

ORIGINAL

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 5 U.S. EQUAL EMPLOYMENT  
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7  
 8 UNITED STATES DISTRICT COURT  
 9 NEVADA DISTRICT

10  
 11 U.S. EQUAL EMPLOYMENT )  
 OPPORTUNITY COMMISSION, )

12 )  
 13 Plaintiff, )

14 )  
 15 v. )

16 JOHN BRENNAN, SERGE RIGISICH, )  
 d/b/a/ LITTLE WALDORF SALOON, )  
 17 A PARTNERSHIP; ROOKIES, INC., )  
 A NEVADA CORPORATION; )  
 18 Rookies II, LLC, and )  
 DOES 1-10, Inclusive. )  
 19 Defendant(s)

CASE NO. CV 01-N-01-0563-HDM-RAM

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

42 U.S.C. §§ 2000e et seq.

DEMAND FOR TRIAL BY JURY

20  
 21 NATURE OF THE ACTION

22 This is a sexual harassment, sex based harassment, and  
 23 retaliation action brought by the United States Equal Employment  
 24 Opportunity Commission (the "Commission") under Title VII of the  
 25 Civil Rights Act of 1964, as amended, to correct unlawful  
 26 employment practices on the basis of sex and to provide  
 27 appropriate relief to the Charging Party's, Kimberlee Benson,  
 28 Diana Smith and a class of similarly situated individuals who  
 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, Rookies II, LLC, John Brennan and Serge Rigisch  
5 Individually and d/b/a Little Waldorf Saloon, A Partnership and  
6 Rookies, A Nevada Corporation hereafter referred to as  
7 ("Defendant Employers"), affecting the terms and conditions of  
8 their employment. Charging Parties, Benson, Smith, and other  
9 similarly situated individuals were subjected to a hostile work  
10 environment perpetuated by owners and supervisors.

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

#### 16 JURISDICTION AND VENUE

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

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

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28 ///

PARTIES

1  
2       3.     Plaintiff Commission is an agency of the United States  
3 of America charged with the administration, interpretation and  
4 enforcement of Title VII, and is expressly authorized to bring  
5 this action under §§706(f)(1) and (3) of Title VII, 42 U.S.C., §§  
6 2000e-5(f)(1) and (3).

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

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

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

24       7.     All of the acts and failures to act alleged herein were  
25 duly performed by and attributable to "Defendant Employers", each  
26 acting as a successor, agent, employee or under the direction and  
27 control of the others, except as specifically alleged otherwise.  
28 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 9. It is further alleged on information and belief that the  
15 John Brennan and Serge Rigisich and any unnamed Defendants in the  
16 complaint are mere alter egos of the Defendants, Rookies  
17 Incorporated and/or Rookies II, LLC., The remaining Defendants  
18 are properly named in this complaint.

19 CONCILIATION

20 10. Prior to institution of this lawsuit, the Commission's  
21 representatives attempted to eliminate the unlawful employment  
22 practices alleged below and to effect voluntary compliance with  
23 Title VII through informal methods of conciliation, conference  
24 and persuasion within the meaning of section §§706(f)(1) and (3)  
25 of Title VII, 42 U.S. C., §§2000e-5(f)(1) and (3). All  
26 conditions precedent to the institution of this lawsuit have been  
27 fulfilled.  
28

STATEMENT OF CLAIMS

11. Since on or about February 2000, "Defendant Employers" has engaged in unlawful employment practices at its facility in Reno, Nevada in violation of §§706(f)(1) and (3) of Title VII, 42 U.S. C., §§2000e-5(f)(1) and (3). The unlawful sexual harassment and sex based harassment in the form of verbal harassment directed at Benson, Smith and other similarly situated individual women impacted the terms and conditions of their employment and created a hostile working environment at "Defendant Employers." These practices also included the retaliation against constructive termination of the complaining parties and other similarly situated individuals for having complained about the work environment.

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

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

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

15. "Defendant Employers" has acted with malice or reckless indifference to the federally protected rights of Benson, Smith and other similarly situated individuals by subjecting them to harassment consisting of sexually charged conduct, derogatory

1 statements, obscene and vulgar language. Women were openly  
2 called "bitches" "fucking cunts" and "unreliable piece(s) of  
3 shit," as well as subjected to other derogatory and obscene  
4 statements. When both Charging parties attempted to complain to  
5 the owners about the harassment they were threatened with  
6 termination. The Charging parties and other similarly situated  
7 individuals were also subject to retaliation for engaging in a  
8 protected activity resulting in an adverse employment action.

9 PRAYER FOR RELIEF

10 Wherefore, the Commission respectfully requests that this  
11 Court:

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

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

21 C. Order "Defendant Employers" to institute and carry out  
22 policies, practices and programs which provide equal employment  
23 opportunities for females which eradicate the effects of their  
24 past and present unlawful employment practices;

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

1 E. Order "Defendant Employers" to make Benson, Smith and  
2 other similarly situated individuals whole by providing  
3 affirmative relief necessary to eradicate the effects of its  
4 unlawful practices including, but not limited to, payment of  
5 compensatory damages to Benson, Smith and other similarly  
6 situated individuals and/or rightful place employment;

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

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

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

13 JURY DEMAND

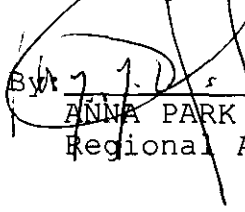
14 The Commission requests a jury trial on all questions of  
15 fact raised by its Complaint.

16 Respectfully Submitted By:

17 Nicholas Inzeo, Esquire  
18 Acting General Counsel  
19 Gwendolyn Reams, Esquire  
20 Associate General Counsel

21 U.S. EQUAL EMPLOYMENT  
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25 Date: 12/14/02

26 By:   
27 ANNA PARK  
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