

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MAINE**

UNITED STATES OF AMERICA,

Plaintiff,

v.

CITY OF CARIBOU,

Defendant.

CASE NO. _____

Jury Trial Demanded

COMPLAINT

Plaintiff, the United States of America, alleges:

1. This action is brought on behalf of the United States to enforce Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e *et seq.* (“Title VII”).

JURISDICTION AND VENUE

2. This Court has jurisdiction over this action under 42 U.S.C. § 2000e-5(f) and 28 U.S.C. § 1345.

3. Venue is proper in this judicial district under 42 U.S.C. § 2000e-5(f)(3) and 28 U.S.C. § 1391(b). The Defendant City of Caribou (“Caribou”) is a city located in Aroostook County, Maine.

4. Caribou 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. Whitney Nichols, who lives within this judicial district in Caribou, Maine, filed a timely charge of discrimination based on sex on or about August 30, 2012, against Caribou with the Maine Human Rights Commission (“MHRC”) and the Equal Employment Opportunity Commission (“EEOC”). Pursuant to Section 706 of Title VII, the MHRC and EEOC

investigated the charge of discrimination filed by Ms. Nichols. The EEOC found reasonable cause to believe that Caribou violated Title VII with respect to Ms. Nichols and unsuccessfully attempted to conciliate the charge. The EEOC subsequently referred the charge to the Department of Justice.

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

STATEMENT OF FACTS

Roy Woods's Managerial Role in Caribou's Fire and Ambulance Department

7. At all relevant times, Caribou's Fire and Ambulance Department was an instrumentality of Caribou.

8. At all relevant times, Roy Woods was Caribou's alter ego.

9. At all relevant times, Roy Woods had three different job titles with Caribou's Fire and Ambulance Department. He was Chief of the Fire and Ambulance Department, Emergency Management Director, and Emergency Medical Services Director.

10. At all relevant times, Caribou's City Manager, Steven Buck, served as Mr. Woods's direct supervisor. Mr. Buck had no direct managerial responsibilities for Caribou's Fire and Ambulance Department.

11. Mr. Woods was the highest-ranking manager within Caribou's Fire and Ambulance Department.

12. Mr. Woods supervised the employees in the Fire and Ambulance Department. Caribou gave Mr. Woods the authority to discipline and terminate employees under his supervision.

13. Mr. Woods had the authority to set the work schedules of non-union employees under his supervision.

14. Mr. Woods participated in negotiating collective bargaining agreements with union employees under his supervision.

15. Mr. Woods had discretion on how to spend funds in the Fire and Ambulance Department, Emergency Management Operations, and Emergency Medical Services budgets.

16. Mr. Woods had the authority to speak for Caribou by, among other things, making press statements and speaking at press conferences.

Caribou's Hiring of Ms. Nichols

17. Caribou hired Ms. Nichols on or about November 18, 2011, as a part-time janitor. Ms. Nichols performed janitorial services at the building where Caribou's Emergency Operations Center was located.

18. Mr. Woods made the decision to hire Ms. Nichols. At the time of her hire, Ms. Nichols was 17 years old and Mr. Woods was 66 years old.

19. At all relevant times, Mr. Woods served as Ms. Nichols's supervisor.

20. Around the time he hired her, Mr. Woods told Ms. Nichols to contact Judith Greenier with any work-related questions. Ms. Greenier was an employee of Aroostook Emergency Medical Services, which was located in the same building and worked cooperatively with Caribou Emergency Medical Services to provide emergency services for the City of Caribou and the surrounding area.

Mr. Woods's Sexual Harassment of and Assault on Ms. Nichols

21. After Mr. Woods hired Ms. Nichols, he subjected her to unwelcome verbal and physical harassment based on her sex. This harassment included, but was not limited to, hugging

her, calling her his “girlfriend,” and sending her inappropriate text messages. Ms. Nichols did not welcome this conduct and found this conduct offensive.

22. Pursuant to Mr. Woods’s directive that Ms. Nichols raise any work-related issues with Ms. Greenier, Ms. Nichols informed Ms. Greenier that Mr. Woods was sending her inappropriate text messages. Ms. Greenier told Ms. Nichols, among other things, not to reply to Mr. Woods’s text messages.

23. Mr. Woods sexually assaulted Ms. Nichols on December 23, 2011. Ms. Nichols was 18 years old at the time of the assault

24. On December 23, 2011, Mr. Woods asked Ms. Nichols to come into work even though she was not scheduled to work that day. Mr. Woods then told Ms. Nichols that he needed to perform a physical examination because Ms. Nichols had expressed interest in joining Caribou’s Community Emergency Response Team (“CERT”).

25. Mr. Woods’s representation regarding the need for a physical examination was false. CERT did not require applicants to undergo a physical examination.

26. Mr. Woods made the false representation regarding the need for a physical examination as a pretext for touching Ms. Nichols’s body, and later sexually assaulting her.

27. During the purported physical examination on December 23, 2011, Mr. Woods sexually assaulted Ms. Nichols. During the assault, among other things, Mr. Woods stuck his hand down the front of Ms. Nichols’s pants twice and he touched her breast.

28. Ms. Nichols rebuffed Mr. Woods’s sexual contact and escaped from Mr. Woods after he sexually assaulted her. She immediately went home crying.

29. After Ms. Nichols reached her home, Mr. Woods called her on the telephone and came to her house in an attempt to persuade her not to tell anyone what he had done to her.

30. Ms. Nichols did not welcome Mr. Woods's harassment or the sexual assault. She found this conduct offensive.

31. On December 23, 2011, Ms. Nichols reported Mr. Woods's sexual assault to Ms. Greenier and another AEMS employee who also served on CERT.

32. On December 27, 2011, Ms. Nichols reported Mr. Woods's sexual harassment and sexual assault to Mr. Buck, Caribou's City Manager. Not long after that, she reported Mr. Woods's sexual assault to the Maine State Police.

33. Caribou hired an attorney to investigate Ms. Nichols's sexual harassment and sexual assault complaint against Mr. Woods. At the conclusion of his investigation, the attorney substantiated Ms. Nichols's complaint. Based on the results of the investigation, Caribou gave Mr. Woods the opportunity to resign in lieu of termination and he took that opportunity so that he would not be terminated.

34. Mr. Woods later pleaded guilty to criminal charges associated with his December 23, 2011, sexual assault of Ms. Nichols and his sexual assault of another woman who came forward during the Maine State Police investigation.

35. As a direct and proximate cause of Mr. Woods's sexual harassment and sexual assault, Ms. Nichols has suffered damages including, but not limited to, emotional distress and loss of enjoyment of life.

Mr. Woods's Sexual Harassment of Other Female Employees

36. Both during Ms. Nichols's employment and for several years prior to her employment, Mr. Woods sexually harassed numerous other women employed by Caribou. This conduct included unwelcome and inappropriate touching as well as crude and sexually oriented comments directed toward female Caribou employees.

37. Mr. Woods's sexual harassment of Caribou's female employees was condoned in the workplace since there were Caribou supervisory personnel who were aware of Mr. Woods's unlawful conduct but did nothing to prevent or correct it.

Caribou Failed to Take Reasonable Steps to Prevent Mr. Woods from Sexually Harassing and Assaulting Ms. Nichols

38. In November 2011, a female employee complained to her supervisor that Mr. Woods had sexually harassed her by making a sexually suggestive comment in a threatening manner. The supervisor did not take any corrective action to address her subordinate's complaint. Nor did Caribou investigate this employee's complaint or take any corrective action to address Mr. Woods's sexual harassment of this woman.

39. Caribou had knowledge that Mr. Woods's behavior included his unwelcome touching of its female employees, his inappropriate comments of a sexual nature directed towards them, and other inappropriate workplace conduct. Despite Caribou's knowledge of Mr. Woods's inappropriate behavior, the City failed to take appropriate steps to stop his offensive and unwelcome conduct until faced with Mr. Woods's sexual assault of Ms. Nichols.

40. At all relevant times, Caribou ostensibly had a sexual harassment policy which explained what sexual harassment was and how employees could complain about sexual harassment if it occurred. However, Caribou did not provide Ms. Nichols with its sexual harassment policy until after Mr. Woods sexually assaulted her. Furthermore, Caribou never provided Ms. Nichols with any training regarding its sexual harassment policy, the law of sexual harassment, or how to report sexual harassment.

PRAYER FOR RELIEF

41. Caribou has subjected Ms. Nichols to discrimination on the basis of sex in violation of Section 703(a) of Title VII, 42 U.S.C. § 2000e-2(a).

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

- (a) enjoin Caribou from subjecting employees and applicants for employment to sexual harassment in its workplaces;
- (b) order Caribou to institute and carry out new policies, practices, and programs, including a comprehensive training program, to prevent sexual harassment from occurring in the workplace;
- (c) order Caribou to institute and carry out policies, practices, and programs to report, investigate, and effectively address complaints about sexually harassing behavior in the workplace;
- (d) order Caribou and its managers and supervisory employees to refrain from engaging in retaliation against any individual for giving testimony in this matter or participating in this matter in any way;
- (e) order Caribou to compensate Ms. Nichols for the damages she has suffered including, but not limited to, emotional distress and loss of enjoyment of life;
- (f) order any further relief necessary to make Ms. Nichols whole; and
- (g) award such additional relief as justice may require, together with the United States' costs and disbursements in this action.

JURY DEMAND

42. 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 § 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981a.

Date: May 6, 2015

Respectfully Submitted,

VANITA GUPTA
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