

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

KATHY J. EUTZY,)	
)	CIVIL ACTION NO.:
Plaintiff,)	<u>3:20-2</u>
)	
v.)	
)	JURY TRIAL DEMANDED
SHEETZ, INC.,)	
)	
Defendant.)	

COMPLAINT

Plaintiff, Kathy J. Eutzy, a resident of Cumberland County, Pennsylvania, by and through her attorneys, Weisberg Cummings, P.C., brings this civil action for damages against the above named Defendant, Sheetz, Inc., demands a trial by jury, and complains and alleges as follows:

JURISDICTION AND VENUE

1. Jurisdiction of the claims set forth in this Complaint is proper in this judicial district pursuant to 28 U.S.C. §§1331.
2. Venue is proper in this judicial district pursuant to 28 U.S.C. §1391(b) because Defendant is a resident of Pennsylvania and maintains its home office in this district.

THE PARTIES

3. Plaintiff, Kathy J. Eutzy (“Ms. Eutzy”), is an adult individual residing in Cumberland County, Pennsylvania.

4. Defendant Sheetz, Inc. (“Sheetz”) is a Pennsylvania corporation, with a principal place of business located at 5700 Sixth Avenue, Altoona, Blair County, Pennsylvania 16602.

5. At all times relevant and material hereto, Sheetz owned and operated a convenience store and gas station located at 8000 Olde Scotland Road, Shippensburg, Cumberland County, Pennsylvania 17257.

6. At all times relevant to this Complaint, Sheetz employed in excess of five hundred (500) individuals.

ADMINISTRATIVE PROCEEDINGS

7. On or about April 16, 2019, Ms. Eutzy filed a Charge of Discrimination with the Equal Employment Opportunity Commission (“EEOC”), which was docketed as EEOC Charge No. 530-2019-03205, alleging gender discrimination, retaliation and wrongful discharge from her employment with Sheetz.

8. Ms. Eutzy has been advised of her individual right to bring a civil action by receiving a Notice of Right to Sue from the EEOC, dated November 5, 2019.

9. Ms. Eutzy has exhausted the administrative remedies available to her, and all necessary and appropriate administrative prerequisites to the filing of this Complaint have occurred and been satisfied.

STATEMENT OF FACTS

10. Ms. Eutzy was employed successfully with Sheetz as a Shift Supervisor at the store located at 8000 Olde Scotland Road, Shippensburg, Pennsylvania for about a year until she was terminated on or about January 14, 2019.

11. Ms. Eutzy's employment was going very well until sometime in or about mid-November 2018, when Ms. Eutzy reported an incident involving a co-worker. Specifically, following an unpleasant encounter with a customer, this co-worker stated to another co-worker that the customer was a "dyke," and bad mouthed the customer.

12. Ms. Eutzy, who is a lesbian, overheard and took offense to her co-worker's comment and told her that it was inappropriate. Upon information and belief, this conversation was the first time Ms. Eutzy's co-worker learned of her sexual preference.

13. Ms. Eutzy promptly reported the incident involving her co-worker to the store manager and also to the Human Resources call-in line. No action was taken by the store manager, and as a result of both Ms. Eutzy's

report and her co-worker learning that Ms. Eutzy is a lesbian, Ms. Eutzy's co-worker went on to act rudely towards her and create a hostile work environment.

14. After about two weeks, on or about November 28, 2019, Ms. Eutzy's wife filed an online customer complaint through the company's website about the hostile work environment that Ms. Eutzy was being forced to endure, following which Ms. Eutzy's co-worker was terminated.

15. Prior to her report to the store manager, Ms. Eutzy had enjoyed a good working relationship with the store manager. However, subsequent to Ms. Eutzy's report, the store manager began to act differently towards her. For instance, the store manager barely spoke to Ms. Eutzy, she passed Ms. Eutzy up for promotion on two occasions, and she also cut Ms. Eutzy's hours. The store manager also neglected to hold any one-on-one meetings with Ms. Eutzy, as she did with the other supervisors.

16. Finally, on or about January 14, 2019, the store manager fired Ms. Eutzy.

17. Although the store manager alleged that Ms. Eutzy was terminated for closing the kitchen during a night shift when the store was drastically understaffed, other employees who did not share Ms. Eutzy's sexual preference and who had not made a good faith complaint of

harassment had taken similar action, including closing the kitchen or shutting down the drive-thru window, without suffering any adverse consequences. Furthermore, there is nothing in the employee handbook which prohibited Ms. Eutzy from closing the kitchen under those conditions.

18. The discrimination that Ms. Eutzy was forced to endure as a result of her sexual orientation, as well as her termination following her manager learning of her sexual orientation and her good faith reports of discrimination, were in violation of Title VII of the Civil Rights Act of 1964.

COUNT I
SEXUAL DISCRIMINATION AND HARASSMENT

19. The averments of Paragraphs 1 through 18 above are incorporated by reference as though fully set forth herein.

20. Sheetz created, permitted, tolerated, encouraged and fostered a hostile, intimidating, demeaning, degrading and demoralizing environment at the Sheetz location where Ms. Eutzy worked, which hostile environment was ongoing and pervasive once Ms. Eutzy's co-workers and manager were aware of her sexual orientation.

21. The hostile environment was specifically known to Sheetz's management, which took no meaningful or effective action to remediate the offending behavior or to remove the offending environment.

22. The acts of Sheetz, and its officers, agents and employees manifesting and permitting this hostile and discriminatory environment, insofar as they are known to Ms. Eutzy, included allowing Ms. Eutzy to be harassed by her co-worker and store manager because of her sexual orientation, and terminating Ms. Eutzy after learning of her sexual orientation.

23. As a consequence of the hostile and discriminatory environment supported and encouraged by Sheetz's actions and failures to act, Ms. Eutzy was subjected to emotional distress, humiliation, ridicule and a negative effect on her work product and ability to fully and effectively perform her job duties and responsibilities, all of which manifested itself in mental and physical distress, injury and damage.

24. As a result of the sexually hostile and discriminatory environment, Ms. Eutzy has suffered economic loss, emotional distress, physical injury, a loss of self-respect and confidence, and has been subjected to great damage to her career and professional standing.

25. The actions of Sheetz set forth above constitute violations of Title VII of the Civil Rights Act, 42 U.S.C. §2000e et seq. (as amended) and the Civil Rights Act of 1991.

WHEREFORE, Plaintiff, Kathy J. Eutzy respectfully requests this Honorable Court to enter judgment in her favor and against Defendant, Sheetz, Inc., together with back pay and front pay, compensatory damages, punitive damages, reasonable attorneys' fees and costs, and any such other relief as this Honorable Court deems just and appropriate, which total amount exceeds the jurisdictional limits for mandatory arbitration referral.

COUNT II
RETALIATION

26. Paragraphs 1 through 25 above are incorporated herein by reference as if more fully set forth at length.

27. Subsequent to Ms. Eutzy, and later her wife, reporting the harassment and discrimination which was based upon her sexual orientation, Sheetz retaliated against Ms. Eutzy and terminated her employment in violation of Title VII of the Civil Rights Act, 42 U.S.C. §2000e et seq. (as amended) and the Civil Rights Act of 1991.

28. As a consequence of Sheetz's wanton and willful acts of retaliation, Ms. Eutzy was subjected to emotional distress, humiliation, ridicule and a negative effect on her work product and ability to fully and effectively perform her job duties and responsibilities, all of which manifested itself in mental and physical distress, injury and damage.

29. As a result of Sheetz's retaliation, Ms. Eutzy has suffered economic loss, including loss of earnings, emotional distress, physical injury, a loss of self-respect and confidence, and has been subjected to great damage to her career and professional standing.

30. The actions of Sheetz set forth above constitute violations of Title VII of the Civil Rights Act, 42 U.S.C. §2000e et seq. (as amended) and the Civil Rights Act of 1991.

WHEREFORE, Plaintiff, Kathy J. Eutzy respectfully requests this Honorable Court to enter judgment in her favor and against Defendant, Sheetz, Inc., together with back pay and front pay, compensatory damages, punitive damages, reasonable attorneys' fees and costs, and any such other relief as this Honorable Court deems just and appropriate, which total amount exceeds the jurisdictional limits for mandatory arbitration referral.

Respectfully submitted,

Weisberg Cummings, P.C.

January 3, 2020

Date

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