IN THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF FLORIDA 25 PH 2: 19 ORLANDO DIVISION

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,

Plaintiff,

Case No.: 6:99-1625-cv-Orl-18A

v.

DENNY'S, INC.,

Defendant,

VALERIE YERRICK,

Intervenor Plaintiff.

CLERK. U.S. DISTRICT COUR MIDDLE DISTRICT OF FLORID

PILED

INTERVENOR VALERIE YERRICK'S COMPLAINT

VALERIE YERRICK, (Plaintiff), sues Defendant, DENNY'S, INC., for employment discrimination pursuant to Title VII of the Civil Rights Act of 1964, 42 U.S.C. §2000e et. seq., as amended, and in support thereof states as follows.

NATURE OF ACTION

This in an action against Defendant, DENNY'S INC., for unlawful sex discrimination (sexual harassment). Valerie Yerrick, a female, was sexually harassed by a co-worker and the harassment persisted despite Ms. Yerrick's complaints to the Defendant. As a result of the sexual harassment and the Defendant's failure to take prompt, remedial action, the conditions of Ms. Yerrick's employment were so intolerable that she was forced to resign her position.

The legal basis for this action is Title VII of the Federal C'vil Rights Act of 1964, 42 U.S.C. 2000e, et. seq., as amended ("Title VII"). Plaintiff seeks equitable relief and damages.



JURISDICTION AND VENUE

- (1) This court has original jurisdiction over Plaintiff's Title VII claim under 28 U.S.C. §§ 1331 and 1343(3) and (4).
- (2) The employment practices alleged to be unlawful were and are now being committed within the jurisdiction of the United States District Court for the Middle District of Florida, Orlando Division.
- (3) Plaintiff is a citizen of the State of Florida and resides in Broward County, Florida. At the time of the unlawful employment practices alleged herein, Plaintiff was a resident and citizen of Orange County, Florida.
- (4) Defendant, DENNY'S INC., has continuously been a California Corporation doing business in the State of Florida and the City of Orlando, and has continuously had at least 15 employees. At all relevant times, Defendant, DENNY'S, INC., has continuously been an employer engaged in an industry affecting commerce within the meaning of Sections 701(b), (g) and (h) of Title VII 42 U.S.C. §§ 2000e (b) (g) and (h).

CONDITIONS PRECEDENT

- (5) Plaintiff filed a timely charge of discrimination with the EEOC relating to the Defendant's discriminatory acts alleged herein.
- (6) Plaintiff has exhausted her administrative remedies required by 42 U.S.C. 2000e, and otherwise fulfilled all prerequisites to bringing this action.

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- (7) Plaintiff re-alleges and incorporates paragraph 1 through 6 above as if specifically alleged herein.
- (8) This is a claim for sexual harassment against Defendant, DENNY'S INC. On or about March 1998, Defendant DENNY'S engaged in unlawful employment practices at its Orlando, Florida Store, in violation of 703(a)(1) of Title VII, 42 U.S.C. §2000e-2(a) which included the following:
 - a. Valerie Yerrick was regularly subjected to vulgar language, abusive behavior and sexual remarks of a personal nature by a co-worker. Moreover, Valerie Yerrick was subjected to unwelcome physical sexual contact because of her sex which was sufficiently severe and pervasive to affect the terms and conditions of her employment and to create an intimidating, hostile and offensive work environment. Ms. Yerrick made it known to her co-worker that such conduct was unwelcome. Defendant employer failed to take prompt remedial action when it knew or should have known of the sexual harassment. Defendant is liable for the behavior Ms. Yerrick was subjected to during her employment.
 - b. On or about September 1998 Ms. Yerrick was forced to resign her position as a waitperson because the conditions of her employment were so intolerable (due to the persistent harassment by Ms. Yerrick's co-worker because of her sex and Defendants failure to take prompt, remedial action) that a reasonable person in her shoes would have been compelled to resign.

- (9) The effect of the practices complained of in paragraph 8 above has been to deprive Valerie Yerrick of equal employment opportunities and otherwise adversely affect her status as an employee because of her sex.
- (10) The unlawful employment practices complained of in paragraph 8 above were intentional.
- (11) The unlawful employment practices complained of in paragraph 8 above were done with malice or with reckless indifference to the federally protected rights of Valerie Yerrick.

PRAYER FOR RELIEF

(12) The Civil Rights Act of 1964, as amended at 42 U.S.C. 2000e-5, provides for declaratory judgement, injunctive, affirmative and equitable relief to include an award for back pay and reinstatement and for attorney's fees. The Civil Rights Act of 1991, 42 U.S.C. 1981a, further provides for the award of compensatory and punitive damages.

WHEREFORE Plaintiff demands trial by jury and requests this Court to

- (A) Declare the Defendant has unlawfully discriminated against Plaintiff in violation of Title VII of the Civil Rights Act of 1964;
 - (B) Issue an Order prohibiting further discrimination;
- (C) Order Defendant, DENNY'S, INC., to make whole Valerie Yerrick by providing appropriate back pay with pre-judgement interest, in amounts to be determined at trial and other affirmative relief necessary to erraticate the effects of its unlawful employment practices including but not limited to reinstatement and/or front pay, restoration of benefits and positive future employment references for Valerie Yerrick;

- (D) Order Defendant, DENNY'S, INC., to make whole Valerie Yerrick by
- providing compensation for past and future pecuniary losses resulting from the unlawful

employment practices described in Paragraph 8 above, including but not limited to, out of

pocket losses, medical expenses, job search expenses, and relocation expenses, in

amounts to be determined at trial;

(E) Order Defendant, DENNY'S, INC., to make whole Valerie Yerrick by

providing compensation for past and future non-pecuniary losses resulting from the

unlawful employment practices complained of in Paragraph 8 above including but not

limited to, emotional pain, suffering, inconvenience, humiliation and loss of enjoyment of

life, in amounts to be determined at trial;

(F) Order Defendant, DENNY'S, INC., to pay Valerie Yerrick punitive damages

for its malicious and reckless conduct described in Paragraph 8 above in amounts to be

determined at trial;

- (G) Grant such further relief as the Court deems necessary and proper;
- (H) Award Plaintiff, VALERIE YERRICK, her costs, and attorney's fees incurred

in this action.

JURY TRIAL DEMAND

Plaintiff demands a trial by jury for all counts on all triable issues.

Respectfully submitted,

Florida Bar No. 0134694

Attorney for Plaintiff

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been served via fax (305) 536-4494 and U.S. Mail to Gedety N. Serralta, Esquire, Equal Employment Opportunity Commission, Miami District Office, Attorneys for Plaintiff EEOC, at One Biscayne Tower, 2 South Biscayne Blvd., Suite 2700, Miami, FL 33131 and Cynthia J. Brennan, Holland & Knight LLP, 200 S. Orange Ave., Suite 2600, P. O. Box 1526, Orlando, FL 32801 this 24^{+6} day of 32000.

Jason L. Gunter, Esq.

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