

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION

FILED
OCT 25 2003
At _____ M
STEPHEN R. LUDWIG, Clerk
U.S. DISTRICT COURT
NORTHERN DISTRICT OF INDIANA

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,

Plaintiff,

and

JOSHUA CHILDS, TIFFANY (SIMS) CHILDS,
BEATRICE JOHNSON AND RENEE ROBY,

Intervening Plaintiffs,

vs.

U.S. BELL CORPORATION, LINK
TECHNOLOGIES, CORP., d/b/a U.S. BELL,
and BUZZ TELECOM, CORP.,

Defendants,

and

KURTIS KINTZEL, individually and in his
corporate capacity,

and

KEANAN KINTZEL, individually and in his
corporate capacity,

and

GENE CHILL, individually and in his
corporate capacity,

Proposed Defendants.

CAUSE NO. 2-03CV237JM

COMPLAINT OF
INTERVENORS JOSHUA
CHILDS, TIFFANY (SIMS)
CHILDS, BEATRICE JOHNSON
AND RENEE ROBY

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NOV 07 2003

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STEPHEN R. LUDWIG, Clerk
U.S. DISTRICT COURT
NORTHERN DISTRICT OF INDIANA

**COMPLAINT OF INTERVENORS JOSHUA CHILDS,
TIFFANY (SIMS) CHILDS, BEATRICE JOHNSON, AND RENEE ROBY**

Now come Intervening Plaintiffs Joshua Childs, Tiffany (Sims) Childs, Beatrice Johnson, and Renee Roby (collectively, "Plaintiffs"), through counsel, and for their Complaint against all Defendants, allege as follows:

PARTIES

1. Plaintiff Tiffany Sims is a natural person who was employed by Defendants through May 31, 2002. Sims is and was at all relevant times a resident of Valparaiso, Indiana.
2. Plaintiff Joshua Childs is a natural person who was employed by Defendants through May 30, 2002. Childs is and was at all relevant times a resident of Valparaiso, Indiana.
3. Plaintiff Beatrice Johnson is a natural person who was employed by Defendants through June 7, 2002. Johnson is and was at all relevant times a resident of Glenwood, Illinois.
4. Plaintiff Renee Roby is a natural person who was employed by Defendants through about May 10, 2002. Roby was at all relevant times a resident of Gary, Indiana.
5. Defendant U.S. Bell Corporation at all relevant times was a Nevada for-profit corporation registered in Indiana as a foreign corporation, with its principal place of business being 8380 Louisiana Street, Merrillville, Indiana 46410, and for whom Keanan Kintzel was an agent, officer and owner, and for whom Kurtis Kintzel was an owner and agent.
6. Defendant Link Technologies, Corp., at all relevant times was a Nevada for-profit corporation registered in Indiana as a foreign corporation, with its principal place of business being 8380 Louisiana Street, Merrillville, Indiana 46410, and conducted business under the name "U.S. Bell," and Defendant Buzz Telecom, Corp., is the successor corporation of Link Technologies, Corp.

7. Defendant Buzz Telecom, Corp., is a Nevada for-profit corporation registered in Indiana as a foreign corporation, with its principal place of business being 8380 Louisiana Street, Merrillville, Indiana 46410, and for whom Kurtis and Keanan Kintzel are agents, officers and owners.

8. The foregoing Defendants U.S. Bell Corporation, Link Technologies, Corp., and Buzz Telecom, Corp. are collectively referred to herein as the "Corporate Defendants."

9. Defendant Kurtis Kintzel is a natural person who is named in his individual capacity as to his own tortious conduct, and his authorization, acquiescence and direction of tortious conduct committed against Plaintiffs. He also is named in his corporate capacity as owner, director and officer of the Corporate Defendants named herein.

10. Defendant Keanan Kintzel is a natural person who is named in his individual capacity as to his own tortious conduct, and his authorization, acquiescence and direction of tortious conduct committed against Plaintiffs. He also is named in his corporate capacity as owner, director and officer of the Corporate Defendants named herein.

11. Defendant Gene Chill is a natural person who is named in his individual capacity as to his own tortious conduct, and his authorization, acquiescence and direction of tortious conduct committed against Plaintiffs. He also is named in his corporate capacity as an officer and/or upper-level manager of the Corporate Defendants named herein.

JURISDICTION AND VENUE

12. This Court has subject matter jurisdiction over all claims brought under Title VII of the Civil Rights Act pursuant to 28 U.S.C. § 1331 and 28 U.S.C. § 1343, and the Court has supplemental subject matter jurisdiction over Plaintiffs' state law claims pursuant to 28 U.S.C. § 1367.

13. Venue is proper in this Court since the unlawful employment and other tortious acts alleged herein were committed within the jurisdiction of the United States District Court for the Northern district of Indiana.

14. Plaintiffs have exhausted their administrative remedies and have satisfied all conditions precedent to bringing this action. All Plaintiffs filed timely discrimination charges with the Equal Employment Opportunity Commission ("EEOC"), and the EEOC commenced these proceedings on June 16, 2003.

**COUNT I – TITLE VII HOSTILE ENVIRONMENT, QUID PRO QUO, AND
RETALIATION**
(As to the Corporate Defendants)

15. Plaintiffs incorporate by reference in this Count each and every preceding allegation of this Complaint as if fully re-written here.

16. From at least October, 2000, the Corporate defendants have engaged in unlawful employment discrimination against Plaintiffs at the Merrillville, Indiana offices in violation of Title VII, 42 U.S.C. §§ 2000e-2(a) and 2000e-3(a).

17. Such discrimination included subjecting Plaintiffs Tiffany Sims, Renee Roby, and Beatrice Johnson to hostile employment environment sexual harassment and quid pro quo sexual harassment by Defendants through the conduct of Defendants' owners, officers, and managers.

18. Defendants also illegally retaliated against Plaintiffs Tiffany Sims, Renee Roby, Beatrice Johnson, and Joshua Childs by demoting, discharging and/or constructively discharging them immediately following Defendants' receipt of discrimination charges.

19. As a direct and proximate result of Defendants' conduct, Plaintiffs Tiffany Sims, Renee Roby, Beatrice Johnson, and Joshua Childs were deprived of equal employment opportunities and were subject to adverse employment actions and retaliation.

20. The illegal conduct of Defendants in discriminating against, demoting, discharging and/or constructively discharging Plaintiffs Tiffany Sims, Renee Roby, Beatrice Johnson, and Joshua Childs was done intentionally, with malice, and in gross disregard for the federally protected rights of the Plaintiffs.

COUNT II – STATE LAW WRONGFUL DISCHARGE
(As to all Defendants)

21. Plaintiffs incorporate by reference in this Count each and every preceding allegation of this Complaint as if fully re-written here.

22. Plaintiffs each were discharged from their employment with the Corporate Defendants solely for exercising their statutorily-conferred right to report, complain about, and/or provide support to persons who reported or complained about sexual and racial harassment.

23. Each such discharge was wrongful and in violation of public policy under Indiana law.

24. As a direct and proximate result of the Defendants' wrongful conduct in discharging Plaintiffs, each plaintiff suffered compensatory damages, including but not limited to lost wages and severe mental anguish, and Plaintiffs are entitled to recover in an amount to be determined at trial.

25. Because wrongful termination is a tort under Indiana law, each of the individually named defendants is personally liable, in addition to the Corporate Defendants for whom they acted as agents, for their own tortious conduct in performing, authorizing, directing and/or acquiescing in the wrongful termination of Plaintiffs.

26. The Defendants' willful and intentional conduct as alleged herein was taken with malice and in gross disregard for the rights of each Plaintiff, and Plaintiffs are entitled to recover punitive damages in an amount to be determined at trial.

COUNT III – STATE LAW INTENTIONAL INFLECTION
OF EMOTIONAL DISTRESS
(As to all Defendants)

27. Plaintiffs incorporate by reference in this Count each and every preceding allegation of this Complaint as if fully re-written here.

28. Through their conduct in intentionally harassing and discriminating against Sims, Roby and Johnson based upon gender, and in retaliating against all Plaintiffs for reporting and for supporting the reporting of such harassment and discrimination, Defendants intended to cause severe emotional distress or should have known that their conduct would cause such distress.

29. Each Defendant's conduct as aforesaid was so extreme and outrageous as to go beyond the bounds of decency and was such that it is utterly intolerable in a civilized society.

30. The mental anguish suffered by each Plaintiff was severe and of a nature that no reasonable person could be expected to endure it.

31. As a direct and proximate result of the Defendants' wrongful conduct in intentionally inflicting severe emotional distress, each plaintiff suffered compensatory damages, including but not limited to lost wages and severe mental anguish, and Plaintiffs are entitled to recover in an amount to be determined at trial.

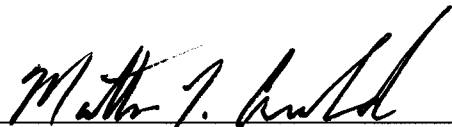
32. Because intentional infliction of emotional distress is a tort under Indiana law, each of the individually named defendants is personally liable, in addition to the Corporate Defendants for whom they acted as agents, for their own tortious conduct in performing, authorizing, directing and/or acquiescing in the wrongful conduct that harmed Plaintiffs.

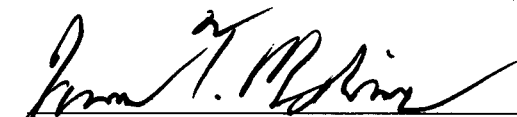
33. The Defendants' willful and intentional conduct as alleged herein was taken in gross disregard for the rights of each Plaintiff, and Plaintiffs are entitled to recover punitive damages in an amount to be determined at trial.

WHEREFORE, the Intervening Plaintiffs pray that the Court enter judgment in their favor as to all Counts contained herein, and afford to each of them the following relief against each and all Defendants, jointly and severally:

- A. Back pay with pre-judgment interest in an amount to be determined at trial;
- B. Front pay in an amount to be determined at trial;
- C. Damages for all past and future pecuniary losses resulting from Defendants' unlawful employment practices, with pre-judgment interest in an amount to be determined at trial;
- D. Damages for all past and future non-pecuniary losses resulting from Defendants' unlawful employment practices, including but not limited to physical and emotional pain and suffering, mental anguish, and loss of enjoyment of life, all in an amount to be determined at trial;
- E. Punitive damages based on Defendants' intentional, malicious, and reckless conduct taken in gross disregard for the Plaintiffs' rights;
- F. Attorney's fees, costs, and expenses incurred by the Plaintiffs in connection with their claims and charges against Defendants;
- G. Any and all such further relief as is just and proper under the circumstances.

DATED: October 8, 2003


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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and accurate copy of the foregoing
COMPLAINT OF PROPOSED INTERVENORS JOSHUA CHILDS, TIFFANY (SIMS)
CHILDS, BEATRICE JOHNSON, AND RENEE ROBY was served upon the following parties
and counsel of record by Certified U.S. Mail Return Receipt Requested, postage prepaid, this
8th day of October 2003:

Jo Ann Farnsworth, Senior Trial Attorney
Equal Employment Opportunity Commission
Indianapolis District Office
101 West Ohio Street, Suite 1900
Indianapolis, IN 46204

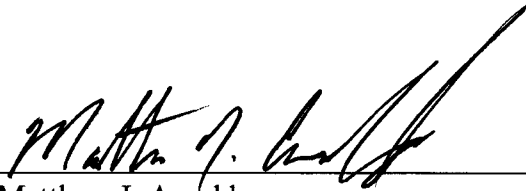
Johnson & Rappa, LLC
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Attorneys for U.S. Bell Corporation
Link Technologies, Corp., d/b/a U.S. Bell
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New Defendants:

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Chesterton, IN 46304

Keanan Kintzel
303 Oak Street
Valparaiso, IN 46383

Gene Chill
Address Unknown
(Not Served)



Matthew J. Arnold