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8 **UNITED STATES DISTRICT COURT**

9 **DISTRICT OF NEVADA**

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 11 U.S. EQUAL EMPLOYMENT
 OPPORTUNITY COMMISSION,

12 Plaintiff,

13 v.

14
 15 SCOLARI WAREHOUSE
 MARKETS, INCORPORATED, A
 16 NEVADA CORPORATION, D/B/A
 SCOLARI'S FOOD AND DRUG;
 17 AND DOES 1-10 INCLUSIVE,

18 Defendants.

} CASE NO.: CV-N-04-0229-DAE-
 RAM

} **SECOND AMENDED COMPLAINT**
 } **CIVIL RIGHTS**

} ■ **SEX HARASSMENT**
 } ■ **RETALIATION**

} (42 U.S.C. §§ 2000e, et seq.;)

} **DEMAND FOR JURY TRIAL**

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 21 **NATURE OF THE ACTION**

22 This is a sexual harassment and retaliation action brought by the United
 23 States Equal Employment Opportunity Commission, ("the Commission") under
 24 Title VII of the Civil Rights Act of 1964, as amended, to correct unlawful
 25 employment pattern and practices on the basis of sex and to provide appropriate
 26 relief to the Charging Party, Jennifer Gould (" Ms. Gould") and a class of
 27 similarly situated individuals who were adversely affected by such pattern and

1 practices. The Commission alleges Ms. Gould and other similarly situated
2 individuals were sexually harassed or subjected to sex based harassment or
3 unlawful pattern and practices during their employment with Defendant, Scolari
4 Warehouse Markets, Inc., A Nevada Corporation and d/b/a Scolari Food & Drug
5 Company ("Defendant Employers"). Charging Party, Ms. Gould, and other
6 similarly situated individuals were subjected to a hostile work environment
7 perpetuated by Defendant supervisor(s).

8 The Commission also alleges Ms. Gould and other similarly situated
9 individuals who had complained of the harassment by supervisors were subjected
10 to retaliation in the form of demotion, loss of wages, further harassment,
11 discipline or discharge.

12 JURISDICTION AND VENUE

13 1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. sections
14 451, 1331, 1337, 1343 and 1345. This action is authorized and instituted
15 pursuant to section §§706(f)(1)and (3); and §§707 of Title VII of the Civil Rights
16 Act of 1964, as amended, 42 U.S.C. §2000e-5(f)(1) and (3); 42 U.S.C. §2000e-
17 6(f)1 and (3) and and pursuant to § 102 of the Civil Rights Act of 1991, 42
18 U.S.C. §§1981A.

19 2. The employment practices alleged herein to be unlawful were
20 committed within the jurisdiction of the United States District Court for the State
21 of Nevada.

22 3. Prior to institution of this lawsuit, the Commission's representatives
23 attempted to eliminate the unlawful employment pattern and practices alleged
24 below and to effect voluntary compliance with Title VII through informal
25 methods of conciliation, conference and persuasion within the meaning of section
26 §§706(f)(1) and (3) of Title VII, 42 U.S. C., §§2000e-5(f)(1) and (3). All
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1 conditions precedent to the institution of this lawsuit have been fulfilled.

2 PARTIES

3 4. Plaintiff Commission is an agency of the United States of America
4 charged with the administration, interpretation and enforcement of Title VII, and
5 is expressly authorized to bring this action under §§706(f)(1) and (3) of Title VII,
6 42 U.S.C., §§ 2000e-5(f)(1) and (3) and §§707 (f)(1), 42 U.S.C. §2000e-6(f)1 and
7 (3)

8 5. At all relevant times, "Defendant Employers," have continuously been
9 and are now doing business in the State of Nevada, County of Washoe, and City
10 of Reno, Nevada.

11 6. Plaintiff is ignorant of the true names and capacities of "Defendant
12 Employers," sued as DOES 1 through 10, inclusively, and therefore Plaintiff sue
13 said "Defendant Employers" by such fictitious names. Plaintiff reserves the right
14 to amend the complaint to name the DOE "Defendant Employers" individually or
15 corporately as they become known. Plaintiff alleges that each of the "Defendant
16 Employers" named as DOES was in some manner responsible for the acts and
17 omissions alleged herein and Plaintiff will amend the complaint to allege such
18 responsibility when same shall have been ascertained by Plaintiff.

19 7. It is further alleged on information and belief that the named and
20 unnamed defendants in the complaint are mere alter egos of the "Defendant
21 Employer". The remaining defendants are properly named in the complaint.

22 8. All of the acts and failures to act alleged herein were duly performed by
23 and attributable to "Defendant Employer", each acting as a successor, agent,
24 employee or under the direction and control of the others, except as specifically
25 alleged otherwise. Said acts and failures to act were within the scope of such
26 agency and/or employment, and each "Defendant Employer" participated in,
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1 approved and/or ratified the unlawful acts and omissions by other “Defendant
2 Employer” complained of herein. Whenever and wherever reference to any act in
3 this Complaint to any act by a defendant employer or “Defendant Employer”,
4 such allegations and reference shall also be deemed to mean the acts and failures
5 to act of each “Defendant Employers” acting individually, jointly and/or
6 severally.

7 9. At all relevant times, “Defendant Employers” has continuously been
8 an employer engaged in an industry affecting commerce within the meaning of §§
9 701 (b), (g) and (h) of Title VII, 42 U.S.C., §§ 2000e-1(b), (g) and (h) and §§
10 11(b), (g), and (h).

11 STATEMENT OF CLAIMS

12 10. Since on or about January 1, 1999, “Defendant Employers” has
13 engaged in a pattern and practice of unlawful employment practices at its facility
14 in Reno, Nevada in violation of §§706(f)(1) and (3) and §§707 of Title VII, 42
15 U.S. C., §§2000e-5(f)(1) and (3) and 42 U.S.C. §2000e-6(f)1 and (3). The
16 “Defendant Employers” caused verbal harassment to be directed at Ms. Gould
17 and other similarly situated individual women that impacted the terms and
18 conditions of their employment and created a hostile working environment at
19 “Defendant Employers.” These practices also included the retaliation against and
20 termination of Ms. Gould and other similarly situated individuals for having
21 complained about the work environment. Once “Defendant Employers” became
22 aware of the unlawful sexual harassment and sex based harassment it failed to
23 take prompt remedial action intended to eliminate the harassment, a violation of
24 §§706 and §§707 of Title VII, 42 U.S.C. §2000e-2e-5(f)(1) and (3) and 42 U.S.C.
25 §2000e-6(f)1 and (3).

26 11. The impact of the aforementioned conduct deprived Ms. Gould and
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1 other similarly situated individuals of equal employment opportunities and to
2 otherwise adversely impacted their employment status because of their sex and
3 also in retaliation for opposing discriminatory practices or engaging in a protected
4 activity that resulted in adverse employment action.

5 12. The unlawful employment practices complained of above were and
6 are willful within the meaning of §§706(f)(1) and (3) and §§707 of Title VII, 42
7 U.S. C., §§2000e-5(f)(1) and (3) and 42 U.S.C. §2000e-6(f)1 and (3).

8 13. The unlawful employment pattern and practices complained of above
9 were intentional and caused Ms. Gould and other similarly situated individuals to
10 suffer emotional distress.

11 14. "Defendant Employers" has acted with malice or reckless indifference
12 to the federally protected rights of Ms. Gould and other similarly situated
13 individuals by subjecting them to harassment consisting of sexually charged
14 conduct, derogatory statements, obscene and vulgar language. Women were
15 openly asked by supervisor(s) to "show [them] their tits," and to "suck some
16 cock" as well as subjected to other derogatory and obscene statements. When
17 Charging party complained to "Defendant Employer" about the harassment she
18 and other similar situated individuals were being subjected to, she was
19 terminated. The Charging party and other similarly situated individuals were also
20 subject to retaliation for opposing discrimination or engaging in a protected
21 activity resulting in an adverse employment action that harmed them.

22 **PRAYER FOR RELIEF**

23 Wherefore, the Commission respectfully requests that this Court:

24 A. Grant a permanent injunction enjoining "Defendant Employer," its
25 officers, successors, assigns and all persons in active concert or participation with
26 them, from engaging in any employment practices that discriminate on the basis
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1 of sex or from engaging in unlawful retaliation;

2 B. Grant a permanent injunction enjoining "Defendant Employer," their
3 officers, successors, assigns and all persons in active concert or participation with
4 them, from engaging in any employment practice which discriminates on the
5 basis of sex;

6 C. Order "Defendant Employer" to institute and carry out policies,
7 practices and programs which provide equal employment opportunities for
8 females which eradicate the effects of their past and present unlawful
9 employment practices;

10 D. Grant a judgment requiring "Defendant Employer" to pay Ms. Gould
11 and other similarly situated individuals appropriate back pay, front pay,
12 compensatory damages and benefits in an amount to be determined at trial
13 including prejudgment interest;

14 E. Order "Defendant Employer" to make Ms. Gould and other similarly
15 situated individuals whole by providing affirmative relief necessary to eradicate
16 the effects of its unlawful practices including, but not limited to, payment of
17 compensatory damages to Ms. Gould and other similarly situated individuals
18 and/or rightful place employment;

19 F. Order "Defendant Employer" to pay Ms. Gould and other similarly
20 situated individuals punitive damages in an amount to be determined at trial;

21 G. Award the Commission its costs in this action; and

22 H. Grant such further relief as the Court deems necessary and proper in
23 the public interest.

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1 JURY DEMAND


2 The Commission requests a jury trial on all questions of fact raised by its
3 Complaint.

4 Respectfully Submitted By:

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6 U.S. EQUAL EMPLOYMENT
7 OPPORTUNITY COMMISSION
8 1801 "L" Street, N.W.
9 Washington, D.C. 20507

10 Ronald Cooper, General Counsel
11 James Lee, Deputy General Counsel
12 Gwendolyn Reams, Associate General Counsel

13 March 29, 2007

14 By: 
15 Anna Y. Park, Regional Attorney
16 Gregory L. McClinton, Trial Attorney
17 Victor Viramontes, Trial Attorney

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PROOF OF SERVICE VIA ELECTRONIC FILING SYSTEM

I am, and was at the time the herein mentioned mailing took place, a citizen of the United States, over the age of eighteen (18) years and not a party to the above-entitled cause.

I am employed in the Legal Unit of the Los Angeles District Office of the United States Equal Employment Opportunity Commission.

My business address is Equal Employment Opportunity Commission, Los Angeles District Office, 255 East Temple Street, Fourth Floor, Los Angeles, CA 90012.

On the date that this declaration was executed, as shown below, I served the foregoing **SECOND AMENDED COMPLAINT - CIVIL RIGHTS - SEX HARASSMENT - RETALIATION** via the Case Management/Electronic Case Filing (CM/ECF) system at Los Angeles, County of Los Angeles, California to:

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100 West Liberty Street, 10th Floor
Reno, NV 89501

I declare under penalty of perjury that the foregoing is true and correct.

Executed on March 29, 2007, at Los Angeles, California.



BRIAN A. WOODARD