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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION,

Plaintiff,

vs.

COLLEGEVILLE/ IMAGINEERING, a
Delaware Limited Partnership, and
RUBIE'S COSTUME COMPANY,
INC., a New York corporation,

Defendants.

Case No. CV05-3033-PHX-DGC

FIRST AMENDED COMPLAINT

(Jury Trial Demanded)

NATURE OF THE ACTION

This is an action under Title VII of the Civil Rights Act of 1964, as amended, and Title I of the Civil Rights Act of 1991 to correct unlawful employment practices on the basis of sex and retaliation, and to provide appropriate relief to Linda Honer, Rosa Limon, Linda Avalos, and a class of women who were adversely affected by such practices during their employment by Collegeville/ Imagineering LP ("Collegeville") and Rubie's Costume Co., Inc. ("Rubie's"), as joint employers and/or an integrated enterprise. The Commission alleges that Linda Honer and a class of women were subjected to unwelcome sexual comments and conduct by Defendants' employees, which created a

1 hostile work environment because of their sex, female. The Commission also alleges that
2 Defendants subjected Ms. Honer and a class of women to retaliatory acts, including
3 reassignment of job duties and threats of disciplinary action, because they opposed the
4 unlawful employment practices of Defendants. As a result of Defendants' conduct, the
5 conditions of Ms. Honer's employment were made so intolerable that she was forced to
6 resign her position.

7 **JURISDICTION AND VENUE**

8 1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 451, 1331,
9 1337, 1343 and 1345. This action is authorized and instituted pursuant to Section
10 706(f)(1) and (3) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C.
11 §2000e-5 (f)(1) and(3) ("Title VII") and Section 102 of the Civil Rights Act of 1991, 42
12 U.S.C. §1981a.

13 2. The employment practices alleged to be unlawful were committed within
14 the jurisdiction of the United States District Court for the District of Arizona.

15 **PARTIES**

16 3. Plaintiff, the Equal Employment Opportunity Commission (the
17 "Commission"), is the agency of the United States of America charged with the
18 administration, interpretation and enforcement of Title VII, and is expressly authorized to
19 bring this action by Sections 706(f)(1) and (3) of Title VII, 42 U.S.C. §2000e-5(f)(1) and
20 (3).

21 4. At all relevant times, Defendant Collegeville, a Delaware limited
22 partnership, has continuously been doing business in the State of Arizona, including the
23 City of Phoenix, and has continuously had at least 15 employees.

24 5. At all relevant times, Defendant Collegeville has continuously been an
25 employer engaged in an industry affecting commerce within the meaning of Sections
26 701(b), (g) and (h) of Title VII, 42 U.S.C. §§ 2000e(b), (g) and (h).

27 6. At all relevant times, Defendant Rubie's, a New York corporation, has
28

1 continuously been doing business in the State of Arizona, including the City of Phoenix,
2 and has continuously had at least 15 employees.

3 7. At all relevant times, Defendant Rubie's has continuously been an employer
4 engaged in an industry affecting commerce within the meaning of Sections 701(b), (g)
5 and (h) of Title VII, 42 U.S.C. §§ 2000e(b), (g) and (h).

6 **STATEMENT OF CLAIMS**

7 8. More than thirty days prior to the institution of this lawsuit, Linda Honer
8 filed a charge with the Commission alleging violations of Title VII by Defendant
9 Collegeville. All conditions precedent to the institution of this lawsuit have been
10 fulfilled.

11 9. More than thirty days prior to the institution of this lawsuit, Linda Honer
12 filed a charge with the Commission alleging violations of Title VII by Defendant Rubie's.
13 All conditions precedent to the institution of this lawsuit have been fulfilled.

14 **FIRST CLAIM: SEXUAL HARASSMENT**

15 10. Since at least April 1999, Defendant Collegeville has engaged in unlawful
16 employment practices at its Phoenix, Arizona facility in violation of Section 703(a) of
17 Title VII, 42 U.S.C. §§2000e-2(a). These practices include the harassment of Linda
18 Honer and a class of women because of their sex, female, which created a hostile work
19 environment

20 11. Since at least April 1999, Defendant Rubie's has engaged in unlawful
21 employment practices at its Phoenix, Arizona facility in violation of Section 703(a) of
22 Title VII, 42 U.S.C. §§2000e-2(a). These practices include the harassment of Linda
23 Honer and a class of women because of their sex, female, which created a hostile work
24 environment.

25 **SECOND CLAIM: RETALIATION**

26 12. Since at least May 2002, Defendant Collegeville has engaged in unlawful
27 retaliatory employment practices at its Phoenix, Arizona facility in violation of 704(a) of
28

1 Title VII, 42 U.S.C. §§2000e-3(a). These retaliatory employment practices include
2 subjecting Linda Honer and a class of women to adverse terms, conditions, and privileges
3 of employment and threats of disciplinary action after they expressed opposition to and
4 made complaints about unlawful employment practices.

5 13. Since at least May 2002, Defendant Rubie's has engaged in unlawful
6 retaliatory employment practices at its Phoenix, Arizona facility in violation of 704(a) of
7 Title VII, 42 U.S.C. §§2000e-3(a). These retaliatory employment practices include
8 subjecting Linda Honer and a class of women to adverse terms, conditions, and privileges
9 of employment and threats of disciplinary action after they expressed opposition to and
10 made complaints about unlawful employment practices.

11 **THIRD CLAIM: CONSTRUCTIVE DISCHARGE**

12 14. Because of the unlawful employment practices described in paragraphs 10
13 and 12 above, Linda Honer reasonably believed she had no choice but to resign her
14 employment and was constructively discharged by Defendant Collegeville in violation of
15 section 703(a) of Title VII, 42 U.S.C. § 2000e-2(a).

16 15. The unlawful employment practices described in paragraphs 11 and 13
17 above caused Linda Honer to be constructively discharged by Defendant Rubie's in
18 violation of section 703(a) of Title VII, 42 U.S.C. § 2000e-2(a).

19 **FOURTH CLAIM: REPORTING VIOLATION**

20 16. Since at least 2002, Defendant Collegeville has failed to comply with the
21 reporting requirements of 29 C.F.R. § 1602.7 in violation of 42 U.S.C. § 2000e-8(c).
22 Defendant Collegeville has never filed Standard Form 100, as revised (otherwise known
23 as "Employer Information Report EEO-1").

24 17. Since at least 2002, Defendant Rubie's has failed to comply with the
25 reporting requirements of 29 C.F.R. § 1602.7 in violation of 42 U.S.C. § 2000e-8(c).
26 Defendant Rubie's has never filed Standard Form 100, as revised (otherwise known as
27 "Employer Information Report EEO-1").
28

18. The effect of the practices complained of in paragraphs 10, 12, and 14 above has been to deprive Linda Honer and a class of women of equal employment opportunities and otherwise adversely affect their status as employees, because of their sex, female.

19. The effect of the practices complained of in paragraphs 11, 13, and 15 above has been to deprive Linda Honer and a class of women of equal employment opportunities and otherwise adversely affect their status as employees because of their opposition to unlawful employment practices.

20. The unlawful employment practices complained of in paragraphs 10 through 17 above were intentional.

21. The unlawful employment practices complained of in paragraphs 10 through 15 above were done with malice and/or with reckless indifference to the federally protected rights of Linda Honer and a class of women.

PRAYER FOR RELIEF

Wherefore, the Commission respectfully requests that this Court:

A. Grant a permanent injunction enjoining Defendant Collegeville, its officers, successors, assigns, and all persons in active concert or participation with it, from engaging in the harassment of employees because of sex and any other employment practice which discriminates on the basis of sex.

B. Grant a permanent injunction enjoining Defendant Rubie's, its officers, successors, assigns, and all persons in active concert or participation with it, from engaging in the harassment of employees because of sex and any other employment practice which discriminates on the basis of sex.

C. Grant a permanent injunction enjoining Defendant Collegeville, its officers, successors, assigns, and all persons in active concert or participation with it, from engaging in any employment practice which discriminates or retaliates against any individual because of the individual's opposition to perceived unlawful employment

1 practices and/or because the individual filed a charge, testified, assisted, or participated in
2 an investigation or proceeding under Title VII.

3 D. Grant a permanent injunction enjoining Defendant Rubie's, its officers,
4 successors, assigns, and all persons in active concert or participation with it, from
5 engaging in any employment practice which discriminates or retaliates against any
6 individual because of the individual's opposition to perceived unlawful employment
7 practices and/or because the individual filed a charge, testified, assisted, or participated in
8 an investigation or proceeding under Title VII.

9 E. Order Defendant Collegeville to institute and carry out policies, practices,
10 and programs which provide equal employment opportunities for women and those who
11 oppose unlawful employment practices and/or file charges, testify, assist or participate in
12 an investigation or proceeding under Title VII, and which eradicate the effects of its past
13 and present unlawful employment practices.

14 F. Order Defendant Rubie's to institute and carry out policies, practices, and
15 programs which provide equal employment opportunities for women and those who
16 oppose unlawful employment practices and/or file charges, testify, assist or participate in
17 an investigation or proceeding under Title VII, and which eradicate the effects of its past
18 and present unlawful employment practices.

19 G. Order Defendant Collegeville to make whole Linda Honer and a class of
20 women, by providing appropriate backpay with prejudgment interest, in amounts to be
21 determined at trial, and other affirmative relief necessary to eradicate the effects of its
22 unlawful employment practices, including, but not limited to, reinstatement.

23 H. Order Defendant Rubie's to make whole Linda Honer and a class of
24 women, by providing appropriate backpay with prejudgment interest, in amounts to be
25 determined at trial, and other affirmative relief necessary to eradicate the effects of its
26 unlawful employment practices, including, but not limited to, reinstatement.

27 I. Order Defendant Collegeville to make whole Linda Honer and a class of
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1 women, by providing compensation for past and future pecuniary losses resulting from
2 the unlawful employment practices described in paragraphs 10, 12 and 14 above, in
3 amounts to be determined at trial.

4 J. Order Defendant Rubie's to make whole Linda Honer and a class of
5 women, by providing compensation for past and future pecuniary losses resulting from
6 the unlawful employment practices described in paragraphs 11, 13, and 15 above, in
7 amounts to be determined at trial.

8 K. Order Defendant Collegeville to make whole Linda Honer and a class of
9 women, by providing compensation for past and future nonpecuniary losses resulting
10 from the unlawful practices complained of in paragraphs 10, 12, and 14 above, including
11 but not limited to emotional pain, suffering, inconvenience, mental anguish, loss of
12 enjoyment of life, and humiliation, in amounts to be determined at trial

13 L. Order Defendant Rubie's to make whole Linda Honer and a class of
14 women, by providing compensation for past and future nonpecuniary losses resulting
15 from the unlawful practices complained of in paragraphs 11, 13, and 15 above, including
16 but not limited to emotional pain, suffering, inconvenience, mental anguish, loss of
17 enjoyment of life, and humiliation, in amounts to be determined at trial.

18 M. Order Defendant Collegeville to pay Linda Honer and a class of women
19 punitive damages for its malicious and reckless conduct described in paragraphs 10, 12,
20 and 14 above, in amounts to be determined at trial.

21 N. Order Defendant Rubie's to pay Linda Honer and a class of women punitive
22 damages for its malicious and reckless conduct described in paragraphs 11, 13, and 15
23 above, in amounts to be determined at trial.

24 O. Order Defendant Collegeville to comply with the reporting requirements of
25 42 U.S.C. § 2000e-8(c) as set forth by 29 C.F.R. § 1602.7.

26 P. Order Defendant Rubie's to comply with the reporting requirements of 42
27 U.S.C. § 2000e-8(c) as set forth by 29 C.F.R. § 1602.7.
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1 Q. Grant such further relief as the Court deems necessary and proper in the
2 public interest.

3 R. Award the Commission its costs of this action

4 **JURY TRIAL DEMAND**

5 The Commission requests a jury trial on all questions of fact raised by its
6 complaint.

7 Respectfully submitted,

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9 Deputy General Counsel

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Associate General Counsel

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