

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
EASTERN DIVISION
NO. 4:10-CV-102-F**

**LEE LARAVIERE-STEELE and
husband, DARRELL STEELE,**

Plaintiffs,

v.

**SAFELITE GLASS CORP. and
GREGORY K. BYRD,**

Defendants.

AMENDED COMPLAINT

JURY TRIAL DEMAND

The plaintiffs, Lee Laraviere-Steele and husband, Darrell Steele, complaining of the defendants, Safelite Glass Corp. and Gregory K. Byrd allege and say:

ACTION

This is an action under Title VII of the Civil Rights Act of 1964, Title I of the Civil Rights Act of 1991, and the common law of North Carolina, to provide appropriate relief to Lee Laraviere-Steele (“Laraviere-Steele”) and her husband, Darrell Steele (“Steele”), who were adversely affected by defendant Safelite Glass Corp. (“Safelite”) and defendant Gregory K. Byrd (“Byrd”). Safelite and Byrd discriminated against Laraviere-Steele by subjecting her to a sexually hostile work environment because of her sex, and by discharging Laraviere-Steele in retaliation for complaining about her sexually hostile work environment, both of which violate State and Federal Law. Additionally, both Safelite and Byrd intentionally and/or negligently inflicted emotional distress upon Laraviere-Steele throughout the foregoing acts. Steele, as the lawful husband of Laraviere-Steele, joins his claim for loss of consortium with the aforementioned claims asserted by Laraviere-Steele.

JURISDICTION AND VENUE

1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 451, 1331, 1337, 1343 and 1367. This action is authorized and instituted pursuant to Section 706(f)(1) and (3) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §2000e-5(f)(1) and (3) (“Title VII”), and Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981a.
2. The employment practices alleged to be unlawful were committed within the jurisdiction of the United States District Court for the Eastern District of North Carolina.

PARTIES

3. Plaintiffs Laraviere-Steele and Steele, are husband and wife, having been married on or about December 31, 2002.
4. Plaintiffs Laraviere-Steele and Steele are citizens and residents of Nash County, North Carolina.
5. At all times pertinent to this action, plaintiff Laraviere-Steele was an “employee” within the meaning and definition of Title VII, 42 U.S.C. § 2000e-(f).
6. At all times relevant to this action, Defendant Safelite has been an Ohio corporation doing business in the State of North Carolina and the City of Enfield, and has continuously had at least fifteen employees.
7. At all relevant times, Defendant Safelite has continuously been an employer engaged in an industry affecting commerce under Title VII, 42 U.S.C. § 2000e-(b), (g), and (h).
8. Upon information and belief, Defendant Byrd is a citizen and resident of Nash County, North Carolina, and at all times relevant to this action, has been employed by Defendant Safelite at its Enfield, NC facility in the position of Human Resources Manager.

FACTS

9. On or about January 11, 2007, Laraviere-Steele was hired by Safelite and assumed the position of Assistant Human Resources Manager at Safelite's Enfield, NC facility.
10. Laraviere-Steele's immediate supervisor was Byrd, who acted as the Human Resources Manager at Safelite's Enfield, NC facility.
11. Shortly after assuming her duties at Safelite, Laraviere-Steele was subjected to sexually inappropriate comments and questions from Byrd including, but not limited to, the following:
 - a) Asking Laraviere-Steele the color, and type, of her undergarments;
 - b) Asking Laraviere-Steele the color of her pubic hair;
 - c) Complimenting Laraviere-Steele on her breasts;
 - d) Telling Laraviere-Steele he would like to touch her breasts;
 - e) Telling Laraviere-Steele that she looked "pretty," "damn good," and "nice."
12. Laraviere-Steele was also subjected to sexually inappropriate touching from Byrd including, but not limited to, the following:
 - a) On one occasion, Byrd attempted to kiss Laraviere-Steele inside the office copy room;
 - b) On several occasions, Byrd would place his hands on Laraviere-Steele's back and/or shoulders and make comments as to whether he believed her bra fastened in the front or back that day;
 - c) On one occasion, Byrd instructed Laraviere-Steele to accompany him for a business meeting. Byrd then drove Laraviere-Steele to a local motel where Byrd had reserved a motel room for said business meeting. Byrd informed Laraviere-Steele that he needed to get away from the Enfield facility so he could concentrate, and the motel room served this purpose. Once inside the motel room, after a brief discussion of business issues, Byrd attempted to pull Laraviere-Steele

down into his lap. Laraviere-Steele verbally objected and left the motel room.

Byrd then followed Laraviere-Steele outside and apologized for his actions.

13. Laraviere-Steele was subjected to similar comments and inappropriate touching from Byrd throughout the term of her employment with Safelite.

14. Laraviere-Steele verbally or physically objected to Byrd's actions or comments identified above, at which time Byrd would apologize for his actions; however, Byrd continued to resume his inappropriate actions.

15. On or about March 3, 2008, Laraviere-Steele contacted the Operations Manager at Safelite's Enfield, NC facility, Tony Roach, to complain about Byrd's inappropriate sexual comments and touching.

16. The following day, on or about March 4, 2008, Byrd called Laraviere-Steele and stated he was disappointed Laraviere-Steele had spoken with the Operations Manager regarding his conduct.

17. Shortly thereafter, on or about March 6, 2008, Byrd called Laraviere-Steele into his office and terminated Laraviere-Steele's employment.

18. Throughout these incidents, Byrd was acting within the scope of his employment, within the scope of his authority, and Byrd's actions were authorized or ratified by the conduct of Safelite; therefore, Safelite is vicariously liable for Byrd's actions in accordance with the doctrine of respondeat superior.

ADMINISTRATIVE REMEDIES

19. More than thirty days prior to the institution of this lawsuit, Laraviere-Steele filed a charge with the Equal Employment Opportunity Commission alleging violations of Title VII by Defendants. All conditions precedent to the institution of this lawsuit have been fulfilled.

STATEMENT OF CLAIMS

FIRST CLAIM FOR RELIEF
SEXUAL HARASSMENT IN VIOLATION OF
TITLE VII, 42 U.S.C. § 2000e-2(a)(1)

20. Plaintiff Laraviere-Steele hereby incorporates the foregoing paragraphs as if fully set out herein.
21. Laraviere-Steele was employed by Safelite in the position of Assistant Human Resources Manager.
22. Laraviere-Steele's immediate supervisor, Byrd, was employed by Safelite in the position of Human Resources Manager.
23. Byrd had the ability to hire, fire, discipline, demote, and grant raises to Laraviere-Steele.
24. Byrd subjected Laraviere-Steele to unwelcome sexual harassment, which harassment was based on Laraviere-Steele's female gender, and is more thoroughly identified in the foregoing incorporated paragraphs.
25. Byrd's sexual harassment was unwelcome.
26. Byrd's sexual harassment was sufficiently severe and pervasive as to alter the terms and conditions of Laraviere-Steele's employment or create an intimidating, hostile or offensive work environment.
27. Safelite is vicariously liable for Byrd's conduct based upon Laraviere-Steele's termination of employment following her report of sexual harassment to Safelite officials.
28. The aforementioned acts of Byrd and Safelite were intentional and committed with malice and/or reckless indifference as to Laraviere-Steele's rights.
29. Laraviere-Steele has suffered damages as a result of the aforementioned sexual harassment.
30. Laraviere-Steele is entitled to an award of compensatory and punitive damages.

SECOND CLAIM FOR RELIEF
RETALIATORY DISCHARGE IN VIOLATION OF
TITLE VII, 42 U.S.C. § 2000e 3(a)

31. Plaintiff Laraviere-Steele hereby incorporates the foregoing paragraphs as if fully set out herein.

32. Laraviere-Steele engaged in a protected activity or opposition by reporting and complaining of Byrd's sexual harassment to Safelite officials.

33. Laraviere-Steele suffered an adverse employment action as a direct result of her complaining of Byrd's sexual harassment in that she was terminated by Safelite.

34. A causal connection exists between Laraviere-Steele's protected activity and the adverse action of termination.

35. The aforementioned acts of Byrd and Safelite were intentional and committed with malice and/or reckless indifference as to Laraviere-Steele's rights.

36. Laraviere-Steele suffered damages as a result of Byrd's and Safelite's retaliatory conduct.

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43. Byrd and Safelite's actions were willful, wanton, and in reckless disregard to Laraviere-Steele's rights.

44. Laraviere-Steele was injured or damaged as a proximate result of Byrd and Safelite's wrongful action.

45. Laraviere-Steele is entitled to an award of compensatory and punitive damages.

FOURTH CLAIM FOR RELIEF
NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS
IN VIOLATION OF THE COMMON LAW OF NORTH CAROLINA

46. Plaintiff Laraviere-Steele hereby incorporates the foregoing paragraphs as if fully set out herein.

47. Byrd and Safelite negligently engaged in the conduct as referenced within the foregoing incorporated paragraphs.

48. It was reasonably foreseeable that the conduct would cause Laraviere-Steele severe emotional distress.

49. Byrd and Safelite's actions were willful, wanton, malicious, and in reckless disregard to Laraviere-Steele's rights.

50. The conduct did in fact cause Laraviere-Steele severe emotional distress and to incur damages.

51. Laraviere-Steele is entitled to an award of compensatory and punitive damages.

FIFTH CLAIM FOR RELIEF
INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS
IN VIOLATION OF THE COMMON LAW OF NORTH CAROLINA

52. Plaintiff Laraviere-Steele hereby incorporates the foregoing paragraphs as if fully set out herein.

53. Byrd and Safelite engaged in extreme and outrageous conduct as referenced within the foregoing incorporated paragraphs.

54. Byrd and Safelite engaged in this conduct with the intent to cause harm or in reckless disregard of the probability of causing Laraviere-Steele to suffer emotional distress.
55. Laraviere-Steele suffered severe emotional distress.
56. Byrd and Safelite's conduct caused Laraviere-Steele to suffer severe emotional distress and to incur damages.
57. Laraviere-Steele is entitled to an award of compensatory and punitive damages.

SIXTH CLAIM FOR RELIEF
LOSS OF CONSORTIUM IN VIOLATION
OF THE COMMON LAW OF NORTH CAROLINA

58. Plaintiff Steele hereby incorporates the foregoing paragraphs as if fully set out herein.
59. Steele suffers from several health issues and has been primarily dependent upon Laraviere-Steele's income, and benefits, for his maintenance and support.
60. As a direct and proximate result of the acts of Byrd and Safelite, Steele has suffered the diminished current and future earning capacity of his wife, Laraviere-Steele.
61. As a direct and proximate result of the acts of Byrd and Safelite, Steele has lost the society, companionship and services of his wife, Laraviere-Steele.
62. The acts of Byrd and Safelite were in willful, wanton, and reckless disregard of both Laraviere-Steele's, and Steele's, rights.
63. Steele is entitled to an award of compensatory and punitive damages.

DAMAGES

64. Plaintiffs Laraviere-Steele and Steele hereby incorporate the foregoing paragraphs as if fully set out herein.
65. As a direct and proximate result of both Byrd and Safelite's wrongful conduct, plaintiffs Laraviere-Steele and Steele have incurred, and will continue to incur substantial

losses, including lost income and benefits, emotional distress and mental anguish, loss of quality and enjoyment of life and employment reputation, and other damages to be proven at trial. Accordingly, plaintiffs Laraviere-Steele and Steele are entitled to compensatory damages in an amount to be proven at trial.

66. Defendants Byrd and Safelite's acts, as described above, were willful, wanton and malicious, and evinced an intentional or reckless indifference to and disregard for plaintiffs Laraviere-Steele and Steele. Accordingly, plaintiffs Laraviere-Steele and Steele are entitled to recover punitive damages in an amount in the discretion of the jury in accordance with 42 U.S.C. § 1981a and N.C. Gen. Stat. 1D.

PRAYER FOR RELIEF

WHEREFORE, plaintiffs Laraviere-Steele, and Steele, pray the Court:

1. That plaintiffs recover of defendants compensatory damages to be proven at trial;
2. That plaintiffs recover of defendants punitive damages in an amount in the discretion of the jury;
3. That plaintiff attorneys' fees for representation;
4. That this Court award costs and attorney's fees in the amount of the amounts recovered herein, and
5. That this Court award costs and attorney's fees in the amount of the amounts recovered herein, and

TRIAL BY JURY IS HEREBY DEMANDED AS TO ALL ISSUES SO TRIABLE.

RESPECTFULLY SUBMITTED, this the 6th day of March 2011.

/s/ Joseph L. Bell, Jr.

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VERIFICATION

LEE LARAVIERE-STEELE, after being duly sworn, deposes the complainant in the above-entitled action, that she has read the for Complaint and the contents thereof; that the same are true of her own as to those matters and things therein stated upon information and be she believes them to be true.

This the 16 day of March 2011.

Lee Laraviere-S
Lee Laraviere-S

Sworn to and subscribed before me this 16th day of March 2011.

Joseph L. Bell, Jr.
Joseph L. Bell, Jr. Notary Public
My Commission Expires: 12/26/2011



DARRELL STEELE, after being duly sworn, deposes and sa complainant in the above-entitled action, that he has read the foregoi Complaint and the contents thereof; that the same are true of his own as to those matters and things therein stated upon information and be he believes them to be true.

This the 16 day of March 2011.

Darrell Steele
Darrell Steele

Sworn to and subscribed before me this 16th day of March 2011.

Joseph L. Bell, Jr.
Joseph L. Bell, Jr. Notary Public
My Commission Expires: 12/26/2011

