

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

UNITED STATES OF AMERICA,	§	
	§	
Plaintiff, and,	§	
	§	
BETTY J. HOOKS,	§	
	§	
Plaintiff-Intervenor,	§	
	§	
vs.	§	Civil Action No. 1:05-cv-00125-WS-L
	§	
ESCAMBIA COUNTY BOARD	§	
OF EDUCATION,	§	
	§	
Defendant.	§	

INTERVENOR’S COMPLAINT

Jurisdiction

1. This action arises under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §2000e, *et seq.*, including §§2000e-3(a) and 2000e-5(f), as hereinafter more fully appears. Plaintiff-Intervenor Betty J. Hooks filed a charge of discrimination with the Equal Employment Opportunity Commission naming defendant as the respondent, and the United States of America filed a civil action on the basis of that charge of discrimination. Plaintiff-Intevenor has an unconditional right to intervene in this action, conferred by 42 U.S.C. §2000e-

5(f)(1). This action also arises under 42 U.S.C. Section 1983, derived from the Civil Rights Act of 1871, as hereinafter more fully appears. This action also arises under 42 U.S.C. §1988, derived from the Civil Rights Act of 1866, the Civil Rights Act of 1870, and the Civil Rights Attorneys' Fee Awards Act of 1996, as hereinafter more fully appears. Jurisdiction of this Court is also invoked pursuant to 28 U.S.C. §§1343(3), 1343(4), 2201 and 2202, as hereinafter more fully appear.

Parties

2. Plaintiff United States of America (hereinafter sometimes, "Plaintiff USA") is authorized to bring this action pursuant to 42 U.S.C. Section 2000e-5(f).

3. Plaintiff Betty J. Hooks is an adult, female citizen of the United States and of the State of Alabama, residing in the Southern District of Alabama.

4. Defendant Escambia County Board of Education (sometimes hereinafter, "defendant" or "the School Board," is the county board of education for Escambia County, Alabama. The School Board is an employer within the meaning of 42 U.S.C. §2000e-(b), in that it is engaged in an industry affecting commerce and employs fifteen or more persons. The School Board is a "person" within the meaning of 42 U.S.C. Section 1983.

FACTS AND CLAIMS

COUNT I: SEXUAL HARASSMENT

5. Plaintiff was employed by defendant School Board as a custodian at Escambia County Middle School in August, 1999. Plaintiff was so employed by the defendant for the 1999-2000, 2000-2001, and 2001-2002 school years.

6. In August, 2000, defendant hired a custodian named Paul Ikner (spelling approximate). Plaintiff was subjected to a sexually hostile, offensive and abusive work environment by the actions of Ikner, an agent of defendant. Ikner made lewd and sexually offensive comments to plaintiff; he made sexual propositions to plaintiff; he offered plaintiff money for sexual favors; and he inappropriately touched plaintiff in a sexual manner.

7. On more than one occasion plaintiff complained to the principal of Escambia County Middle School, Herbert Payne. Mr. Payne was not at all receptive to plaintiff's complaints reporting the sexual harassment. Mr. Payne dismissed plaintiff's reports and accused plaintiff of interfering with Ikner's work. Plaintiff notified defendant of the hostile work environment but defendant failed to take remedial action. By the pervasive nature for the hostile environment, defendant knew or should have known of the hostile environment.

8. Defendant failed to have in place, or failed to utilize, publicize or enforce an efficient anti-harassment policy.

9. Defendant failed and refused to take any action to halt or remedy the unlawful sexually hostile environment plaintiff was enduring.

10. The hostile work environment plaintiff endured was offensive, humiliating, embarrassing and unfair and was in violation of plaintiff's rights under Title VII and 42 U.S.C. §1983. Plaintiff endured mental suffering and anguish as a result of the sexual harassment.

COUNT II: RETALIATION AND TERMINATION

11. Plaintiff adopts and incorporates by reference the allegations set out in paragraphs one through ten above.

12. At the end of the 2001 - 2002 school year defendant terminated plaintiff's employment because of and in retaliation for her complaints reporting the unlawful sexual harassment of defendant's agent, Ikner.

13. As a result of defendant's terminating plaintiff, plaintiff suffered emotional pain, suffering, inconvenience, mental anguish, loss of enjoyment of life, humiliation, and harm to reputation.

14. Defendant's actions were in violation of Title VII and 42 U.S.C. §1983.

Prayer for Relief

WHEREFORE, plaintiff respectfully prays this Court to cause this case to be expedited in every practicable way, and, following a hearing on the matters complained of herein, to:

A. Grant plaintiff a preliminary and permanent injunction enjoining defendant, its agents, successors, attorneys, and those acting in concert with them and at their direction from failing and refusing to offer plaintiff re-employment.

B. Grant plaintiff a preliminary and permanent injunction enjoining defendant, its agents, successors, employees, attorneys, and those acting in concert with them and at their direction, from maintaining or continuing the policies, practices, customs and usages of denying, abridging, withholding, conditioning, or otherwise interfering with the right of plaintiff to equal employment opportunities, and including the right to be free from a sexually hostile work environment, and including the right not to be retaliated against for opposing unlawful employment practices, or for complaining of unlawful sexual harassment.

C. Grant plaintiff a declaratory judgment that the actions, policies, practices, customs, and usages complained of herein violate the provisions of 42 U.S.C. §2000e, *et seq.*, and those of 42 U.S.C. §1983.

D. Grant plaintiff an award of back pay and interest in the amounts she

would have earned from the date of her termination to and including the date of defendant's offer of re-employment, but for defendant's unlawful discrimination and retaliation complained of herein.

E. Grant plaintiff front pay of wages in an amount equal to the pay or wages she would be earning after judgment, but for defendant's unlawful discrimination and retaliation complained of herein, but for the delays she will encounter in reaching her rightful place because of any equitable considerations.

F. Grant plaintiff an award of compensatory damages in an amount the Court or jury finds proper.

G. Grant plaintiff her costs in this action, including an award of reasonable attorneys' fees and expenses, under authority of 42 U.S.C. §1988 and 42 U.S.C. §2000e-5(k).

H. Grant plaintiff such other and equitable relief as the Court may deem just and proper to make plaintiff whole.

Respectfully submitted this 6th day of April, 2005.

Stein, Brewster & Pilcher, L.L.C.
205 N. Conception Street
Post Office Box 1051
Mobile, Alabama 36633-1051
Telephone: (251) 433-2002
Facsimile: (251) 432-7756

By: S/Gregory B. Stein
Gregory B. Stein (STEIG1107)
gstein@steinandbrewster.com
Mary E. Pilcher (PILCM2436)
mpilcher@steinandbrewster.com

JURY DEMAND

Plaintiff respectfully demands trial by jury on all claims triable by jury.

S/Gregory B. Stein
Attorney for plaintiff