

ORIGINAL

1 ANNA Y. PARK, CA SBN 164242
 2 U.S. EQUAL EMPLOYMENT
 3 OPPORTUNITY COMMISSION
 255 East Temple Street, 4th Floor
 4 Los Angeles, CA 90012
 Telephone: (213) 894-1083
 Facsimile: (213) 894-1301

5 CONNIE LIEM, TX SBN 791113
 6 U.S. EQUAL EMPLOYMENT
 OPPORTUNITY COMMISSION
 401 B Street, Suite 510
 7 San Diego, CA 92101
 Telephone: (619) 557-7284
 8 Facsimile: (619) 557-7274

9 Attorneys for Plaintiff
 10 EQUAL EMPLOYMENT
 OPPORTUNITY COMMISSION

11 **UNITED STATES DISTRICT COURT**
 12 **DISTRICT OF NEVADA**
 13

14 EQUAL EMPLOYMENT
 15 OPPORTUNITY COMMISSION,)

16 Plaintiff,)

17 v.)

18 MGM MIRAGE, MANDALAY
 19 CORP., and MANDALAY BAY
 20 RESORT GROUP, collectively
 d/b/a Mandalay Bay Resort &
 Casino,)

21 Defendants.)
 22

CASE NO.: CV-S-05-1101-PMP-PAL

**FIRST AMENDED
 COMPLAINT- CIVIL RIGHTS
 EMPLOYMENT
 DISCRIMINATION**
 (42 U.S.C. §§ 2000e, *et seq.*)

JURY TRIAL DEMAND

23
 24 **NATURE OF THE ACTION**

25 This is an action under Title VII of the Civil Rights Act of 1964, as
 26 amended, and Title I of the Civil Rights Act of 1991 ("Title VII") to correct
 27 unlawful employment practices on the basis of sex, female, and unlawful
 28 retaliation against employees who engaged in protected activities in violation of

FILED -- RECEIVED
 -- ENTERED -- SERVED ON
 COUNSEL / PARTIES OF RECORD

2005 DEC 23 A 11: 16

CLERK OF DISTRICT COURT
 DISTRICT OF NEVADA

BY: [Signature] CLERK

1 Title VII. Plaintiff United States Equal Employment Opportunity Commission
 2 (“Commission”) alleges that Defendants MGM Mirage, Mandalay Corporation,
 3 and Mandalay Bay Resort Group (collectively referred to as “Defendants”)
 4 subjected Charging Party Orasa Benpard (“Benpard”) to a hostile work
 5 environment on the basis of sex, female in violation of Section 703(a) of Title VII.
 6 The Commission further alleges that Defendant subjected Charging Parties Xu
 7 Mei (“Mei”), Jinchang Deng (“Deng”), Yin-Fong Hui-Lai (“Hui-Lai”), Hong Situ
 8 (“Situ”) and other similarly situated individuals to retaliation in violation of
 9 Section 704(a) of Title VII for opposing the sex discrimination against Benpard
 10 and engaging in other protected activities.

11 JURISDICTION AND VENUE

12 1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 451,
 13 1331, 1337, 1343 and 1345.

14 2. This action is authorized and instituted pursuant to Section 706(f)(1)
 15 and (3) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §
 16 2000e-5(f)(1) and (3) (“Title VII”) and Section 102 of Title I of the Civil Rights
 17 Act of 1991, 42 U.S.C. § 1981a.

18 3. The employment practices alleged to be unlawful were committed
 19 within the jurisdiction of the United States District Court for the District of
 20 Nevada.

21 PARTIES

22 4. Plaintiff, Equal Employment Opportunity Commission, is the federal
 23 agency charged with the administration, interpretation and enforcement of Title
 24 VII, and is expressly authorized to bring this action by Section 706(f)(1) and (3) of
 25 Title VII, 42 U.S.C. § 2000e-5(f)(1) and (3).

26 5. At all relevant times, Defendant MGM Mirage, a Delaware
 27 corporation, has been continuously doing business within the jurisdiction of the
 28 United States District Court for the District of Nevada. MGM Mirage is the parent

1 corporation of Defendants Mandalay Resort Group and Mandalay Corporation.

2 6. At all relevant times, Defendant Mandalay Corporation, a Nevada
3 corporation and a wholly-owned subsidiary of Defendant MGM Mirage, has been
4 continuously doing business within the jurisdiction of the United States District
5 Court for the District of Nevada.

6 7. At all relevant times, Defendant Mandalay Resort Group, a Nevada
7 corporation and a wholly-owned subsidiary of Defendant MGM Mirage, has been
8 continuously doing business within the jurisdiction of the United States District
9 Court for the District of Nevada.

10 8. At all relevant times, all Defendants have continuously employed
11 fifteen (15) or more persons. At all relevant times, all Defendants have
12 continuously engaged in an industry affecting commerce within the meaning of
13 Sections 701(b), (g) and (h) of Title VII, 42 U.S.C. §§ 2000e(b), (g) and (h).

14 15 STATEMENT OF CLAIMS

16 9. More than thirty days prior to the institution of this lawsuit, Benpard,
17 Mei, Deng, Hui-Lai, and Situ filed charges with the Commission alleging
18 violations of Title VII by Defendants. The Commission investigated and issued a
19 Letter of Determination finding that Benpard was subjected to a hostile work
20 environment on the basis of sex, female. The Commission also investigated and
21 issued Letters of Determination finding that Mei, Deng, Hui-Lai, Situ, and other
22 similarly situated individuals were subjected to a hostile work environment and/or
23 disparate treatment in retaliation for having opposed the sexual harassment against
24 Benpard and for engaging in protected activities. All conditions precedent to the
25 institution of this lawsuit have been fulfilled.

26 10. Since at least March 2003, Defendants have engaged in unlawful
27 employment practices at the Las Vegas facility, known as Mandalay Bay Resort &
28 Casino, in violation of Section 703(a) of Title VII, 42 U.S.C. §2000e-2(a)(1) by

1 subjecting Benpard to a hostile work environment on the basis of sex, female.
2 The sexual harassment that Benpard was subjected to includes, but is not limited
3 to, unwanted touching, intimidation, and leering.

4 11. Since at least March 2003, Defendants have engaged in unlawful
5 employment practices at its Las Vegas facility, known as Mandalay Bay Resort &
6 Casino, in violation of Section 704(a) of Title VII, 42 U.S.C. §2000e-3(a) by
7 retaliating against Mei, Deng, Hui-Lai, Situ and other similarly-situated
8 individuals for having engaged in protected activities, including opposing the
9 sexual harassment. The retaliation against Mei, Deng, Hui-Lai, Situ and other
10 similarly-situated individuals includes, but is not limited to, subjecting them to a
11 hostile work environment and/or disparate terms and conditions of employment,
12 including, but not limited to, written and verbal threats, physical assaults, and
13 vandalism of personal property at the workplace. For example, in retaliation for
14 having engaged in protected activities, Deng was subjected to disparate discipline
15 and subsequently discharged, Situ was subjected to disparate discipline and
16 reduced work hours, and Hui-Lai was subjected to disparate discipline.

17 12. The effect of the practice(s) complained of in paragraphs 10 and 11
18 above has been to deprive Benpard, Mei, Deng, Hui-Lai, Situ, and other similarly-
19 situated individuals of equal employment opportunities and otherwise adversely
20 affect their status as employees, because of sex, female and/or because of having
21 engaged in protected activity under Title VII.

22 13. The unlawful employment practices complained of in paragraphs 10
23 and 11 above were intentional.

24 14. The unlawful employment practices complained of in paragraphs 10
25 and 11 above were done with malice or with reckless indifference to the
26 federally protected rights of Benpard, Mei, Deng, Hui-Lai, Situ and other
27 similarly-situated individuals.

28 15. As a direct and proximate result of Defendants' aforesaid acts,

1 Benpard, Mei, Deng, Hui-Lai, Situ, and other similarly situated individuals have
2 each suffered emotional pain, suffering, inconvenience, loss of enjoyment of life,
3 humiliation and damages, according to proof.

4 16. As a direct and proximate result of Defendants' aforesaid acts, Deng
5 and Situ suffered a loss of earnings in an amount according to proof.

6
7 PRAYER FOR RELIEF

8 Wherefore, the Commission respectfully requests that this Court:

9 A. Grant a permanent injunction enjoining Defendants, their respective
10 officers, successors, assigns, agents, and all persons in active concert or
11 participation with them, from engaging in any employment practice which
12 discriminates on the basis of sex, female;

13 B. Grant a permanent injunction enjoining Defendants, their respective
14 officers, successors, assigns, agents, and all persons in active concert or
15 participation with them, from retaliating against any employee who engages in any
16 protected activity under Title VII;

17 C. Order Defendants to institute and carry out policies, practices, and
18 programs which provide equal employment opportunities and a non-hostile work
19 environment for female employees, and employees who have engaged in
20 protected activity, which eradicate the effects of its past and present unlawful
21 employment practices;

22 D. Order Defendants to make whole Deng and Situ by providing
23 appropriate reinstatement and any back pay with prejudgment interest, front pay in
24 amounts to be determined at trial, and/or other affirmative relief necessary to
25 eradicate the effects of its unlawful employment practices;

26 E. Order Defendants to make whole Benpard, Mei, Deng, Hui-Lai, Situ,
27 and other similarly situated individuals by providing compensation for past and
28 future non-pecuniary losses resulting from the unlawful practices complained of in

1 paragraphs 10 and 11 above, including, but not limited to, emotional pain,
2 suffering, inconvenience, loss of enjoyment of life, and humiliation, in amounts to
3 be determined at trial;

4 F. Order Defendants to pay Benpard, Mei, Deng, Hui-Lai, Situ, and
5 other similarly situated individuals punitive damages for its malicious and reckless
6 conduct described in paragraphs 10 and 11 above, in amounts to be determined at
7 trial;

8 G. Grant such further relief as the Court deems necessary and proper in
9 the public interest; and

10 H. Award the Commission its costs of this action.

11
12 JURY TRIAL DEMAND

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

15
16
17
18 Dated: December 21, 2005

Respectfully Submitted,

19
20 BY: 

21 ANNA Y. PARK
22 Regional Attorney

23 CONNIE LIEM
24 Senior Trial Attorney

25 U.S. EQUAL EMPLOYMENT
26 OPPORTUNITY COMMISSION
27 255 E. Temple Street, 4th Floor
28 Los Angeles, CA 90012

DECLARATION OF MAILING

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.

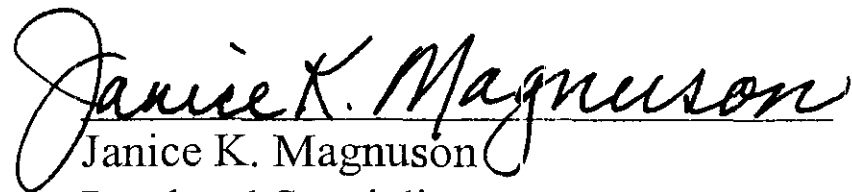
I am employed in the Legal Unit of the Los Angeles District Office of the United States Equal Employment Opportunity Commission. My business address is Equal Employment Opportunity Commission, San Diego Area Office, 401 B Street, Suite 510, San Diego, CA 92101.

On the date that this declaration was executed, as shown below, I served the foregoing **FIRST AMENDED COMPLAINT- CIVIL RIGHTS EMPLOYMENT DISCRIMINATION** in a sealed envelope, fully prepaid, by U. S. Mail at San Diego, County of San Diego, State of California, which was addressed as follows:

Elayna J. Youchah, Esq.
Michael V. Infuso, Esq.
SCHRECK BRIGNONE
300 S. Fourth Street, Suite 1200
Las Vegas, NV 89101

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

Executed on December 21, 2005, at San Diego, California.


Janice K. Magnuson
Paralegal Specialist