

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI
CENTRAL DIVISION

CYNTHIA HUFFMAN,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Case No. 01-3144-ODS
	)	
NEW PRIME, INC. d/b/a/ PRIME, INC.	)	
Serve Registered Agent:	)	JURY TRIAL DEMANDED
Arthur E. Curtis	)	
1340 East Woodhurst	)	
Springfield, MO 65804	)	
	)	
and	)	
	)	
ABEL JOSEPH LORMAND	)	
Serve at:	)	
101 A Street	)	
Carencro, LA 70520	)	
	)	
Defendants.	)	

COMPLAINT

COMES NOW the Plaintiff, by and through her undersigned attorneys, and for her cause of action against the Defendants state as follows:

PARTIES

1. Plaintiff Cynthia Huffman is a resident of the State of Mississippi, residing in Petal, Forrest County, Mississippi. She has the capacity to sue.
2. Defendant New Prime, Inc. (hereafter "Prime") is a corporation of the State of Nebraska with its principal place of business located at 2740 North Mayfair, Springfield, Missouri 65808. Defendant Prime is also registered with the State of Missouri under the name Prime, Inc.

and conducts business in the State of Missouri under that name. It has the capacity to be sued.

3. Defendant Abel Joseph Lormand (hereafter “Lormand”) is a resident of the State of Louisiana. He has the capacity to be sued.

JURISDICTION AND VENUE

4. Plaintiff brings her cause of action against Defendant Prime under the Equal Pay Act, 29 U.S.C. § 216. This Court therefore has jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1343. Plaintiff’s claims arising under State law are so related to the claims over which this Court has original jurisdiction that they form part of the same case or controversy, and this Court therefore has supplemental jurisdiction over those claims pursuant to 28 U.S.C. § 1367. In addition, complete diversity exists between the parties and the aggregate amount in controversy is in excess of \$75,000, giving this Court jurisdiction under 28 U.S.C. § 1332.

5. Defendant Prime is an employer pursuant to the Equal Pay Act, 29 U.S.C. § 216 and the Missouri Human Rights Act, Chapter 213 R.S. Mo.

6. Plaintiff filed her Complaint of Discrimination jointly with the Equal Employment Opportunity Commission and the Missouri Commission on Human Rights on June 16, 2000.

7. Plaintiff received her Right to Sue Letter from the Missouri Commission on Human Rights on January 9, 2001 (Attached as Exhibit 1).

8. Plaintiff was employed in the State of Missouri by Defendant Prime.

9. Venue is proper in this Court pursuant to 42 U.S.C. § 2000e-5 and 28 U.S.C. § 1391(b) in that Defendant Prime maintains its principal office in this judicial district, and in that a substantial part of the events or omissions giving rise to Plaintiff’s claims occurred in this

judicial district.

FACTS COMMON TO ALL COUNTS

10. Defendant Prime operates Prime, Inc. located in Springfield, Greene County, Missouri.

11. Plaintiff was employed by Defendant Prime as a CDL truck driver trainee from January 11, 2000 to April 6, 2000.

12. Stan Woodall (hereafter “Woodall”) was, at all times relevant to this action, employed by Defendant Prime as a dispatcher and was, at all times relevant to this action, the direct supervisor of Defendant Abel Joseph Lormand.

13. Defendant Lormand was, at all times relevant to this action, employed by Defendant Prime as a trainer/driver, and was, at all times relevant to this action, the direct supervisor of Plaintiff.

14. Beginning on February 23, 2000, Defendant Prime, through its agents and employees, began engaging in acts of sexual harassment and retaliation aimed at the Plaintiff as more specifically described below.

15. While on a training trip that lasted from February 23, 2000 to March 6, 2000, Defendant Lormand subjected Plaintiff to numerous sexually oriented comments and physical touchings that were unwelcome and offensive and which a reasonable person would find unwelcome and offensive. These incidents include, but are not limited to:

a. Defendant Lormand made a comment to Plaintiff that he would be in various stages of undress while in the truck, which included being naked. Plaintiff immediately objected to Defendant Lormand’s inappropriate comments, but Defendant continued his

inappropriate comments and behavior as alleged below.

b. Defendant Lormand made a comment to Plaintiff that Defendant Lormand and Plaintiff might like to lie in bed together while Defendant Lormand had no clothes on. This remark was made between ten and twenty times, with each remark being followed by Plaintiff's expression of discomfort and/or disapproval.

c. Defendant Lormand, while Plaintiff was behind the wheel of the truck, opened Plaintiff's door, placed his arm around Plaintiff and squeezed her right breast.

d. Defendant Lormand told Plaintiff that he had an orgy movie in the truck, and that after she showered that Plaintiff could come back and lie in bed with Defendant, while he was naked, to watch the movie, and that then he would hook up the Playboy channel.

e. On or about March 2nd, 2000 Defendant Lormand took Plaintiff against her will to his home in Louisiana.

f. On or about March 2nd, 2000, Defendant Lormand tried to force Plaintiff into his home and into his bed.

g. For two days, Defendant Lormand held Plaintiff against her will at his home and refused to take Plaintiff to a hotel per her request, and again tried to force Plaintiff into his home and into his bed.

h. All of the acts of Defendant Lormand as alleged above were performed without Plaintiff's permission or consent, and over her repeated objections.

16. Defendant Lormand was instructed by Defendant Prime to push Plaintiff during the training trip of February 23, 2000 to March 6, 2000 because she was a female.

17. Prior to February 23, 2000, dispatchers employed by Defendant Prime had refused

to work with Defendant Lormand due to Defendant Lormand's erratic behavior.

18. Defendant Prime, through its authorized agent and employee Stan Woodall, was aware of many of the actions of Defendant Lormand as described above, yet failed to take action against Defendant Lormand and failed to take action to assist Plaintiff. These incidents include, but are not limited to the following:

a. After Plaintiff informed Woodall of her fears and concerns with Defendant Lormand, Woodall took no corrective action against Defendant Lormand and took no action to have Plaintiff removed from Defendant Lormand's truck.

b. Woodall was sent an urgent message on the Qual-Com computer system on or about March 2nd, 2000 by Plaintiff, indicating that she was scared and feared for her life because Defendant Lormand was holding her against her will at his home and would not take her to a safe hotel. Defendant Prime and/or Woodall did not respond.

c. Woodall was contacted at home, by phone, on March 3rd, 2000 by Plaintiff with regards to her urgent message of March 2nd, 2000. Woodall told Plaintiff that "you will be leaving for Texas in a few hours; can't you hold on until you get to your next stop."

19. When Plaintiff discussed Defendant Lormand's actions with Woodall, she asked Woodall not to reveal her fears to Defendant Lormand until she was safely away from him and his truck. Shortly afterwards, Defendant Lormand confronted Plaintiff and told her that Woodall had informed him of Plaintiff's complaint. Defendant Lormand then began yelling at her and telling her that "she would not get off of the truck when they reach Texas." that "she was going back to Louisiana with me."

20. Plaintiff also attempted on two occasions to contact the president of Defendant

Prime, Robert E. Low, to inform him of her problems with Defendant Lormand as alleged above. Plaintiff on one occasion left a message with Mr. Low's secretary and on another occasion left a message on Mr. Low's voice mail. Plaintiff never received any response to these messages from Mr. Low.

21. Defendant Prime, through its authorized agent and employee Woodall began a series of retaliatory actions against Plaintiff after she discussed Defendant Lormand's actions with Woodall. These retaliatory actions include, but are not limited to the following:

- a. Ignoring Plaintiff's requests for another trainer.
- b. Ignoring Plaintiff's urgent messages to come get her because she was in fear for her safety.
- c. Not taking Plaintiff's complaints seriously.
- d. Refusing to send someone to pick her up and refusing to find a bus station in the area.
- e. Not assisting Plaintiff with correcting her pay.
- f. After Plaintiff returned to Prime headquarters, Woodall give a card containing a picture of a nude woman to Plaintiff and made humiliating remarks about Plaintiff "being fun on the road."

22. As a result of the actions alleged above, Plaintiff has suffered and will continue to suffer in the future medically diagnosable emotional distress resulting in symptoms that include, but are not limited to, loss of sleep, nightmares and loss of appetite.

23. Plaintiff has incurred hundreds of dollars in counseling expenses as a result of the actions of Defendants as alleged herein.

24. Defendant Prime promised Plaintiff that she would be paid four-hundred dollars (\$400) a week during the first 30 days of her training period and five-hundred dollars (\$500) a week for the remainder of her training period. Defendant Prime paid Plaintiff much less than the amounts promised.

COUNT I
MHRA – SEXUAL HARASSMENT
DEFENDANT PRIME

25. Plaintiff incorporates and realleges Paragraphs One through 24 of this Petition into this Count I as though fully set forth herein.

26. Plaintiff was subjected to numerous sexually oriented comments and jokes, was held against her will, and was subjected to physical touching at the hands of her supervisors and co-workers.

27. The sexually oriented comments and jokes and physical touchings as alleged above were unwelcome and offensive and a reasonable person would find them unwelcome and offensive.

28. The sexually oriented comments and jokes and physical touchings as alleged above were based on Plaintiff's sex.

29. The sexually oriented comments and jokes and physical touchings as alleged above were sufficiently severe or pervasive that a reasonable person in the Plaintiff's position would find Plaintiff's work environment to be hostile or abusive.

30. At the time the sexually oriented comments and jokes and physical touchings alleged above occurred and as a result of such conduct, Plaintiff believed her work environment to be hostile or abusive.

31. Defendant knew or should have known of the sexually oriented comments and jokes and physical touchings alleged above.

32. Defendant failed to take prompt and appropriate corrective action to end the harassment.

33. As a direct and proximate result of the Defendants' actions and inactions alleged herein, Plaintiff has sustained and are reasonably certain to sustain in the future, irreparable harm in numerous respects, including, but not limited to, the following:

a. Pecuniary and nonpecuniary losses, including, but not limited to, lost wages and benefits, offensive touching, emotional pain, suffering, inconvenience, personal humiliation, loss of enjoyment of life, medical and counseling expenses and potential loss of reputation;

b. Significant mental anguish, loss of sleep, nightmares, loss of appetite, nervousness and suffering;

c. Embarrassment and loss of prestige among her co-workers; and

d. Attorneys' fees and expenses in pursuing redress for the wrongs she has suffered at the hands of the Defendant.

34. Defendant acted with malice or with reckless indifference to Plaintiff's right not to be sexually harassed, thus making appropriate an award of punitive damages to punish the Defendant and to deter the Defendant and others from like conduct.

WHEREFORE, Plaintiff prays that this Court enter judgment pursuant to the Missouri Human Rights Act in her favor and against Defendant Prime and enter an order:

a. Declaring all acts in violation of the Missouri Human Rights Act;

b. Enjoining and permanently restraining Defendant from continued violations

of the Missouri Human Rights Act;

c. Directing Defendant Prime to take such affirmative action as is necessary to ensure that the effects of these unlawful practices are eliminated and do not continue to affect Plaintiff's employment opportunities;

d. Defendant be required to compensate, reimburse, and make whole Plaintiff for the full value of all pecuniary and nonpecuniary damages Plaintiff has sustained in the past, and is reasonably certain to sustain in the future, including, but not limited to, any and all back pay and benefits, medical and counseling expenses, offensive touching, embarrassment, humiliation, loss enjoyment of life, potential loss of reputation, and all consequent damages;

e. Awarding Plaintiff punitive damages in such sum as will punish Defendant and deter the Defendant and others from like conduct;

f. Awarding Plaintiff the costs of this action, prejudgment interest and reasonable attorney's fees; and

g. That Plaintiff be granted a letter of apology from Defendant Prime and for such further and other relief as the Court deems just and proper.

COUNT II
MHRA – SEX DISCRIMINATION
DEFENDANT PRIME

35. Plaintiff incorporates and realleges Paragraphs One through 34 of this Petition into this Count II as though fully set forth herein.

36. On information and belief, Plaintiff was treated less favorably than similarly situated male employees with respect to her compensation, terms, conditions or privileges of employment.

37. Plaintiff's sex is a motivating factor in Defendant Prime's decision to treat her less favorably than similarly situated male employees with respect to her compensation, terms, conditions or privileges of employment.

38. As a direct and proximate result of the Defendants' actions and inactions alleged herein, Plaintiff has sustained and is reasonably certain to sustain in the future, irreparable harm in numerous respects, including, but not limited to, the following:

- a. Pecuniary and nonpecuniary losses, including, but not limited to, lost wages and benefits, offensive touching, emotional pain, suffering, inconvenience, personal humiliation, loss of enjoyment of life, medical and counseling expenses and potential loss of reputation;
- b. Significant mental anguish, loss of sleep, nightmares, loss of appetite, nervousness and suffering;
- c. Embarrassment and loss of prestige among her co-workers; and
- d. Attorneys' fees and expenses in pursuing redress for the wrongs she has suffered at the hands of the Defendant.

39. Defendant acted with malice or with reckless indifference to Plaintiff's right not to be discriminated against, thus making appropriate an award of punitive damages to punish the Defendant and to deter the Defendant and others from like conduct. Such malice or reckless indifference is part of a pattern of conduct engaged in by Defendant on prior, similar occasions.

WHEREFORE, Plaintiff prays that this Court enter judgment pursuant to the Missouri Human Rights Act in her favor and against Defendant Prime and enter an order:

- a. Declaring all acts in violation of the Missouri Human Rights Act;
- b. Enjoining and permanently restraining Defendant from continued violations

of the Missouri Human Rights Act;

c. Directing Defendant Prime to take such affirmative action as is necessary to ensure that the effects of these unlawful practices are eliminated and do not continue to affect Plaintiff's employment opportunities;

d. Defendant be required to compensate, reimburse, and make whole Plaintiff for the full value of all pecuniary and nonpecuniary damages Plaintiff has sustained in the past, and is reasonably certain to sustain in the future, including, but not limited to, any and all back pay and benefits, medical and counseling expenses, offensive touching, embarrassment, humiliation, loss enjoyment of life, potential loss of reputation, and all consequent damages;

e. Awarding Plaintiff punitive damages in such amount as will punish the Defendant and deter the Defendant and others from like conduct;

f. Awarding Plaintiff the costs of this action, prejudgment interest and reasonable attorney's fees; and

g. That Plaintiff be granted a letter of apology from Defendant Prime and for such further and other relief as the Court deems just and proper.

**COUNT III
EQUAL PAY ACT
DEFENDANT PRIME**

40. Plaintiff incorporates and realleges Paragraphs One through 39 of this Petition into this Count III as though fully set forth herein.

41. On information and belief, Plaintiff has been paid less than male employees in the same establishment for equal work on jobs the performance of which requires equal skill, effort, and responsibility, and which are performed under similar working conditions.

42. The acts of Defendant Prime in denying equal treatment and equal pay to the Plaintiff was done knowingly, willingly and intentionally with the action taken by Defendant Prime to deny rights known to be secured to the Plaintiff and for the pecuniary benefit of Defendant Prime, even though such acts are in violation of the law. Such actions taken by Defendant Prime warrant such enhanced recovery as provided under the law.

WHEREFORE, Plaintiff prays this Court enter judgment under the Equal Pay Act in her favor against Defendant Prime and that the Court enter the following order:

- a. Declaring all acts in violation of the Equal Pay Act;
- b. Enjoining and permanently restraining Defendant from continued violations of the Equal Pay Act;
- c. Directing Defendant Prime to take such affirmative action as is necessary to ensure that the effects of these unlawful practices are eliminated and do not continue to affect Plaintiff's employment opportunities;
- d. Awarding Plaintiff all back pay differential between what the Plaintiff have received and what similarly situated male employees have received for same and similar work over the same period of time;
- e. Awarding Plaintiff compensatory damages as allowed for under the EPA;
- f. Awarding Plaintiff the costs of this action, prejudgment interest and reasonable attorney's fees; and
- g. That Plaintiff be granted a letter of apology from Defendant Prime and for such further and other relief as the Court deems just and proper.

COUNT IV

FRAUDULENT MISREPRESENTATION
DEFENDANT PRIME

43. Plaintiff incorporates and realleges Paragraphs One through 42 of this Petition into this Count IV as though fully set forth herein.

44. Defendant Prime represented to Plaintiff that she would be paid four-hundred dollars (\$400) a week during the first week of her training and five-hundred dollars (\$500) a week for the remainder of her training, intending that Plaintiff rely on such representation in hiring on with the Defendant as a CDL truck driver trainee.

45. Defendant Prime's representation was false.

46. Defendant Prime knew the representation was false at the time it was made.

47. The representation was material to Plaintiff's decision to hire on with Defendant Prime as a CDL truck driver trainee.

48. Plaintiff relied on the representation in hiring on with Defendant Prime as a CDL truck driver trainee and in so relying Plaintiff used that degree of care that would have been reasonable in Plaintiff's situation.

49. Defendant Prime's false representation directly caused or directly contributed to cause damage to the Plaintiff, including but not limited to underpayment of wages and financial hardship due to being on the road without sufficient income to cover expenses.

50. The conduct of Defendant Prime as alleged herein was outrageous because of its evil motive or reckless indifference to the rights of others, making it subject to an award of punitive damages to punish the Defendant and to deter the Defendant and others from like conduct.

WHEREFORE, Plaintiff prays that this Court enter a judgment in her favor and against

Defendant Prime and enter an order:

- a. Awarding Plaintiff compensatory damages in such amount as to fairly and reasonably compensate for the damages she has suffered as a result of the conduct of the Defendant as alleged herein;
- b. Awarding Plaintiff punitive damages in such sum as is appropriate to punish the Defendant and to deter Defendant and others from like conduct in the future;
- c. Awarding Plaintiff the costs of this action, prejudgment interest and reasonable attorney's fees; and
- d. Such further and other relief as the Court deems just and proper.

COUNT V
ASSAULT AND BATTERY
DEFENDANT LORMAND

51. Plaintiff incorporates and realleges Paragraphs One through 50 of this Petition into this Count V as though fully set forth herein.

52. Defendant Lormand intentionally touched and fondled Plaintiff without her permission or consent.

53. Defendant Lormand thereby caused a contact with Plaintiff that was offensive to Plaintiff.

54. Such contact as alleged herein would be offensive to a reasonable person.

55. Defendant Lormand made numerous suggestive comments to Plaintiff indicating that he desired to have a sexual relationship with her, and he forced Plaintiff to remain against her will at his home, suggesting on several occasions that they sleep in the same bed.

56. Defendant Lormand thereby caused Plaintiff to be in apprehension of an offensive

contact or bodily harm.

57. Such contact as alleged herein would be offensive to a reasonable person.

58. As a result of the actions of Defendant Lormand as alleged herein, Plaintiff has suffered, and will continue to suffer in the future, indignity, disgrace, humiliation and mortification.

59. The conduct of Defendant Lormand as alleged herein was outrageous because of his evil motive or reckless indifference to the rights of others, making him subject to an award of punitive damages to punish the Defendant and to deter the Defendant and others from like conduct.

WHEREFORE, Plaintiff prays that this Court enter a judgment in her favor and against Defendant Lormand and enter an order:

a. Awarding Plaintiff compensatory damages in such amount as to fairly and reasonably compensate for the damages she has suffered as a result of the conduct of the Defendant as alleged herein;

b. Awarding Plaintiff punitive damages in such sum as is appropriate to punish the Defendant and to deter the Defendant and others from like conduct in the future;

c. Awarding Plaintiff the costs of this action, prejudgment interest and reasonable attorney's fees; and

d. Such further and other relief as the Court deems just and proper.

COUNT VI
FALSE IMPRISONMENT
DEFENDANT LORMAND

60. Plaintiff incorporates and realleges Paragraphs One through 59 of this Petition into this Count VI as though fully set forth herein.

61. Defendant Lormand unlawfully restrained Plaintiff against her will by taking Plaintiff to his home, where he forced her to remain for two days.

62. As a result of the actions of Defendant Lormand as alleged herein, Plaintiff Huffman has suffered, and will continue to suffer in the future, embarrassment, disgrace, humiliation, injury to her feelings and reputation and mental suffering.

63. The conduct of Defendant Lormand as alleged herein was outrageous because of his evil motive or reckless indifference to the rights of others, making him subject to an award of punitive damages to punish the Defendant and to deter the Defendant and others from like conduct.

WHEREFORE, Plaintiff prays that this Court enter a judgment in her favor and against Defendant Lormand and enter an order:

a. Awarding Plaintiff compensatory damages in such amount as to fairly and reasonably compensate her for the damages she has suffered as a result of the conduct of the Defendant as alleged herein;

b. Awarding Plaintiff punitive damages in such sum as is appropriate to punish the Defendant and to deter Defendant and others from like conduct in the future;

c. Awarding Plaintiff the costs of this action, prejudgment interest and reasonable attorney's fees; and

- d. Such further and other relief as the Court deems just and proper.

Respectfully Submitted,

ROGER G. BROWN AND ASSOCIATES

By /s/Roger G. Brown

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