein are true to the best of my knowledge.


(Signature of Complainant)