# IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW JERSEY

Renee C. Vidal (RCV-7259)
Tara M. Mosier (TAM-4343)
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FILED

AUG 2 2 2003

AT 8:30 M WILLIAM T. WALSH CLERK

Leighanne Reynolds and Paula Bobo
EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,

Attorneys for Eileen Horner, Danelle Horner, Dayna Horner,

Plaintiff,

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CIVIL ACTION NO. 1:03CV02796(RBK)

FOODCRAFTERS DISTRIBUTION COMPANY, TROPICAL PLANT CARRIERS, INC., and LITTLE BROWNIE PROPERTIES, INC. Defendants,

and

EILEEN HORNER, DANELLE HORNER (n/k/a Danelle Morgan), DAYNA HORNER, LEIGHANNE REYNOLDS and PAULA BOBO

Plaintiffs.

v.

FOODCRAFTERS DISTRIBUTING COMPANY, TROPICAL PLANT CARRIERS, INC., TRANSYSTEMS, INC., LITTLE BROWNIE PROPERTIES, INC., JOHN P. BROWN, ROBERT ROCHE, PETER WOOD, AL AVILA, MICHAEL ALFANO; ABC Corporations 1-10 being fictitious business entities yet unidentified; JANE/JOHN DOES 1-10 being fictitious

Defendants.

individuals not yet identified.

COMPLAINT AND JURY DEMAND

Plaintiffs, Eileen Horner, Danelle Horner, n/k/a Danelle Morgan, Dayna Horner, Leighanne Reynolds and Paula Bobo, by their attorneys Curcton Caplan, P.C., hereby file this complaint alleging unequal pay, sexual harassment, discrimination, retaliation and related causes of action against Foodcrafters Distributing Company ("Foodcrafters"), Tropical Plant Carriers, Inc. ("TPC"), Little Brown Properties, Inc. ("LBP"), Transystems, Inc. ("Transystems") and ABC Corporations being fictitious business entities yet unidentified (collectively referred to as the "Entity Defendants") and against John P. Brown, Robert Roche, Peter Wood, Al Avila, Michael Alfano and Jane/John Does 1-10, being fictitious individuals not yet identified as aiders and abettors of the discriminatory actions of the Entity Defendants; Plaintiff Dayna Horner's discrimination claim also constitutes a violation of the Equal Pay Act. All of the Plaintiffs allege that they were subjected to a sexually and racially hostile work environment which included repeated crude, indecent sexual comments, sex jokes, sexual advances and unwanted touching, racially charged comments and that defendants created such a sexually and racially hostile work environment that they were forced to resign.

#### **PARTIES**

- 1. Plaintiff Eileen Horner is a female individual who resides at 303 North Arthur Drive, Edgewater Park, New Jersey 08010. She was employed by Foodcrafters, TPC, and/or LBP as an Office/Customer Service Manager between September 2000 through March 2002.
- 2. Plaintiff Danelle Horner n/k/a Danelle Morgan ("Danelle Horner") is a female individual who resides at 303 North Arthur Drive, Edgewater Park, New Jersey 08010. She was employed by Foodcrafters, TPC, and/or LBP in the customer service office between October 2000 through April 2002.

- 3. Plaintiff Dayna Horner is a female individual who resides at 303 North Arthur Drive, Edgewater Park, New Jersey 08010. She was employed by Foodcrafters, TPC, and/or LBP in the customer service office between September 2001 through April 2002.
- 4. Plaintiff Leighanne Reynolds ("Reynolds") is a female individual who resides at 1611 Albert Street, Hainesport, New Jersey, 08036. She was employed by Foodcrafters, TPC, and/or LBP in the customer service office between February 2002 through May 2002.
- 5. Plaintiff Paula Bobo ("Bobo") is a female individual who resides at 171 Washington Street, Mount Holly, New Jersey 08060. She was employed by Foodcrafters, TPC, and/or LBP in the customer service office between February 2001 through May 2002.
- 6. Defendant Foodcrafters Distributing Company ("Foodcrafters") is a for-profit company with its principal place of business located at 1350 Sheeler Road, Apopka, Florida 32703.
- 7. Defendant Foodcrafters also has offices and operates a location at 8192 National Highway, Pennsauken, New Jersey 08110.
- 8. Defendant Tropical Plant Carriers, Inc. ("TPC") is a for-profit company with its principal place of business located at 1350 Sheeler Road, Apopka, Florida 32703.
- 9. Defendant Little Brown Properties, Inc. ("LBP") is a for-profit company with its principal place of business is located at 1350 Sheeler Road, Apopka, Florida 32703.
- 10. Defendant Transystems, Inc. ("Transystems") is a for-profit company that is a subsidiary of LBP and a related entity to TPC with a principal place of business located at 1350 Sheeler Road, Apopka, Florida 32703.
- 11. Defendants ABC Corporations are yet unidentified business entities that are responsible for the discrimination against plaintiffs and/or the sexually and racially hostile work environment to which plaintiffs were submitted.

- 12. Defendant Robert Roche ("Roche") is a sharcholder and the President of Fooderafters and the general manager of TPC and was formerly the vice-president of sales for TPC and maintains a business office at 1350 Sheeler Road, Apopka, Florida.
- 13. Defendant Peter Wood ("Wood") is a shareholder and vice-president of Foodcrafters, the vice-president and chief financial officer of LBP, the chief executive officer of Transystems and maintains a business office at 1350 Sheeler Road, Apopka, Florida.
- 14. Defendant John P. Brown ("Brown") is a shareholder and assistant secretary of Foodcrafters, the vice-president and chief executive officer of LBP and maintains a business office at 1350 Sheeler Road, Apopka, Florida.
- 15. Defendant Michael Alfano ("Alfano") was the General Manager of Foodcrafters and maintains a business office at 1350 Sheeler Road, Apopka, Florida.
- 16. Defendant Al Avila ("Avila") was the Terminal Manager of Foodcrafters' Pennsauken location and maintained a business office at 8192 National Highway, Pennsauken, New Jersey 08110.
- 17. Defendants Jane/John Does 1-10 are fictitious names of individuals who are liable for the discriminatory conduct and hostile work environment that remain yet unidentified.
- 18. Foodcrafters, TPC, Transystems and LBP, collectively operate as a single integrated enterprise. Accordingly, the Entity Defendants are all liable for the acts of discrimination committed by any one of them.
- 19. Defendants have common ownership and common management as evidenced by the fact that many of the same individuals comprise the management team of each company:
  - a. John E. Brown is the Chief Executive Officer of Foodcrafters, the President and sole owner of LBP, and the secretary and treasurer of TPC.

- b. John P. Brown, the son of John E. Brown, is one of three owners of Foodcrafters. He is currently the assistant secretary of Foodcrafters. In 2000, he was the President of LBP, in 2001 and currently he is the Vice-President and chief executive officer of that company. He is also an officer of Transystems.
- c. Diane Ludwig, the daughter of John E. Brown, is President of LBP and President of TPC.
- d. Linda Roche, also a daughter of John E. Brown, is the secretary and treasurer of LBP. She is also the comptroller of Little Brownie Brokers, another related entity. She is also an officer of Transystems.
- e. Robert Roche, Linda Roche's husband, is an owner and the President of Foodcrafters and the General Manager of TPC. He was also the vice president of sales of TPC until 1999.
- f. Peter Wood is a shareholder and Vice President of Foodcrafters, the Vice President and Chief Financial Officer of LBP and the Chief Financial Officer of Transystems.
- 20. Defendants' operations are interrelated:
  - a. Defendants' share a common address at 1350 Sheeler Road, Apopka, Florida 32703.
    - b. Defendants share common management.
    - c. Defendants are commonly owned.
  - d. The paychecks issued to the employees of Foodcrafters are labeled "Foodcrafters Distributing Co/TPC, 1350 Sheeler Road, Apopka, Florida 32703."
  - e. Defendants have one centralized human relations department located at its Apopka, Florida location.
  - For all human relations issues, the employees at Foodcrafters' New Jersey offices are directed to contact Defendants' Apopka, Florida location.
- 21. As Office/Customer Service Manager at Foodcrafters' Pennsauken location, Eileen Horner was the direct supervisor of each of the other Plaintiffs as well as a number of other employees from time to time.
- 22. Eileen Horner's immediate supervisor was Alfano; Horner was required to report directly to Alfano.

Filed 08/22/2003

- 23. Eileen Homer also reported to and was required to work closely with Avila.
- 24. Throughout the course of Plaintiffs' employment with Foodcrafters, contrary to law, Defendants had no employee handbook or discrimination policy. Nor did any of the Defendants provide Plaintiffs any information or training related to harassment or discrimination. Thus, Defendants are strictly liable for any sexual harassment occurring in their workplace, and have no defense to Plaintiffs' claims.

# JURISDICTION AND VENUE

- 25. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 1331, 1343 and 1367, 29 U.S.C. § 206(d)(1) and 42 U.S.C. §§2000e-5(f)(1) and (3) and supplemental jurisdiction over Plaintiff's state law claims pursuant to 28 U.S.C. §1367. Jurisdiction is also invoked pursuant to 28 U.S.C. § 1332(a), as the Plaintiffs and Defendants are citizens of different states and the amount in controversy for each Plaintiff exceeds \$75,000.00, exclusive of interest and costs.
- 26. All jurisdictional prerequisites to the filing of a claim pursuant to Title VII of the Civil Rights Act of 1964 have been met, to wit:
- Plaintiffs filed a Charge of Discrimination alleging hostile environment based on sex, and discrimination based upon sex.
- 28. On March 26, 2003, the EEOC issued a finding of probable cause and filed an action against Foodcrafters, TPC and LBP on June 11, 2003 in the United States District Court for the District of New Jersey.
- 29. Venue lies in this Court pursuant to 28 U.S.C. § 1391(b) and 42 U.S.C. §2000e-5(f)(1) and (3).

### INTRODUCTORY STATEMENT

30. Defendants employed each Plaintiff in the customer service office at Foodcrafters' Pennsauken operation. Defendants subjected each Plaintiff while employed there to a discriminatory environment because of their sex. With respect to one or more of the Plaintiffs, Defendants paid lower wages than male employees, required Plaintiffs to work longer hours, gave them less favorable methods of compensation, and gave them less desirable positions and duties. In addition, Defendants condoned and tolerated a workplace plagued with unwanted sexual advances and touching, and derogatory, degrading and intimidating sexual comments and jokes. One high-ranking officer of Entity Defendants went so far as to describe Defendants as "just a man's company." Defendants also subjected Plaintiffs to a racially hostile environment rampant with epithets designed to degrade and intimidate because of race, color and/or national origin. This continuous pattern of discriminatory treatment to which Plaintiffs were subjected forced Eileen Horner, Danelle Horner, Dayna Horner, Reynolds and Bobo to resign.

#### GENERAL ALLEGATIONS

31. Plaintiffs incorporate the averments of all preceding allegations of this Complaint as though fully set forth herein.

#### Defendants Created a Sexually Hostile Work Environment

- 32. As Terminal Manager of Foodcrafters, Avila held a supervisory position at Foodcrafters' Pennsauken location. Avila engaged in unlawful conduct which led directly to the creation of a sexually charged and hostile working environment for Plaintiffs. Examples of Avila's sexually charged and sexually offensive conduct and comments include:
  - a. Regularly commenting that Reynolds was wearing tight jeans and staring at her buttocks as she walked by him. On one occasion, he put the telephone down in the middle of a conversation to stare at her buttocks.

- b. Telling Danclle Horner that she looked sexy in shorts and that it was going to be a long hot summer if she kept wearing shorts.
- c. Frequently making sexually charged comments about women in general.
- d. Subjecting the Plaintiffs and other employees to his sexually offensive conduct by repeatedly making sexual advances and physically touching another female employee, including staring at her breasts, commenting on her breasts and caressing her shoulders.
- c. Regularly commenting that women usually deserve getting smacked around because they have a way of pushing men's buttons and announcing that women needed to be kept in their place. On one occasion, a driver had beaten and thrown urine on his girlfriend in the Foodcrafter's parking lot. Avila laughed at the situation, saying, that the woman had gotten a "golden shower," but "not the right way," that she probably deserved the beating because "she was trash anyway," and that she probably beat herself up to blame her boyfriend.
- f. Criticizing Reynolds, referring to her as a "waste," a "dumb blonde," and a "moron." He also told her that she "looked trashy" when discussing paperwork prepared the prior day.
- g. Regularly commenting that women are only good for one thing sex.
- h. Commenting that because his wife was older than him and went to bed at 9:00 p.m., he had to release his tension with other women, often commenting that he did not "get it anymore."
- 33. The dock manager, Ken Brandt ("Brandt"), also subjected each of the Plaintiffs to repeated unwelcome sexual comments and propositions. Examples of Brandt's sexist remarks and hostile behavior towards the Plaintiffs include:

- a. Repeatedly telling Eileen Horner that she looked sexy, that her jeans looked good, and that she had a great body for a 45 year-old woman.
- b. Staring at Eileen Horner's buttocks while making sexually offensive comments.
- c. Proudly telling Eileen Horner, in response to her inquiry about whether he ever spoke about non-sexual things, "no, I live for sex." He constantly talked about getting "laid" by both his wife and girlfriends.
- d. Propositioning Reynolds to go home with him, dance on the pool table for him, and strip for him.
- e. Telling Reynolds and Bobo that if he had \$200.00 in his pocket, he would give it all to Reynolds to see her dance.
  - f. Repeatedly commenting on his sex life to the Plaintiffs and others.
- g. Telling Danelle Horner that he wanted Danelle to pull down her pants and sit on his face.
- h. Commenting to Dayna Horner after she made a comment that she would "hit" Brandt if he continued bringing her additional work, "Ooh baby, you're getting me aroused, don't make any promises you can't keep. Don't leave me hanging like that." Dayna Horner was 16 years old at the time.
- Telling Danelle and Dayna Horner that he did not care whether hugging them was sexual harassment, and hugged them both tightly, pressing his body into theirs.
- 34. William Walker, a dock worker, also contributed to the hostile work environment. On one occasion, he grabbed Dayna Horner, who was only 16 years old at the time, hugged her, kissed her hand, and told her that she looked good.

- 35. Upper management actively participated in the creation of a hostile work environment with inappropriate sex-based comments. Examples of sexually charged comments and conduct of management include:
  - a. Alfano telling a female co-worker that he would "talk to [her] in 28 days" because she was "on the same cycle as [his] wife."
  - b. Alfano repeatedly commenting to Danelle Horner and others that she needed breast implants and stating that he would start a collection to raise money for her to have the procedure.
  - c. Alfano caressing Danelle Homer's feet despite her protests for him to stop.
  - d. Alfano making a sports bet with Danelle Horner, telling her that if he won, she had to wear the jersey of the team for whom he rooted — and nothing else.
  - e. Alfano responding to Danelle Horner's request for a raise by telling her that she could get anything she wanted if she slept with "Johnny" Brown, one of Defendants' owners, because he "liked his women."
  - f. Failure of all upper management to set in place appropriate policies and procedures for preventing or remediating sexual harassment in the workplace, and failing to consider Plaintiffs' complaints of harassment.
- 36. Defendants also engaged in discriminatory employment practices that created a hostile working environment. Examples of such conduct includes:
  - a. Avila instructing Eileen Homer that she was to hire female employees based on their breast size, hair color and figure.
  - b. Avila advising Eileen Horner to hire an attractive Italian woman with large breasts and large lips because the woman's large lips would be good for oral sex.

- c. Hiring a woman with no trucking experience for an assistant dispatcher position because she had large breasts and "made for great scenery."
- 37. Plaintiffs Danelle Horner, Dayna Horner, Bobo and Reynolds regularly complained to Eileen Horner, Avila and Alfano about the unwanted sexual advances and sex-based comments.
- 38. Eileen Horner regularly complained to Alfano about Avila's sexual advances and sex-based jokes and comments directed at Plaintiffs and towards his discriminatory and degrading comments about women in general. Eileen Horner also complained to Avila and Alfano about the sexually charged conduct and comments of other male employees. Alfano generally responded by laughing or with statements such as "boys will be boys." He often said nothing. Avila once responded that because she was employed at a trucking company, she should accept the sexually charged atmosphere.

### Defendants Discriminated Against Eileen Horner Based on Sex

- 39. Defendants required Eileen Horner to work longer hours than her male counterparts and paid her on less favorable terms than her male counterparts.
- 40. Alfano consistently required Eileen Horner, a salaried manager, to work 50 or more hours per week without overtime pay. Yet, Defendants only required that a male salaried manager work less hours per week. Eileen Horner complained to Alfano about the disparity in working hours between herself and the male manager on several occasions to no avail.
- 41. Eileen Horner then requested from Defendants that she be paid hourly. Defendants denied her request because she was a manager, which, according to Alfano, was a salaried position.
  - 42. Defendants then paid another male manager at an hourly rate.
- 43. Eileen Horner complained to Alfano and Avila about her hours and pay in relation to these male managers. Alfano and Avila responded that it was not her concern and took no

remedial action. Avila also responded that "this is a man's company," a statement that he repeatedly made to Eileen Horner.

44. An upper level female employee reiterated the phrase "this is a man's company" and similar phrases to Eileen Horner, stating that she was treated differently than her male colleagues "because I don't have a d— between my legs. This is a man's company", "if you are a woman, you will always get blamed" and "you can't get anywhere in this company as a woman."

#### Defendants Discriminated Against Danelle Horner Based on Sex

- 45. In September 2001, Foodcrafters employed Danelle Horner as a part-time employee. In November 2001, a full-time customer service position became available. Despite Danelle Horner's interest in the full-time position, Alfano told her that she could not apply for the position because her mother, Eileen Horner, was the customer service manager. Alfano took this position even though the company previously permitted Danelle Horner to work as a full-time customer representative from October 2000 through August 2001.
- 46. At that time, there was no company policy regarding the hiring of family members as evidenced by the fact that other family members worked together for Defendants.
- 47. In December 2001, a full-time dispatch position became available. Danelle Horner asked to apply for the position. Avila told her that she could not apply because she was a woman and women are not "geographically inclined."
- 48. Immediately after, another female employee asked Avila if she could apply for the position. Avila told her that she could not have the position because she was a woman and he put his hand up saying "I am not getting into this."
- 49. Danelle Horner complained to Alfano, who agreed with Avila, and added that the drivers would not like taking orders from a woman.
  - 50. Defendants hired a male to fill the full-time dispatch position.

- 51. When the male who had been hired for the full-time dispatch position guit a few weeks later, Danelle Horner again asked Defendants if she could apply for the position; Defendant denied her the opportunity for a second time. Defendants hired another male for the position.
- 52. Danelle Horner complained to shareholders of the company, Robert Roche and Peter Wood. Roche told Danelle Horner that he would train her for the position if she was willing to "cross the fence." Roche never trained Danelle Horner for the position and no further investigation or action was taken.

# Dayna Horner was Paid Less Than Similarly Situated Male Employees

- 53. Dayna Horner was hired by the entity defendants in 2001 as a part time customer service representative earning \$7.00 per hour.
  - 54. In March 2002, Dayna Horner received a pay raise to \$8.25 per hour.
- 55. Dayna Homer was told that because she was a high school student, \$8.25 was the highest hourly rate that Entity Defendants would pay even though the established part-time rate was \$9.50 per hour.
- 56. The Entity Defendants also employed a male employee, Donald Kennedy, in the customer service office part-time. Kennedy performed substantially the same work as Dayna Horner. Kennedy was also a high-school student. The Entity Defendants paid Kennedy \$9.50 per hour from the commencement of his employment with the customer service office.
- 57. Dayna Horner complained to Avila and Alfano about the disparity in pay. Avila ignored Dayna Horner's complaints on two separate occasions. Alfano responded that Kennedy's rate of pay was unrelated to her rate of pay and changed the subject.

# <u>Defendants Discriminated and Created a Hostile Work Environment Based on</u> Race, Color and/or National Origin

- 58. Defendants' employees and supervisors contaminated the Foodcrafters' office with racially offensive jokes and comments. Defendants condoned this illegal behavior. Examples of offensive comments based on race, color and/or national origin include:
  - a. Avila and Brandt repeatedly making race-based jokes in the presence of Reynolds, a Caucasian woman who has a son who is part African-American and part American-Indian after discovering the race/color of her son.
  - b. Avila and Brandt repeatedly stating that Reynolds would become romantically involved only with black men.
  - c. Brandt commenting that they needed to keep Reynolds off the dock and away from an African American employee because she would be salivating. Avila made similar comments.
  - d. Brandt commenting "How do you stop a black man from raping a woman? Throw him a basketball."
  - e. A driver asking for a female African-American employee, by referring to her as the "big assed black mama," and then commenting to Bobo that she had "a black woman's ass that would be good for f---ing doggie style" while making an obscene hand gesture to indicate sexual movements.
  - f. Avila commenting that "all of the black people look alike, so you can just piece together any body parts," referring to the September 11, 2001 terrorist attacks.
  - g. Avila commenting that the September 11 tragedy was "no big loss" because mostly foreigners were killed and that the event will teach "those foreigners" not to come over here.

- h. Avila stating that the September 11 tragedy was a "good thing" because foreigners came to the United States and "wiped out their own people."
- 59. Fileen Horner and Reynolds complained about the racially offensive comments, but no remedial action was taken.
- 60. In addition to the racially charged comments, Defendants' employment practices contributed to the racially-charged work environment. Examples of race-based employment practices include:
  - a. Avila instructing Eileen Horner that she could not hire African-American women because they "stink" and he did not want to work with "them" or train "them."
  - b. Avila refusing to hire an African-American woman even though she was qualified for a position. When Eileen Horner complained to Alfano about the situation, Alfano laughed and responded "he said that?"
- 61. Prior to learning that Reynolds' son was part African-American, Avila doted over her. He offered her help with her work and assured her that if she needed anything else, to let him know.
- 62. After learning of her son's race, Avila's treatment of and attitude towards Reynolds changed. Avila intentionally gave Reynolds wrong answers to her questions or refused to answer her questions altogether.
  - 63. Avila told Eileen Horner that Reynolds was "dumber than dirt and to "shitcan" her.
- 64. When Eileen Horner questioned Avila about his statement, he simply laughed in response. Avila was unable to provide Eileen Horner with any specific complaint regarding Reynolds' work performance.
- 65. Eileen Horner complained to Alfano about Avila's racist attitude. Alfano responded that he did not realize that Avila was prejudiced.

# COUNT I

# Hostile Work Environment Based on Sex in Violation of the New Jersey Law Against Discrimination, N.J. S.A. 10:5-1 ct, seq.

- 66. Plaintiffs incorporate the averments of all preceding allegations of this Complaint as though fully set forth herein.
- 67. Defendants subjected each Plaintiff to a hostile work environment plagued by offensive and unwanted touching and derogatory, degrading and sexist remarks.
- 68. The cumulative effect of Defendants' repeated, crude, and indecent comments, coupled with the unwanted touching and sexual advances directed at Plaintiffs were so severe and pervasive as to make reasonable women in the Plaintiffs' position believe that the conditions of employment were altered and the work environment was hostile and/or abusive.
- 69. The work environment consisted of frequent sexually charged comments and conduct, much of which was directed at Plaintiffs and caused a sexually hostile work environment that was unreasonable and unhealthy for the Plaintiffs. Plaintiffs were forced to resign from their employment between March 2002 through May 2002.
- 70. As a result of the aforesaid sexually hostile work environment and other discriminatory conduct, Plaintiffs have suffered emotional distress, inconvenience, loss of enjoyment of life and other emotional damages.
- 71. Defendants have responsibility for the discriminatory conduct that occurred in the workplace.
- 72. Defendants knew or should have known about the discriminatory conduct, yet failed to take prompt and effective remedial actions.
- 73. Defendants conduct was intentional and malicious and in wanton and willful disregard of the rights of others.

74. Defendants discriminated against Plaintiffs in the terms and conditions of their employment in violation of the New Jersey Law Against Discrimination, N.J. S.A. 10:5-1 et. seq.

WHEREFORE. Plaintiffs demand judgment against all Defendants for lost wages and benefits, front pay, compensatory and punitive damages, plus costs, interest, attorney's fees and such other relief as the Court deems just and proper.

### COUNT II

## Discrimination on the Basis of Sex Against Eileen Horner in Violation of the New Jersey Law Against Discrimination, N.J. S.A. 10:5-1 et. seq.

- 75. Plaintiffs incorporate the averments of all preceding allegations of this Complaint as though fully set forth herein.
  - 76. Defendants discriminated against Eileen Horner because of her sex.
- 77. Defendants treated Eileen Horner less favorably in her terms and conditions of employment than similarly situated male employees by paying her on less favorable terms and requiring her to work more hours.
- 78. Defendants have responsibility for the discriminatory conduct that occurred in the workplace.
- 79. Defendants knew or should have known about the discriminatory conduct, yet failed to take prompt and effective remedial actions.
- 80. Defendants conduct was intentional and malicious and in wanton and willful disregard of the rights of others.
- 81. The disparate treatment to which Defendants have subjected Fileen Homer is in violation of the New Jersey Law Against Discrimination, N.J. S.A. 10:5-1 et. seq.

WHEREFORE, Plaintiff, Eileen Horner, demands judgment against all Defendants for lost wages and benefits, front pay, compensatory and punitive damages, plus costs, interest, attorney's fees and such other relief as the Court deems just and proper.

#### COUNT III

# Discrimination on the Basis of Sex Against Danelle Horner in Violation of the New Jersey Law Against Discrimination, N.J. S.A. 10:5-1 et. seq.

- 82. Plaintiffs incorporate the averments of all preceding allegations of this Complaint as though fully set forth herein.
  - 83. Defendants discriminated against Danelle Horner because of her sex.
- 84. Defendants treated Danelle Horner less favorably in the terms and conditions of her employment by refusing to consider her qualifications for a position and filling the position with men.
- 85. Defendants have responsibility for the discriminatory conduct that occurred in the workplace.
- 86. Defendants knew or should have known about the discriminatory conduct, yet failed to take prompt and effective remedial actions.
- 87. Defendants conduct was intentional and malicious and in wanton and willful disregard of the rights of others.
- 88. The disparate treatment to which Defendants have subjected Danclle Horner is in violation of the New Jersey Law Against Discrimination, N.J. S.A. 10:5-1 et. seq.

WHEREFORE, Plaintiff, Danelle Horner, demands judgment against all Defendants for lost wages and benefits, front pay, compensatory and punitive damages, plus costs, interest, attorney's fees and such other relief as the Court deems just and proper.

#### COUNT IV

## Discrimination on the Basis of Sex Against Dayna Horner in Violation of the New Jersey Law Against Discrimination, N.J. S.A. 10:5-1 et. seq.

89. Plaintiffs incorporate the averments of all preceding allegations of this Complaint as though fully set forth herein.

- 90. Defendants discriminated against Dayna Homer on the basis of sex.
- 91. Defendants treated Dayna Homer less favorably in the terms and conditions of employment in that Defendants paid Dayna Horner less favorably than similarly situated male employees.
- 92. Defendants have responsibility for the discriminatory conduct that occurred in the workplace.
- 93. Defendants knew or should have known about the discriminatory conduct, yet failed to take prompt and effective remedial actions.
- 94. Defendants conduct was intentional and malicious and in wanton and willful disregard of the rights of others.
- 95. The disparate treatment to which Defendants have subjected Dayna Horner is in violation of the New Jersey Law Against Discrimination, N.J. S.A. 10:5-1 et. seq.

WHEREFORE, Plaintiff, Dayna Horner, demands judgment against all Defendants for lost wages and benefits, front pay, compensatory and punitive damages, plus costs, interest, attorney's fees and such other relief as the Court deems just and proper.

#### COUNT V

# Hostile Work Environment Based on Race, Color, and/or National Origin as to Leighanne Reynolds in Violation of the New Jersey Law Against Discrimination, N.J. S.A. 10:5-1 et. seq.

- 96. Plaintiffs incorporate the averments of all preceding allegations of this Complaint as though fully set forth herein.
- 97. Defendants subjected Reynolds to a hostile environment based on race, color, and/or national origin.
- 98. The cumulative effect of the discriminatory and hostile environment created and condoned by Defendants created a racially hostile work environment that was so severe and

pervasive as to make reasonable women in the Plaintiffs' position believe that the conditions of employment were altered and the working environment was hostile and/or abusive.

- 99. The work environment consisted of frequent racially charged comments and conduct, much of which was directed at Plaintiff Reynolds and caused a racially hostile work environment that was unreasonable and unhealthy for Plaintiff Reynolds. Plaintiff Reynolds was forced to resign from her employment between March 2002 through May 2002.
- 100. Defendants have responsibility for the discriminatory conduct that occurred in the workplace.
- 101. Defendants knew or should have known about the discriminatory conduct, yet failed to take prompt and effective remedial actions.
- 102. Defendants discriminated against Plaintiffs in the terms and conditions of their employment.
- 103. Defendants conduct was intentional and malicious and in wanton and willful disregard of the rights of others.
- 104. The hostile work environment to which Defendants have subjected Reynolds is in violation of the New Jersey Law Against Discrimination, N.J. S.A. 10:5-1 et. seq.

WHEREFORE, Plaintiff, Reynolds, demands judgment against all Defendants for lost wages and benefits, front pay, compensatory and punitive damages, plus costs, interest, attorney's fees and such other relief as the Court deems just and proper.

#### COUNT VI

# Discrimination on the Basis of Race, Color, and/or National Origin Against Leighanne Reynolds in Violation of the New Jersey Law Against Discrimination, N.J. S.A. 10:5-1 et. seq.

105. Plaintiffs incorporate the averments of all preceding allegations of this Complaint as though fully set forth herein.

- 106. Defendants discriminated against Reynolds because of race, color and/or national origin.
- Defendants treated Reynolds less favorably in the terms and conditions of her employment after discovering that her son was of African American and American Indian descent by reprimanding her, refusing to answer her questions and treating her less favorably than other employees.
- 108. Defendants have responsibility for the discriminatory conduct that occurred in the workplace.
- 109. Defendants knew or should have known about the discriminatory conduct, yet failed to take prompt and effective remedial actions.
- 110. Defendants conduct was intentional and malicious and in wanton and willful disregard of the rights of others.
- 111. The disparate treatment to which Defendants have subjected Reynolds is in violation of the New Jersey Law Against Discrimination, N.J. S.A. 10:5-I et. seq.

WHEREFORE, Plaintiff, Reynolds, demands judgment against all Defendants for lost wages and benefits, front pay, compensatory and punitive damages, plus costs, interest, attorney's fees and such other relief as the Court deems just and proper.

#### **COUNT VII**

# Constructive Discharge in Violation of the New Jersey Law Against Discrimination, N.J. S.A. 10:5-1 et. seq.

- Plaintiffs incorporate the averments of all preceding allegations of this Complaint as though fully set forth herein.
  - 113. Defendants knowingly permitted an intimidating, hostile and offensive workplace.

- The continuous pattern of discriminatory treatment to which Defendants subjected Plaintiffs was so intolerable that Eileen Horner, Danelle Horner, Dayna Horner, Reynolds and Bobo were forced to resign.
- 115. Defendants forced resignation of Plaintiffs is in violation of the New Jersey Law Against Discrimination, N.J. S.A. 10:5-1 et. seq.

WHEREFORE, Plaintiffs demands judgment against all Defendants for lost wages and benefits, front pay, compensatory and punitive damages, plus costs, interest, attorney's fees and such other relief as the Court deems just and proper.

#### **COUNT VIII**

# Aiding and Abetting by Richard Roche, John P. Brown, Peter Wood, Al Avila and Michael Alfano in Violation of the New Jersey Law Against Discrimination, N.J. S.A. 10:5-1 et. seq.

- 116. Plaintiffs incorporate the averments of all preceding allegations of this Complaint as though fully set forth herein.
- Defendants Roche, Brown, Wood, Avila and Alfano aided and abetted the entity defendants in discriminating against Plaintiffs because of sex, race, color and/or national origin and in the creation of a work environment that was hostile on the basis of sex, race, color and/or national origin.
- 118. Defendants Roche, Brown, Wood, Avila and Alfano knew or should have known of the discriminatory environment that was permitted to exist.
- 119. Defendants Roche, Brown, Wood, Avila and Alfano knew or should have known about Plaintiffs complaints of discrimination and the hostile work environment, but failed to take prompt, effective remedial action.
- 120. Defendants Avila and Alfano participated in direct acts of discrimination and participated in the creation of a hostile work environment.

- 121. Defendants Roche, Brown, Wood, Avila and Alfano substantially assisted the entity defendants in discriminating against Plaintiffs and creating a hostile work environment.
- Defendants have responsibility for the discriminatory conduct that occurred in the workplace as aiders and abettors.
- 123. Defendants conduct was intentional and malicious and in wanton and willful disregard of the rights of others.
- Defendants Roche, Brown, Wood, Avila and Alfano's conduct in aiding and abetting the discriminatory conduct of the Entity Defendants is in violation of the New Jersey Law Against Discrimination, N.J. S.A. 10:5-1 et. seq.

WHEREFORE, Plaintiffs demand judgment against all Defendants for lost wages and benefits, front pay, compensatory and punitive damages, plus costs, interest, attorney's fees and such other relief as the Court deems just and proper.

## COUNT IX

# Violation of the Equal Pay Act, 29 U.S.C. §206(d)(1)

- 125. Plaintiffs incorporate the averments of all preceding allegations of this Complaint as though fully set forth herein.
- 126. Entity Defendants paid male employees more than Dayna Horner for substantially equal work.
- 127. Entity Defendants' conduct of paying Donald Kennedy the \$9.50 per hour for part-time employment while refusing to do so for Dayna Horner is in violation of the Equal Pay Act, 29 U.S.C. §206(d)(1).

WHEREFORE, Plaintiff, Dayna Horner, demands judgment against all Defendants for lost wages and benefits, and liquidated damages, plus costs, interest, attorney's fees and such other relief as the Court deems just and proper.

### **COUNT X**

# <u>Discrimination on the Basis of Sex in Violation of Title VII of the Civil</u> <u>Rights Act of 1964, as Amended</u>

- 128. Plaintiffs incorporate the averments of all preceding allegations of this Complaint as though fully set forth herein.
- As set forth above, Plaintiffs suffered severe and pervasive discrimination on the basis of their sex that detrimentally affected the terms and conditions of their employment, including repeated, crude, and indecent comments, coupled with the unwanted touching and sexual advances directed at Plaintiffs.
- 130. Plaintiffs were subjected to a hostile work environment. Entity Defendants had responsibility for the discriminatory actions taken in the workplace by Plaintiffs' supervisors and co-workers.
- 131. The discrimination to which Plaintiffs were subjected was so severe and pervasive as to detrimentally affect reasonable women in Plaintiffs' positions.
- 132. Entity Defendants discriminatory conduct is in violation of Title VII or the Civil Rights Act of 1964, 42 U.S.C. §2000e, as amended by 42 U.S.C. §1981a.
- 133. Entity Defendants discriminated against Plaintiffs with malice and reckless indifference to their rights.

WHEREFORE, Plaintiffs demand judgment against all Entity Defendants for lost wages and benefits, front pay, compensatory and punitive damages, plus costs, interest, attorney's fees and such other relief as the Court deems just and proper.

### COUNT XI

# Discrimination on the Basis of Sex Against Eileen Horner in Violation of Title VII of the Civil Rights Act of 1964, as Amended.

- 134. Plaintiffs incorporate the averments of all preceding allegations of this Complaint as though fully set forth herein.
- 135. Entity Defendants treated Fileen Horner less favorably in her terms and conditions of employment than similarly situated male employees by paying her on less favorable terms and requiring her to work more hours.
- 136. Entity Defendants have responsibility for the discriminatory conduct that occurred in the workplace.
- 137. Entity Defendants knew or should have known about the discriminatory conduct, yet failed to take prompt and effective remedial actions.
- 138. Entity Defendants discriminated against Plaintiff Eileen Horner with malice and reckless indifference to their rights.
- 139. Entity Defendants discrimination on the basis of sex is in violation of Title VII or the Civil Rights Act of 1964, 42 U.S.C. §2000e, as amended by 42 U.S.C. §1981a.

WHEREFORE, Plaintiff, Eileen Horner, demands judgment against Entity Defendants for lost wages and benefits, front pay, compensatory and punitive damages, plus costs, interest, attorney's fees and such other relief as the Court deems just and proper.

# COUNT XII

# <u>Discrimination on the Basis of Sex Against Danelle Horner</u> <u>in Violation of Title VII of the Civil</u> <u>Rights Act of 1964, as Amended.</u>

140. Plaintiffs incorporate the averments of all preceding allegations of this Complaint as though fully set forth herein.

- 141. Entity Defendants treated Danelle Horner less favorably in the terms and conditions of her employment by refusing to consider her qualifications for a position and filling the position with men.
- 142. Entity Defendants have responsibility for the discriminatory conduct that occurred in the workplace.
- 143. Entity Defendants knew or should have known about the discriminatory conduct, yet failed to take prompt and effective remedial actions.
- 144. Entity Defendants discriminated against Plaintiff Danelle Horner with malice and reckless indifference to their rights.
- 145. Entity Defendants discrimination on the basis of sex is in violation of Title VII or the Civil Rights Act of 1964, 42 U.S.C. §2000e, as amended by 42 U.S.C. §1981a.

WHEREFORE, Plaintiff, Danelle Horner, demands judgment against Entity Defendants for lost wages and benefits, front pay, compensatory and punitive damages, plus costs, interest, attorney's fees and such other relief as the Court deems just and proper.

# **COUNT XIII**

# <u>Discrimination on the Basis of Sex Against Dayna Horner</u> <u>in Violation of Title VII of the Civil</u> <u>Rights Act of 1964, as Amended.</u>

- 146. Plaintiffs incorporate the averments of all preceding allegations of this Complaint as though fully set forth herein.
  - 147. Entity Defendants discriminated against Dayna Horner on the basis of sex.
- 148. Entity Defendants treated Dayna Homer less favorably in the terms and conditions of in that Defendants paid Dayna Homer less favorably than similarly situated male employees.

- 149. Entity Defendants have responsibility for the discriminatory conduct that occurred in the workplace.
- 150. Entity Defendants knew or should have known about the discriminatory conduct, yet failed to take prompt and effective remedial actions.
- 151. Entity Defendants discriminated against Plaintiff Dayna Horner with malice and reckless indifference to their rights.
- 152. Entity Defendants discrimination on the basis of sex is in violation of Title VII or the Civil Rights Act of 1964, 42 U.S.C. §2000e, as amended by 42 U.S.C. §1981a.

WHEREFORE, Plaintiff, Dayna Horner, demands judgment against Entity Defendants for lost wages and benefits, front pay, compensatory and punitive damages, plus costs, interest, attorney's fees and such other relief as the Court deems just and proper.

### **COUNT XIV**

# Discrimination Against Reynolds on the Basis of Race, Color and/or National Origin in Violation of Title VII of the Civil Rights Act of 1964, as Amended

- 153. Plaintiffs incorporate the averments of all preceding allegations of this Complaint as though fully set forth herein.
- 154. As set forth above, Plaintiff Reynolds suffered severe and pervasive discrimination on the basis of race, color and/or national origin that detrimentally affected the terms and conditions of her employment, including repeated, race based comments, hostile treatment and refusal by supervisors to assist her.
- 155. Plaintiff was subjected to a hostile work environment and disparate treatment because of her association with her son, a part African American, part American Indian individual.
- 156. Entity Defendants had responsibility for the discriminatory actions taken in the workplace by Plaintiff's supervisors and co-workers.

- 157. The discrimination to which Plaintiff Reynolds was subjected was so severe and pervasive as to detrimentally affect reasonable women in Plaintiff's positions.
- 158. Entity Defendants discriminatory conduct is in violation of Title VII or the Civil Rights Act of 1964, 42 U.S.C. §2000e, as amended by 42 U.S.C. §1981a.
- 159. Entity Defendants discriminated against Plaintiff with malice and reckless indifference to their rights.
- 160. WHEREFORE, Plaintiff, Reynolds, demands judgment against Entity Defendants for lost wages and benefits, front pay, compensatory and punitive damages, plus costs, interest, attorney's fees and such other relief as the Court deems just and proper.

Dated: August 21, 2003

RENEE C. VIDAL TARA A. MOSIER CURETON CAPLAN, P.C. 950B Chester Avenue Delran, NJ 08075

#### JURY DEMAND

Plaintiffs demand a trial by jury with respect to all issues raised in this action.

Dated: August 21, 2003

RENEE C. VIDAL TARA A. MOSIER CURETON CAPLAN, P.C. 950B Chester Avenue Delran, NJ 08075