

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

TEXAS DEPARTMENT OF AGRICULTURE,
AND TEXAS GENERAL LAND OFFICE,

Defendants.

Civil Action No. 1:12-cv-620

Jury Trial Demanded

COMPLAINT

Plaintiff 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 over this action under 42 U.S.C. § 2000e-5(f), 28 U.S.C. § 1331, and 28 U.S.C. § 1345.

3. Defendants Texas Department of Agriculture (“TDA”) and Texas General Land Office (“GLO”), as well as their predecessor, the Texas Department of Rural Affairs (“TDRA”), are public agencies and/or instrumentalities of the State of Texas, which maintain places of business in this judicial district, and a substantial part of the events giving rise to this action took place in this judicial district.

4. The TDA and the GLO are persons within the meaning of 42 U.S.C. § 2000e(a), and employers within the meaning of 42 U.S.C. § 2000e(b).

5. The TDRA ceased to exist as a separate State agency as of October 2011. Pursuant to Texas Senate Bill 1, “all money, contracts, leases, rights, and obligations of the TDRA [were] transferred to the Office of Rural Affairs in the Department of Agriculture.” Texas Senate Bill 1 also provided that “all money, contracts, leases, rights, and obligations of the TDRA related to disaster recovery funds [were] transferred to the designated agency,” which the Governor later designated as the GLO.

6. The TDA is named as a Defendant in this case because it is a successor in liability for the TDRA.

7. The GLO is named as a Defendant in this case because it is a successor in liability for the TDRA.

8. Monica Bosquez Mota (then Monica Bosquez, hereinafter “Bosquez Mota”) began working as a Program Specialist VII for the Disaster Recovery Division of the TDRA on or about January 1, 2009. Her starting salary was approximately \$62,000 a year.

9. Tina Lewis (“Lewis”) began working as a Program Specialist VII for the Disaster Recovery Division of the TDRA on or about January 1, 2009. Her starting salary was approximately \$62,000 a year.

10. Dalinda Newby (“Newby”) began working as a Program Specialist VII for the Disaster Recovery Division of the TDRA on or about January 20, 2009. Her starting salary was approximately \$62,000 a year.

11. Program Specialist VIIs in the Disaster Recovery Division all performed work requiring substantially the same responsibility.

12. After Bosquez Mota learned that all female Program Specialist VIIs in the Disaster Recovery Division were compensated at significantly lower levels than similarly

situated male Program Specialist VIIIs who performed substantially the same work in the Disaster Recovery Division, Bosquez Mota filed an internal complaint with the TDRA, alleging sex discrimination in compensation.

13. Bosquez Mota and Lewis repeatedly inquired with TDRA management about the significant salary disparities among similarly situated female and male Program Specialist VIIIs performing substantially the same work, to no avail.

14. Bosquez Mota filed a timely charge of discrimination (Charge No. 451-2009-02302) against the TDRA with the Equal Employment Opportunity Commission (“EEOC”) on October 8, 2009, in which she alleged, *inter alia*, that she had been subjected to discrimination in compensation based on sex.

15. In April 2010, the TDRA analyzed the salaries of all Program Specialist VIIIs in the Disaster Recovery Division, and, in an internal memorandum, TDRA management stated that the salaries of all four female Program Specialist VIIIs “fell significantly short of the expected values,” as compared to male Program Specialist VIIIs. The four female Program Specialist VIIIs, Bosquez Mota, Lewis, Newby, and another female Program Specialist VII named in the internal document, were compensated between approximately \$62,000 and \$72,522 a year. The male Program Specialist VIIIs, named in the internal document, were compensated between approximately \$79,631 and \$95,157 a year.

16. As a result of the salary assessment, the TDRA gave salary increases to all four female Program Specialist VIIIs, calling such increases an “Equity Adjustment.” This Equity Adjustment brought the women’s compensation closer, but not equal to, the salaries of similarly situated men performing substantially the same work. None of the four male Program Specialist VIIIs were given salary increases as part of the Equity Adjustment.

17. The Equity Adjustment was made effective in April 2010 for Bosquez Mota, Lewis, and Newby, and was granted prospectively only.

18. On or about February 7, 2011, the employees of the Disaster Recovery Division were notified that the division would be abolished, effective February 28, 2011.

19. Upon information and belief, the Executive Director of the TDRA, Charles Stone (“Stone”), selected a group of employees to remain employed with the TDRA following the dissolution of the Disaster Recovery Division.

20. Upon information and belief, there was no application process for these remaining positions.

21. Upon information and belief, Stone selected two Program Specialist VIIIs to stay with the TDRA, and both selected were male.

22. Stone did not select Bosquez Mota, Lewis, or Newby to stay with the TDRA. As a result, their employment with the TDRA was terminated.

23. Bosquez Mota was hired by the Texas Department of Housing and Community Affairs (“TDHCA”) and began work there on or about March 2011. The TDHCA’s disaster relief efforts were merged with the GLO on or about September 2011, and Bosquez Mota was transferred to the GLO, where she is presently employed.

24. Lewis was hired by HNTB, a private contractor, and began work there on or about March 2011.

25. Newby was unemployed for five months before being hired by TDHCA on or about August 2011, where she is presently employed.

26. Pursuant to Section 706 of Title VII, as amended, 42 U.S.C. § 2000e-5, the EEOC investigated the charge of discrimination filed by Bosquez Mota and issued a Letter of

Determination on March 10, 2011, finding that there is reasonable cause to believe that Bosquez Mota and a class of women were compensated less than similarly situated men performing substantially the same work, in violation of Title VII. The EEOC referred the matter to the United States Department of Justice after an unsuccessful attempt to conciliate the charge.

27. The TDRA's subsequent retaliation against Bosquez Mota, Lewis, and Newby through its termination of their employment was an outgrowth of their claims of sex discrimination in compensation and their acceptance of relief through the Equity Adjustment.

28. All conditions precedent to the filing of this Title VII sex discrimination in compensation and retaliation suit have been performed or have occurred.

STATEMENT OF CLAIMS

29. The TDA and GLO, as successors in interest to the TDRA, subjected Bosquez Mota, Lewis, and Newby to discrimination in compensation on the basis of sex, as well retaliation, in violation of Sections 703(a) and 704(a) of Title VII, among other ways, by:

- (a) compensating Bosquez Mota, Lewis, and Newby at significantly lower levels than similarly situated males performing substantially the same work in the Disaster Recovery Division for the period of time between the commencement of the women's employment with the Disaster Recovery Division and the institution of the "Equity Adjustment";
- (b) failing to make the women's salaries equivalent to similarly situated males performing substantially the same work following the "Equity Adjustment";
- (c) terminating Bosquez Mota, Lewis, and Newby in retaliation for their opposition to and participation in activity protected by Title VII; and
- (d) failing or refusing to take appropriate action to remedy the effects of the discriminatory treatment and retaliation.

PRAYER FOR RELIEF

WHEREFORE, the United States prays that the Court grant the following relief:

- (a) Enjoin the GLO from further discrimination in compensation against Bosquez Mota;
- (b) Enjoin the GLO from further retaliation against Bosquez Mota;
- (c) Enjoin the TDA and the GLO from engaging in sex discrimination in compensation and retaliation, in violation of Title VII, for any employee or applicant for employment.
- (d) Award backpay and all other appropriate monetary relief, including the value of lost employment benefits to Bosquez Mota, Lewis, and Newby in an amount to be determined at trial to make them whole for the loss they suffered as a result of the discriminatory conduct alleged in this Complaint;
- (d) Award Bosquez Mota, Lewis, and Newby any prejudgment interest on the amount of lost wages and benefits determined to be due;
- (e) Award compensatory damages to Bosquez Mota, Lewis, and Newby to fully compensate them for the pain, suffering, and medical expenses caused by the discriminatory conduct alleged in this Complaint, pursuant to and within the statutory limitations of Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981a;
- (f) Order the TDA and GLO to institute policies, practices, and programs to ensure a non-discriminatory workplace, including but not limited to implementing appropriate polices to ensure equal employment opportunity for their employees, and providing adequate training to all employees and officials regarding discrimination and retaliation;

(g) Award such additional relief as justice may require, together with the United States' 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. § 1981a.

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