

**STATE OF MICHIGAN
CIVIL RIGHTS COMMISSION**

MICHIGAN DEPARTMENT OF CIVIL RIGHTS
ex rel Adrianna DuPree
Claimant,

Case No. 357912

v.

AUTO BARN and ROBERT MCCLAIN
Respondent.

ORDER

At a meeting of the Michigan Civil Rights Commission
Held in Benton Harbor, Michigan on the 14th day of December 2009

In accordance with the rules and the Michigan Civil Rights Commission, a Hearing Referee heard proofs and arguments and made proposed findings of fact and recommendations regarding the issues involved in this case. Commissioner Lisa Peeples-Hurst, has issued an Opinion, adopted by a unanimous vote of the Commission. That Opinion, shall be made part of this Order. The Commission therefore makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. The claimant, Adrinna DuPree is a resident of the State of Michigan.
2. The respondent Robert McClain is the owner and operator of Auto Barn a Michigan based business.

3. The claimant began employment with the respondent on March 21, 2006 and worked as a receptionist in the respondent's business.
4. The claimant is a female protected from unlawful discrimination under the Elliott-Larsen Civil Rights Act.
5. During her employment the claimant was subjected to sexually harassing communication from the respondent, Robert McClain, on numerous occasions.
6. The claimant complained about the harassment and requested that the sexual harassment stop; but, the respondent continued to harass the claimant.
7. On April 26, 2006 the claimant terminated her employment with the respondent because the working conditions were so intolerable that she could no longer continue with her employment.
8. The claimant was unemployed for six weeks until she found another job at a higher wage.
9. As a direct result of the respondent's sexual harassment and unlawful discrimination the claimant suffered loss of wages, emotional distress and mental anguish.

CONCLUSIONS OF LAW

1. A Rule 12 Hearing was conducted on September 10, 2009 before Michigan Civil Rights Commission Hearing Referee, Robert C. Timmons.

2. Hearing Referee Timmons submitted his written Findings of Fact, Conclusions of Law, and Recommendations to the Commission on September 17, 2009.
3. Both the claimant and respondent were provided the opportunity to submit exceptions to the referee's findings to the commission and to request oral argument before the commission.
4. Neither side takes exception to the referee's findings of fact, conclusions of law or recommendations.
5. The claimant's attorney requested and presented oral argument only on the issue of damages. The respondent did not appear for oral argument.
6. Therefore, the referee's report as to findings of fact and conclusions of law has been accepted by the commission as factual and correct.
7. Although there are separate claims against the employer Auto Barn and Robert McClain, the sole proprietor, both shall be treated as one and are jointly and severally liable.
8. The claimant meets the definition of a covered individual, on the basis of sex under the Elliott-Larsen Civil Rights Act.
9. The evidence supports a finding that unlawful discrimination has been established by a preponderance of the evidence.
10. The hearing referee found that the claimant has established a claim for damages both in terms of lost wages and emotional distress.

IT IS HEREBY ORDERED that in accordance with the Elliott-Larsen Civil Rights Act the Claimant shall be awarded the following:

1. The claimant is awarded lost wages of \$1,440.00
2. The claimant is awarded emotional distress damages of \$888.00 for the period during which she was employed by the respondent.
3. The claimant is awarded \$7,974 in post employment emotional distress damages from the date of her discharge thru December 10, 2009.
4. Statutory interest shall be awarded beginning with the filing of this civil rights complaint on April 28, 2006 until the above judgment of \$10,302.00 is satisfied.

MICHIGAN CIVIL RIGHTS COMMISSION

Kelvin W. Scott, Director

Dated: _____

NOTICE OF RIGHT TO APPEAL

You are hereby notified of your right to appeal within thirty (30) days to the Circuit Court of the State of Michigan having jurisdiction as provided by law.

MCLA 37.2606