1 A. LUIS LUCERO, JR., REGIONAL ATTORNEY KATHRYN OLSON, SUPERVISORY TRIAL ATTORNEY 2 DAMIEN A. LEE, SENIOR TRIAL ATTORNEY EQUAL EMPLOYMENT OPPORTUNITY COMMISSION 909 FIRST AVENUE, SUITE 400 3 SEATTLE, WA 98104 TEL: (206) 220-6918 4 FAX: (206) 220-6915 5 Damien.Lee@eeoc.gov 6 7 8 UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF WASHINGTON 9 10 **EQUAL EMPLOYMENT** CIVIL NO. OPPORTUNITY COMMISSION, 11 Plaintiff, **COMPLAINT** v. 12 JURY TRIAL DEMAND HARBOR FREIGHT TOOLS USA,

INC., d/b/a HARBOR FREIGHT 13

**TOOLS** Defendant.

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#### 16 NATURE OF THE ACTION

This is an action under Title VII of the Civil Rights Act of 1964 ("Title VII") and Title I of the Civil Rights Act of 1991 to correct unlawful employment practices on the basis of sex and to provide appropriate relief to Sandy Bernhardt and a group of similarly situated female employees ("the class") who were adversely affected by such practices. The Equal Employment Opportunity Commission alleges that Defendant Harbor Freight Tools USA, Inc., d/b/a Harbor Freight Tools ("Defendant") subjected Ms. Bernhardt and the class to a sexually hostile work environment. The EEOC further alleges Defendant discharged Ms. Bernhardt based on her sex. Plaintiff seeks injunctive and monetary relief, including pecuniary and nonpecuniary compensatory damages and punitive damages, on behalf of Ms. Bernhardt and the class.

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# JURISDICTION AND VENUE

- 1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 451,1331,1337, 1343 and 1345. This action is authorized and instituted pursuant to sections 706(f)(1) and (3) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §§ 2000e-5(f)(1) and (3) ("Title VII"), and Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981a.
- 2. The employment practices alleged to be unlawful were and are committed within the jurisdiction of the United States District Court for the Western District of Washington.

# **PARTIES**

- 3. Plaintiff, the Equal Employment Opportunity Commission (the "Commission"), is the agency of the United States of America charged with the administration, interpretation and enforcement of Title VII and is expressly authorized to bring this action by Sections 706(f)(1) and (3) of Title VII, as amended, 42 U.S.C. §§ 2000e-5(f)(1) and (3).
- 4. At all relevant times, Defendant has continuously been a corporation doing business in the State of Washington and has continuously had at least 15 employees.
- 5. At all relevant times, Defendant has continuously been an employer engaged in an industry affecting commerce within the meaning of Sections and Sections 701(b), (g) and (h) of Title VII, 42 U.S.C. §§ 2000e(b), (g) and (h).
- 6. Prior to institution of this lawsuit, the Commission's representatives attempted to eliminate the unlawful employment practices alleged below and to effect voluntary compliance with Title VII through informal methods of conciliation, conference and persuasion within the meaning of Section 706(b) of Title VII, 42 U.S.C. § 2000e-5(b).

#### STATEMENT OF CLAIMS

7. More than thirty days prior to the institution of this lawsuit, Sandy Bernhardt filed a charge of discrimination with the Commission alleging violations of Title VII by Defendant. All conditions precedent to the institution of this lawsuit have been fulfilled.

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- 8. Since at least May 21, 2001, Defendant has engaged in unlawful employment practices at its facility in Everett, Washington in violation of Section 703(a) of Title VII, 42 U.S.C. § 2000e-2(a). Defendant affected the terms and conditions of Ms. Bernhardt's and the class members' employment by subjecting them to ongoing sexual harassment. This included both gender-based and sexual conduct and comments that Defendant failed to remedy. Further, Defendant discharged Ms. Bernhardt because of her sex.
- 9. The effect of the practice(s) complained of in paragraph 8 above has been to deprive Ms. Bernhardt and class members of equal employment opportunities and otherwise adversely affect their status as employees because of their sex.
- 10. The unlawful employment practices complained of in paragraph 8 above were and are intentional.
- 11. The unlawful employment practices complained of in paragraph 8 above were and are done with malice or with reckless indifference to the federally protected rights of Ms. Bernhardt and the other class members.

### PRAYER FOR RELIEF

Wherefore, the Commission respectfully requests that this Court:

- A. Grant a permanent injunction enjoining Defendant and its officers, agents, successors, assigns, and all persons in active concert or participation with it, from engaging in any employment practices that discriminate on the basis of sex.
- B. Order Defendant to institute and carry out policies, practices and programs which provide equal employment opportunities for women and which eradicate the effects of its past and present unlawful employment practices.
- C. Order Defendant to make whole Ms. Bernhardt and all other class members by providing appropriate back pay with prejudgment interest, in amounts to be proved at trial, and other affirmative relief necessary to eradicate the effects of its unlawful employment practices.

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1	JURY TRIAL DEMAND	
2	The Commission requests a j	ury trial on all questions of fact raised by its complaint.
3	DATED this 29th	day of, 2004.
4	A. LUIS LUCERO, JR.	
5	Regional Attorney	ERIC S. DREIBAND General Counsel
<ul><li>6</li><li>7</li><li>8</li></ul>	KATHRYN OLSON Supervisory Trial Attorney  DAMIEN A. LEE Senior Trial Attorney	JAMES L. LEE Deputy General Counsel GWENDOLYN YOUNG REAMS
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