

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
LUFKIN DIVISION**

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,	}	
	}	
Plaintiff,	}	CIVIL ACTION NO. 9:05CV193
	}	
v.	}	
	}	
HORSETRADERS INC. d/b/a BULLFROGS RESTAURANT	}	
	}	
Defendant.	}	<u>JURY TRIAL DEMANDED</u>

PLAINTIFF'S FIRST AMENDED COMPLAINT

This is an action under Title VII of the Civil Rights Act of 1964, as amended, and Title I of the Civil Rights Act of 1991 to correct unlawful employment practices on the basis of sex and to provide appropriate relief to Jeannette England and similarly situated individuals, including Jennifer England, who were subjected to a sexually hostile work environment.

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 the Civil Rights Act of 1964, as amended, ("Title VII"), 42 U.S.C § 2000e-5(f)(1) and (3), and Section 102 of the Civil Rights Act of 1991, 42 U.S.C. Sec. 1981a.

2. The employment practices alleged to be unlawful were and are now being committed within the jurisdiction of the United States District Court for the Eastern District of Texas.

PARTIES

3. Plaintiff, Equal Employment Opportunity Commission (the "Commission"), is an

agency of the United States of America charged with the administration, interpretation and enforcement of Title VII of the Civil Rights Act of 1964, as amended and is expressly authorized to bring this action by Section 706(a) of Title VII, 42 U.S.C. § 2000e-5(a).

4. At all relevant times, Defendant, Horsetraders, Inc. d/b/a Bullfrogs, has continuously been and is now doing business in the State of Texas and has continuously had at least fifteen employees.

5. At all relevant times, Defendant has continuously been an employer engaged in an industry affecting commerce under Section 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, Jeannette England filed a charge with the Commission alleging violations of Title VII of the Civil Rights Act of 1964, as amended, by the Defendant. All conditions precedent to the institution of this lawsuit have been fulfilled.

7. During the employment of Jeannette England and similarly situated individuals, including Jennifer England, the Defendant has engaged in unlawful employment practices in violation of Section 703(a)(1) of Title VII, 42 U.S.C. § 2000e-2(a)(1) and Section 704(a) of Title VII, 42 U.S.C. § 2000e-3(a) by subjecting Jeannette England and similarly situated individuals, including Jennifer England, to a sexually hostile work environment. Specifically, the Defendant subjected Jeannette England and similarly situated individuals, including Jennifer England, to a sexually hostile work environment in which they were frequently subjected to sexually explicit remarks, unwelcome conduct and comments and a work atmosphere permeated with sexually

offensive behavior.

8. The result of the foregoing practices has been to deprive Jeannette England and similarly situated individuals, including Jennifer England, of equal employment opportunities because of their sex.

9. The unlawful employment practices complained of in paragraph 7 above were intentional.

10. The unlawful employment practices complained of in paragraph 7 above were done with malice or with reckless indifference to the federally protected rights of Jeannette England and similarly situated individuals, including Jennifer England.

PRAYER FOR RELIEF

Wherefore, the Commission respectfully requests that this Court:

A. Grant a permanent injunction enjoining the Defendant, its officers, successors, agents, assigns, and all persons in active concert or participation with it, from engaging in any employment practice which discriminates on the basis of sex, or which facilitates, condones or encourages sexual harassment;

B. Order the Defendant to institute and carry out policies, practices, and programs which provide equal employment opportunities and a non-hostile work environment for females, and which eradicate the effects of its past and present unlawful employment practices;

C. Order the Defendant to make whole Jeannette England and similarly situated individuals, including Jennifer England, by providing them with affirmative relief necessary to eradicate the effects of its unlawful employment practices;

D. Order the Defendant to make whole Jeannette England and similarly situated

individuals, including Jennifer England, by providing compensation for past and future pecuniary losses resulting from the unlawful employment practices described in paragraph 7 above, including but not limited to out of pocket medical expenses and job hunting expenses;

E. Order the Defendant to make whole Jeannette England and similarly situated individuals, including Jennifer England, by providing compensation for past and future nonpecuniary losses resulting from the unlawful employment practices described in paragraph 7 above, including but not limited to, pain and suffering, humiliation, embarrassment, emotional distress, anxiety, and loss of enjoyment of life, in amounts to be determined at trial;

F. Order the Defendant to pay Jeannette England and similarly situated individuals, including Jennifer England, punitive or exemplary damages for its intentional, malicious conduct or reckless indifference described and referenced in paragraph 7 above, in an amount to be determined at trial;

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

H. Award the Commission its costs in this action.

JURY TRIAL DEMAND

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

Respectfully submitted,

JAMES S. LEE
Deputy General Counsel

GWENDOLYN Y. REAMS
Associate General Counsel

ROBERT A. CANINO
Regional Attorney
Oklahoma Bar No. 011782

ROBERT B. HARWIN
Associate Regional Attorney
District of Columbia Bar No. 076083

JUDITH G. TAYLOR
Supervisory Trial Attorney
Texas State Bar No. 19708300
Federal ID No. 14850

/s/
DAVID RIVELA
Trial Attorney
Texas State Bar No. 00797324
Federal ID No. 32914
Attorney-In-Charge

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION
5410 Fredericksburg Rd. Suite 200
San Antonio, TX. 78229
Telephone: (210)281-7619
Telecopier: (210)281-7669

ATTORNEYS FOR PLAINTIFF

CERTIFICATE OF SERVICE

I certify that a true copy of the foregoing document has been served on counsel of record has been delivered, as designated below, on this the 8th day of May, 2006.

Alex Arthur Castetter
STUCKEY GARRIGAN & CASTETTER
2803 North Street
PO Box 631902
Nacogdoches, Texas 75963-1902

☐ Hand Delivery
x Facsimile Transmission at (936) 560-9578
X Certified Mail, Return Receipt Requested
☐ U.S. First Class Mail, Postage Prepaid

Paul Allen Robbins
ROBBINS & VIER LLP
P.O. Box 487
104 W. Lufkin Ave.
Lufkin, Texas 75901

☐ Hand Delivery
X Facsimile Transmission at (936) 560-9578
X Certified Mail, Return Receipt Requested
☐ U.S. First Class Mail, Postage Prepaid

David Joseph Guillory
DAVID J. GUILLORY & ASSOCIATES
510 Ochiltree
Nacogdoches, Texas 75961

☐ Hand Delivery
x Facsimile Transmission at (936) 560-9578
X Certified Mail, Return Receipt Requested
☐ U.S. First Class Mail, Postage Prepaid

/s/
DAVID RIVELA