

Honorable Marsha J Pechman

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CV 03-00814 #00000005

AT SEATTLE  
CLERK U.S. DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
D.C.

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

EQUAL EMPLOYMENT OPPORTUNITY )	
COMMISSION, )	
	) No C03-0814-P
Plaintiff, )	
v )	ANSWER AND AFFIRMATIVE DEFENSES
JACK IN THE BOX, INC , )	
	)
Defendant )	

Jack in the Box, Inc , (hereinafter "Jack in the Box") as an answer to the Complaint

**ANSWER**

JURISDICTION AND VENUE

1. Admits that jurisdiction in United States District Court for Western Washington is appropriate and that the Equal Employment Opportunity Commission (EEOC) is authorized and instituted to pursue causes of action under Title VII in the Civil Rights Act of 1991 As to the remainder of paragraph 1, Defendant denies the same

2 Based upon lack of information and belief, defendant demes

PARTIES

3 Admits

4 Admits

ORIGINAL

5



1           7       Jack in the Box exercised reasonable care to prevent and promptly correct any  
2 allegedly harassing behavior to which Ena Williams, Michelle Grannis, Romita Prasad, Linda  
3 Gallardo and Amber Gallardo were allegedly subjected

4           8       Ena Williams, Michelle Grannis, Romita Prasad, Linda Gallardo and Amber  
5 Gallardo unreasonably failed to take advantage of preventative and corrective opportunities  
6 provided by Jack in the Box, or otherwise failed to avoid harm

7           9       To the extent the EEOC seeks punitive damages, Jack in the Box had an express  
8 policy against harassment and a formal complaint procedure, and, to the extent, if any, Ena  
9 Williams, Michelle Grannis, Romita Prasad, Linda Gallardo and Amber Gallardo were subjected to  
10 harassment, such harassment was beyond the scope of employment of the person or persons  
11 allegedly harassing Ena Williams, Michelle Grannis, Romita Prasad, Linda Gallardo and Amber  
12 Gallardo and contrary to the policies and efforts of Jack in the Box to prevent harassment in its  
13 workplace

14          10       In the event a judgment is rendered in favor of the EEOC, or there is compromise of  
15 this doubtful and disputed claim, Jack in the Box is entitled to an offset for any advance payment of  
16 funds made by Jack in the Box toward payment of wage loss, medical expenses or other related  
17 damages for Ena Williams, Michelle Grannis, Romita Prasad, Linda Gallardo and Amber Gallardo

18          11       Pending further discovery, Plaintiff's damages may be limited by the doctrine of  
19 after acquired evidence

20          12       Pending further discovery, Plaintiff's claims may be barred by the doctrines of  
21 estoppel, laches and other defenses set forth in Fed R Civ P 8(c)

22          13       Pending further discovery, some or all of the claims in the Complaint may be barred  
23 by appropriate statutes of limitation

24          14       Pending further discovery, some or all of the claims in the Complaint may be barred  
25 by the exclusivity of remedies of the workers' compensation system  
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15 Pending further discovery, the EEOC and/or Ena Williams, Michelle Grannis, Romita Prasad, Linda Gallardo and Amber Gallardo failed to exhaust administrative and internal procedures to remedy the situation

16 Pending further discovery, the claims may be subject to the defenses set forth in Fed R Civ P 12(b)

**RESERVATION OF RIGHTS**

In further answer, Jack in the Box reserves the right to add additional defenses and make further claims as may be warranted by discovery.

**PRAYER FOR RELIEF**

WHEREFORE, having fully answered Plaintiff's Complaint, Jack in the Box prays the court for the following relief

- 1 That the EEOC take nothing by the Complaint and that it be dismissed with prejudice,
- 2 That Jack in the Box should be awarded attorney fees, costs and expenses incurred,
- 3 For such other and further relief as this court may deem just and equitable

DATED this 9 day of May 03

JACKSON LEWIS, LLP

By 

Wayne W. Hansen, WSBA #8912  
Laurie L. Johnston, WSBA #25927  
Attorneys for Defendants

1  
2 **DECLARATION OF SERVICE**

3 The undersigned declares under penalty of perjury under the laws of the State of  
4 Washington that a true and accurate copy of the document to which this declaration is affixed  
5 was sent via hand delivery, on this 12<sup>th</sup> day of May 03, to:

6  
7 Teri Healy  
8 Kathryn Olson, WSBA #30994  
9 A Luis Lucero, Jr  
10 Equal Employment Opportunity Commission  
11 Seattle District Office  
12 909 First Avenue, Suite 400  
13 Seattle, WA 98104

14 Dated this 12<sup>th</sup> day of May 03 at Seattle, Washington

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Andrea Wallis