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LANCE S. WILSON
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DEPUTY

1 Anna Park, Esquire, SBN 164242
2 Gregory L. McClinton, Esquire, SBN 153553
3 U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
4 255 E. Temple Street, 4th Floor
5 Los Angeles, CA 90012
6 Telephone: (213) 894-1053/Fax (213) 894-1301

7 Attorneys for Plaintiff
8 U.S. EQUAL EMPLOYMENT
9 OPPORTUNITY COMMISSION

UNITED STATES DISTRICT COURT

NEVADA DISTRICT

CV-N-01-0563-HDM-RAM

11 U.S. EQUAL EMPLOYMENT
12 OPPORTUNITY COMMISSION,

13 Plaintiff,

15 v.

16 JOHN BRENNAN, SERGE RIGISICH,
17 d/b/a/ LITTLE WALDORF SALOON,
18 A PARTNERSHIP; ROOKIES, INC.,
19 A NEVADA CORPORATION; and
20 DOES 1-10, Inclusive.

Defendant(s)

CASE NO.

COMPLAINT -
CIVIL RIGHTS
SEXUAL HARASSMENT; SEX BASED
HARASSMENT; RETALIATION

42 U.S.C. §§ 2000e et seq.

DEMAND FOR TRIAL BY JURY

NATURE OF THE ACTION

21 This is a sexual harassment, sex based harassment, and
22 retaliation action brought by the United States Equal Employment
23 Opportunity Commission (the "Commission") under Title VII of the
24 Civil Rights Act of 1964, as amended, to correct unlawful
25 employment practices on the basis of sex and to provide
26 appropriate relief to the Charging Party's, Kimberlee Benson,
27 Diana Smith and a class of similarly situated individuals who
28 were adversely affected by such practices. The Commission

1 alleges Diana Benson and Kimberlee Benson and other similarly
2 situated individuals who are women were sexually harassed and
3 subjected to gender harassment during their employment with
4 Defendants, Little Waldorf Saloon, A Partnership and Rookies, A
5 Nevada Corporation hereafter referred to as ("Defendant
6 Employers"), affecting the terms and conditions of their
7 employment. Charging Parties, Benson, Smith, and other similarly
8 situated individuals were subjected to a hostile work environment
9 perpetuated by owners and supervisors.

10 The Commission also alleges that Benson, Smith and other
11 similarly situated individuals who had complained of the
12 harassment by owners and supervisors were subjected to
13 retaliation in the form of demotion, loss of wages, further
14 harassment, discipline and constructive discharge.

15 JURISDICTION AND VENUE

16 1. Jurisdiction of this Court is invoked pursuant to 28
17 U.S.C. sections 451, 1331, 1337, 1343 and 1345. This action is
18 authorized and instituted pursuant to section §§706(f)(1) and (3)
19 of Title VII of the Civil Rights Act of 1964, as amended, 42
20 U.S.C. §2000e-5(f)(1) and (3) and pursuant to § 102 of the Civil
21 Rights Act of 1991, 42 U.S.C. §§1981A.

22 2. The employment practices alleged herein to be unlawful
23 were committed within the jurisdiction of the United States
24 District Court for the State of Nevada.

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PARTIES

3. Plaintiff Commission is an 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 under §§706(f)(1) and (3) of Title VII, 42 U.S.C., §§ 2000e-5(f)(1) and (3).

4. At all relevant times, "Defendant Employers," have continuously been and are now doing business in the State of Nevada and the Cities of Reno and Incline Village.

5. Plaintiff is ignorant of the true names and capacities of "Defendant Employers," sued as DOES 1 through 10, inclusively, and therefore Plaintiff sue said "Defendant Employers" by such fictitious names. Plaintiff reserves the right to amend the complaint to name the DOE "Defendant Employers" individually or corporately as they become known. Plaintiff alleges that each of the "Defendant Employers" named as DOES was in some manner responsible for the acts and omissions alleged herein and Plaintiff will amend the complaint to allege such responsibility when same shall have been ascertained by Plaintiff.

6. It is further alleged on information and belief that the named and unnamed defendants in the complaint are mere alter egos of the "Defendant Employer". The remaining defendants are properly named in the complaint.

7. All of the acts and failures to act alleged herein were duly performed by and attributable to "Defendant Employers", each acting as a successor, agent, employee or under the direction and control of the others, except as specifically alleged otherwise. Said acts and failures to act were within the scope of such

1 agency and/or employment, and each "Defendant Employers"
2 participated in, approved and/or ratified the unlawful acts and
3 omissions by other "Defendant Employers" complained of herein.
4 Whenever and wherever reference to any act in this Complaint to
5 any act by a defendant employer or "Defendant Employers", such
6 allegations and reference shall also be deemed to mean the acts
7 and failures to act of each "Defendant Employers" acting
8 individually, jointly and/or severally.

9 8. At all relevant times, "Defendant Employers" has
10 continuously been an employer engaged in an industry affecting
11 commerce within the meaning of §§ 701 (b), (g) and (h) of Title
12 VII, 42 U.S.C., §§ 2000e-1(b), (g) and (h) and §§ 11(b), (g), and
13 (h).

14 CONCILIATION

15 9. Prior to institution of this lawsuit, the Commission's
16 representatives attempted to eliminate the unlawful employment
17 practices alleged below and to effect voluntary compliance with
18 Title VII through informal methods of conciliation, conference
19 and persuasion within the meaning of section §§706(f)(1) and (3)
20 of Title VII, 42 U.S. C., §§2000e-5(f)(1) and (3). All
21 conditions precedent to the institution of this lawsuit have been
22 fulfilled.

23 STATEMENT OF CLAIMS

24 10. Since on or about February 2000, "Defendant Employers"
25 has engaged in unlawful employment practices at its facility in
26 Reno, Nevada in violation of §§706(f)(1) and (3) of Title VII, 42
27 U.S. C., §§2000e-5(f)(1) and (3). The unlawful sexual harassment
28 and sex based harassment in the form of verbal harassment

1 directed at Benson, Smith and other similarly situated
2 individualswomen impacted the terms and conditions of their
3 employment and created a hostile working environment at
4 "Defendant Employers." These practices also included the
5 retaliation against constructive termination of the complaining
6 parties and other similarly situated individuals for having
7 complained about the work environment.

8 11. The impact of the aforementioned conduct deprived
9 Benson, Smith and other similarly situated individuals of equal
10 employment opportunities and to otherwise adversely impacted
11 their employment status because of their sex and also in
12 retaliation for engaging in a protected activity.

13 12. The unlawful employment practices complained of above
14 were and are willful within the meaning of §§706(f)(1) and (3) of
15 Title VII, 42 U.S. C., §§2000e-5(f)(1) and (3).

16 13. The unlawful employment practices complained of above
17 were intentional and caused Benson, Smith and other similarly
18 situated individuals to suffer emotional distress.

19 14. "Defendant Employers" has acted with malice or reckless
20 indifference to the federally protected rights of Benson, Smith
21 and other similarly situated individuals by subjecting them to
22 harassment consisting of sexually charged conduct, derogatory
23 statements, obscene and vulgar language. Women were openly
24 called "bitches" "fucking cunts" and "unreliable piece(s) of
25 shit," as well as subjected to other derogatory and obscene
26 statements. When both Charging parties attempted to complain to
27 the owners about the harassment they were threatened with
28 termination. The Charging parties and other similarly situated

1 individuals were also subject to retaliation for engaging in a
2 protected activity resulting in an adverse employment action.

3 PRAYER FOR RELIEF

4 Wherefore, the Commission respectfully requests that this
5 Court:

6 A. Grant a permanent injunction enjoining "Defendant
7 Employers", its officers, successors, assigns and all persons in
8 active concert or participation with them, from engaging in any
9 employment practices that discriminate on the basis of sex or
10 from engaging in unlawful retaliation;

11 B. Grant a permanent injunction enjoining "Defendant
12 Employer," their officers, successors, assigns and all persons in
13 active concert or participation with them, from engaging in any
14 employment practice which discriminates on the basis of sex;

15 C. Order "Defendant Employers" to institute and carry out
16 policies, practices and programs which provide equal employment
17 opportunities for females which eradicate the effects of their
18 past and present unlawful employment practices;

19 D. Grant a judgment requiring "Defendant Employers" to pay
20 Benson, Smith and other similarly situated individuals
21 appropriate back pay, front pay and benefits in an amount to be
22 determined at trial including prejudgment interest;

23 E. Order "Defendant Employers" to make Benson, Smith and
24 other similarly situated individuals whole by providing
25 affirmative relief necessary to eradicate the effects of its
26 unlawful practices including, but not limited to, payment of
27 compensatory damages to Benson, Smith and other similarly
28 situated individuals and/or rightful place employment;

1 F. Order "Defendant Employers" to pay Benson, Smith and
2 other similarly situated individuals punitive damages in an
3 amount to be determined at trial;

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

6 H. Award the Commission its costs in this action.

7 JURY DEMAND

8 The Commission requests a jury trial on all questions of
9 fact raised by its Complaint.

10 Respectfully Submitted By:

11 Nicholas Inzeo, Esquire
12 Acting General Counsel
13 Gwendolyn Reams, Esquire
14 Associate General Counsel

15 U.S. EQUAL EMPLOYMENT
16 OPPORTUNITY COMMISSION
17 1801 "L" Street, N.W.
18 Washington, D.C. 20507

17 Date: 9/25/2001

18 By: 

19 ANNA PARK
20 Regional Attorney

21 LOS ANGELES DISTRICT OFFICE
22 255 E. Temple Street, 4th Fl.
23 Los Angeles, CA 90012
24
25
26
27
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