

UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA,

Plaintiff,

v.

BOARD OF COUNTY
COMMISSIONERS OF THE COUNTY
OF DOÑA ANA, NEW MEXICO,

Defendant.

Civil Action No. 1:08-cv-00501

JURY TRIAL DEMANDED

AMENDED COMPLAINT AND DEMAND FOR JURY TRIAL

Plaintiff, the United States of America, alleges:

1. This action is brought on behalf of the United States to enforce the provisions of Title VII of the Civil Rights Act of 1964, *as amended*, 42 U.S.C. § 2000e, *et seq.* (“Title VII”).
2. This Court has jurisdiction of the action under 42 U.S.C. § 2000e-5(f), 28 U.S.C. § 1331 and 28 U.S.C. § 1345.
3. The Board of County Commissioners of the County of Doña Ana, New Mexico, is named, pursuant to N.M. Stat. § 4-46-1, as Defendant for Doña Ana County, a political subdivision of the State of New Mexico created pursuant to the laws of the State of New Mexico.
4. Defendant is a “person” within the meaning of 42 U.S.C. § 2000e(a) and an “employer” within the meaning of 42 U.S.C. § 2000e(b).
5. The Equal Employment Opportunity Commission (“EEOC”) received a timely charge (Charge No. 453-2006-01716) filed by Sally Ramirez against Doña Ana County on or

about October 5, 2006, in which she alleged, *inter alia*, that she had been discriminated against on the basis of sex when she was subjected to sexual harassment by her supervisor, Johnny Gomez. Pursuant to Section 706 of Title VII, 42 U.S.C. § 2000e-5, the EEOC investigated the charge, found reasonable cause to believe, *inter alia*, that Ramirez and several of her co-workers were subjected to sexual harassment by their supervisor, Gomez; that Doña Ana County was informed of the sexual harassment; and that Doña Ana County violated Title VII of the Civil Rights Act of 1964, as amended. The EEOC attempted unsuccessfully to achieve through conciliation a voluntary resolution of the charge and subsequently referred the matter to the Department of Justice.

6. All conditions precedent to the filing of suit have been performed or have occurred.

7. Defendant has discriminated against Sally Ramirez and Graciela Chavez, Priscilla Lujan, Priscilla Salazar and Maria Isabel Morales, similarly situated individuals presently or formerly employed by Doña Ana County, on the basis of their sex, female, in violation of Section 703(a) of Title VII, 42 U.S.C. § 2000e-2(a), among other ways, by:

- (a) Subjecting them to sexual harassment by a supervisor, Johnny Gomez, thereby creating and maintaining a hostile work environment that adversely affected the terms, conditions and privileges of their employment; and
- (b) Failing or refusing to take appropriate action to prevent and promptly correct the discriminatory treatment and its effects.

8. The sexual harassment that Gomez subjected the above-named female

subordinates to occurred on a regular basis from mid to late summer of 2005 and continued through approximately May of 2006. The sexual harassment consisted of, among other actions:

- (a) Referring to the above-named women, as well as other specific women and women generally, using gender-based, derogatory and offensive terms in Spanish and English;
- (b) Asking about and/or commenting on the sexual lives of members of his female staff and women generally; and
- (c) Criticizing behaviors of women that he did not criticize in men.

9. Defendant's failure or refusal to take appropriate action to prevent and correct promptly the sexual harassment and its effects consisted of, among other things:

- (a) Failing or refusing to remedy promptly Gomez's sexual harassment of the above-named women despite the receipt of numerous complaints about the harassment by at least two individuals with supervisory authority – Armando Cordero, Gomez's direct supervisor, and Misty Dawn Benavidez, the Facilities Coordinator for Cordero's Department – between the early fall of 2005 and the late spring of 2006;
- (b) Failing or refusing to provide adequate training about Doña Ana County's anti-harassment policies and reporting procedures to new employees;
- (c) Failing or refusing to provide adequate training on sexual harassment and Doña Ana County's anti-harassment policies and reporting procedures to managers; and

- (d) Failing or refusing to respond adequately to Doña Ana County's own findings in the summer of 2006 that Gomez had sexually harassed his female subordinates.

WHEREFORE, Plaintiff prays that the Court grant the following relief:

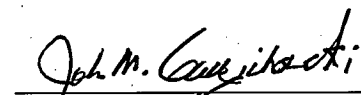
- (a) Enjoin Defendant from:
 - (1) subjecting employees of Doña Ana County to sexual harassment;
 - (2) failing or refusing to develop and implement appropriate and effective policies designed to prevent and correct promptly any sexual harassment that occurs; and
- (b) Award compensatory damages to charging party Sally Ramirez and similarly situated individuals Graciela Chavez, Priscilla Lujan, Priscilla Salazar and Maria Isabel Morales to fully compensate them for the injuries caused by Defendant's discriminatory conduct, pursuant to and within the statutory limitations of Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981a; and
- (c) Award such additional relief as justice may require, together with Plaintiff's costs and disbursements in this action.

JURY DEMAND

The United States hereby demands a trial by jury of all issues so triable pursuant to Rule 38 of the Federal Rules of Civil Procedure and Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981(a).

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on May 28, 2008, I filed the foregoing pleading electronically through the CM/ECF system and caused the following parties and/or counsel to be served electronically through the CM/ECF system: carrillolaw@comcast.net.

/s/ Carolyn P. Weiss
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