

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

AMANDA WHELAN,	:	CIVIL ACTION NO.:
	:	
<i>Plaintiff,</i>	:	
	:	
vs.	:	
	:	
	:	
DOW JONES & COMPANY, INC.	:	JURY TRIAL DEMANDED
AND JOE GERACE,	:	
<i>Defendants.</i>	:	

COMPLAINT AND JURY DEMAND

I. PRELIMINARY STATEMENT:

1. This is an action for an award of damages, declaratory and injunctive relief, attorney’s fees and other relief on behalf of Plaintiff, Amanda Whelan (“Plaintiff Whelan”), a former employee of Defendant, Dow Jones & Company (“Defendant Dow Jones”), who has been harmed by the Defendants’ discriminatory employment practices.

2. This action is brought under Title VII of the Civil Rights Act of 1964, 42 U.S.C. §2000(e), et seq., as amended by the Civil Rights Act of 1991, at 42 U.S.C. §1981(a) (“Title VII”), and the Pennsylvania Human Relations Act (“PHRA”), 43 P.S. §951 et seq.

II. JURISDICTION AND VENUE:

3. The jurisdiction of this Court is invoked, and venue is proper in this district, pursuant to 28 U.S.C. §§1331 and 1391 as Plaintiff Whelan's claims are substantively based on Title VII.

4. The supplemental jurisdiction of this Court is invoked pursuant to 28 U.S.C. §1367 to consider Plaintiff Whelan's claims arising under the PHRA.

5. All conditions precedent to the institution of this suit have been fulfilled. On December 20, 2009, a Notice of Right to Sue was issued by the United States Equal Employment Opportunity Commission ("EEOC") and this action has been filed within ninety (90) days of receipt of said notice.

6. Plaintiff Whelan has satisfied all other jurisdictional prerequisites to the maintenance of this action.

III. PARTIES:

7. Plaintiff Amanda Whelan ("Plaintiff Whelan") is a female individual and citizen of the Commonwealth of Pennsylvania, residing therein at 493 Woodcrest Road, Wayne, Pennsylvania 19087.

8. Defendant Dow Jones & Company ("Defendant Dow Jones") is a corporation duly organized and existing under the laws of the State of Delaware, maintaining a place of business located at 1155 Avenue of the Americas, 7th Floor, New York, New York 10036.

9. Defendant Joseph Gerace ("Defendant Gerace"), an employee of Defendant Dow Jones, is an individual and citizen of the State of New Jersey, residing therein at 60 Christmas Avenue, Penns Grove, New Jersey 08069.

10. At all times relevant hereto, Defendant Dow Jones was acting through its agents, servants, and employees, including individual Defendant Gerace, who was acting within the scope of his authority, course of employment, and under the direct control of the Defendant Dow Jones.

IV. STATEMENT OF FACTS:

11. Plaintiff Whelan was employed by Defendant Dow Jones from on or about November 30, 2007 until on or about June 6, 2008, the date of her termination.

12. During the course of her employment, Plaintiff Whelan held the position of Account Executive in Defendant Dow Jones' Philadelphia, Pennsylvania office and at all times maintained a satisfactory job performance rating in said capacity.

13. In or about December of 2007, immediately after commencing her employment, Defendant Gerace, Mid-Atlantic Sales Manager, began subjecting Plaintiff Whelan to a hostile work environment through various instances of sexual harassment.

14. At all times relevant hereto, Plaintiff Whelan objected to Defendant Gerace's unwelcome, uninvited, sexually-offensive conduct.

15. Throughout Plaintiff Whelan's employment with Defendant Dow Jones, Defendant Gerace visually assaulted her with sexually-explicit images sent via electronic

mail.

16. By way of example, Defendant Gerace forced Plaintiff Whelan to view images including, but not limited to, that of a man with abnormally large testicles, fruit and other objects resembling human genitalia, a photo-shopped image of people representing political figures in sexual acts, and a naked woman sitting on Santa Claus' lap.

17. In connection therewith, Plaintiff Whelan registered a complaint of sexual harassment with Defendant Gerace and informed him that his vulgar conduct was sexually-offensive and caused her to feel uncomfortable. Notwithstanding Plaintiff Whelan's complaint, Defendant Gerace refused to cease and desist.

18. Thereafter, Defendant Gerace made sexually-inappropriate comments to Plaintiff Whelan about the size of various males' genitalia.

19. By way of example, Defendant Gerace continually referred to the husband of Joyce Dougherty ("Dougherty"), Assistant, as the "angry inch," implying to Plaintiff Whelan that Dougherty's husband's genitals were small.

20. By way of further example, Defendant Gerace made hand gestures to Plaintiff Whelan indicating that the genitals of Greg Barlow ("Barlow"), Director, Multimedia Advertising Sales, were small. Furthermore, Defendant Gerace stated to Plaintiff Whelan that "having sex with [Barlow] must be like having sex with a mosquito."

21. In or about December of 2007, Defendant Gerace's harassment of Plaintiff Whelan escalated to a physical level when he subjected her to unwanted, uninvited touching of a sexual nature.

22. Defendant Gerace, in the presence of Dougherty and Janet Valecce ("Valecce"), Assistant, firmly gripped Plaintiff Whelan's upper thigh in a sexually-suggestive manner while confessing to her that he had an "unhappy marriage" and had been involved in many affairs "over the years."

23. In response thereto, Plaintiff Whelan objected to Defendant Gerace's sexual advance and visibly, physically recoiled. Rather than cease and desist his non-consensual touching, Defendant Gerace mocked Plaintiff Whelan in front of Dougherty and Valecce, thereby causing her to feel humiliated and helpless.

24. Notwithstanding Plaintiff Whelan's repeated objections to Defendant Gerace's sexually-offensive behavior, Defendant Gerace continued to make lewd and demeaning remarks directed at Plaintiff Whelan.

25. On one occasion, Defendant Gerace, in the presence of Dougherty and Valecce, stated to Plaintiff Whelan that she "would be skinny if it wasn't for [her] ass." Plaintiff Whelan was severely embarrassed by said comment and broke into a sweat. Immediately thereafter, Plaintiff Whelan demanded that Defendant Gerace cease and desist. However, Defendant Gerace again refused to do so.

26. On yet another occasion witnessed by Dougherty and Valecce, Defendant Gerace speculated out loud as to what size brassiere Plaintiff Whelan wore. Plaintiff Whelan was again humiliated by Defendant Gerace's sexually-offensive remarks.

27. Additionally, Defendant Gerace frequently made obscene gestures toward Plaintiff Whelan as if he were masturbating.

28. On or about May 5, 2008, Plaintiff Whelan overheard Defendant Gerace deriding her performance to Jack Reddy ("Reddy"), Account Executive. In connection therewith, Plaintiff Whelan questioned Defendant Gerace as to why he was unjustifiably giving a negative report on her performance. In response thereto, Defendant Gerace stated, "Don't you get it? If I told them you were doing a great job and everything was perfect, they would get suspicious. They would think that we were sleeping together or something."

29. On or about May 6, 2008, upon learning that Plaintiff Whelan had been romantically involved with a mutual acquaintance, Defendant Gerace stated, "If I knew it was that easy, I would have gotten in line."

30. The Defendants continued to subject Plaintiff Whelan to a hostile work environment through various instances of sexual harassment until on or about June 6, 2008, when Defendant Dow Jones terminated her position of employment due to the closure of its Philadelphia location.

COUNT I
(Title VII - Sexual Harassment)
Plaintiff Whelan v. Defendant Dow Jones

31. Plaintiff Whelan incorporates by reference paragraphs 1 through 30 of her Complaint as though fully set forth at length herein.

32. The actions of Defendant Dow Jones, through its agents, servants and employees, including Defendant Gerace, in subjecting Plaintiff Whelan to a hostile work environment through various instances of sexual harassment, constituted a violation of Title VII.

33. As a direct result of the aforesaid unlawful discriminatory employment practices engaged in by the Defendant in violation of Title VII, Plaintiff Whelan sustained permanent and irreparable harm, resulting in the loss of her employment, which caused her to sustain a loss of earnings, plus the value of certain benefits, plus loss of future earning power, plus back pay, and front pay and interest due thereon.

34. As a further direct result of the aforesaid unlawful discriminatory employment practices engaged in by the Defendant in violation of Title VII, Plaintiff Whelan suffered severe emotional distress, embarrassment, humiliation, and loss of self-esteem.

COUNT II
(PHRA- Sexual Harassment)
Plaintiff Whelan v. Defendant Dow Jones

35. Plaintiff Whelan incorporates by reference paragraphs 1 through 34 of her Complaint as though fully set forth at length herein.

36. The actions of Defendant Dow Jones, through its agents, servants and employees, including Defendant Gerace, in subjecting Plaintiff Whelan to a hostile work environment through various instances of sexual harassment, constituted a violation of the PHRA.

37. As a direct result of the aforesaid unlawful discriminatory employment practices engaged in by the Defendant in violation of the PHRA, Plaintiff Whelan sustained permanent and irreparable harm, resulting in the loss of her employment, which caused her to sustain a loss of earnings, plus the value of certain benefits, plus loss of future earning power, plus back pay, and front pay and interest due thereon.

38. As a further direct result of the aforesaid unlawful discriminatory employment practices engaged in by the Defendant in violation of the PHRA, Plaintiff Whelan suffered severe emotional distress, embarrassment, humiliation, and loss of self-esteem.

COUNT III
(PHRA - Aiding and Abetting)
Plaintiff Whelan v. Defendant Gerace

39. Plaintiff Whelan incorporates by reference paragraphs 1 through 38 of this Complaint as though fully set forth at length herein.

40. At all times material herein, the PHRA has made it unlawful for Defendant Gerace to “aid, abet, incite, compel or coerce the doing of any act declared [under Pennsylvania Human Relations Act] to be an unlawful discriminatory practice[.]”

41. Defendant Gerace aided, abetted, incited, compelled and coerced unlawful and intentional creation of a hostile work environment through various instances of sexual harassment.

42. As a direct result of the aforesaid unlawful discriminatory employment practices engaged in by the Defendant in violation of the PHRA, Plaintiff Whelan sustained permanent and irreparable harm, resulting in the loss of her employment, which caused her to sustain a loss of earnings, plus the value of certain benefits, plus loss of future earning power, plus back pay, and front pay and interest due thereon.

43. As a further direct result of the aforesaid unlawful discriminatory employment practices engaged in by the Defendant in violation of the PHRA, Plaintiff Whelan suffered severe emotional distress, embarrassment, humiliation, and loss of self-esteem.

PRAYER FOR RELIEF

44. Plaintiff Whelan incorporates by reference paragraphs 1 through 43 of this Complaint as though fully set forth at length herein.

WHEREFORE, Plaintiff Whelan requests that this Court enter judgment in her favor and against the Defendants, and order that:

- a. Defendants compensate Plaintiff Whelan with a rate of pay and other benefits and emoluments of employment to which she would have been entitled had she not been subjected to unlawful sexual harassment;
- b. Defendants compensate Plaintiff Whelan with an award of front pay, if appropriate;
- c. Defendants pay Plaintiff Whelan punitive damages, liquidated damages, compensatory damages for future pecuniary losses, pain, suffering, inconvenience, mental anguish, loss of enjoyment of life and other nonpecuniary losses as allowable;
- d. Defendants pay to Plaintiff Whelan, pre and post judgment interest, costs of suit and attorney and expert witness fees as allowed by law;
- e. The Court award such other relief as is deemed just and proper.

JURY DEMAND

Plaintiff Whelan demands trial by jury.

SIDNEY L. GOLD & ASSOCIATES, P.C.

By: _____
/s/Sidney L. Gold, Esquire _____
SIDNEY L. GOLD, ESQUIRE
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Dated: March 10, 2010

VERIFICATION

I hereby verify that the statements contained in this **Complaint** are true and correct to the best of my knowledge, information and belief. I understand that false statements herein are made subject to the penalties of Title 18 Pa. C.S:A. §4904, relating to unsworn falsification to authorities.

March 8, 2010
DATE

Amanda Whelan
AMANDA WHELAN, PLAINTIFF