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FILED
05 SEP -8 AM 10:08

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

E-Filing

Attorneys for Plaintiff Equal Employment Opportunity Commission

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,

Plaintiff,

v.

HARMAN - CHIU, INC., d/b/a/
KFC / TACO BELL,

Defendant.

C

Civil Action No. **05 36157** HRL
COMPLAINT
Civil Rights - Employment
Discrimination
DEMAND FOR JURY TRIAL

NATURE OF THE ACTION

This action is brought pursuant to 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 retaliation and to provide appropriate relief to Charging Party Sandra Vargas ("Charging Party Vargas") and other similarly situated female employees who were adversely affected by such practices. Defendant Harman - Chiu, Inc., d/b/a KFC/Taco Bell ("Harman - Chiu") subjected the Charging Party and similarly situated female employees to unlawful harassment based on their sex, created a hostile work environment based on their sex, and subjected them to retaliation for engaging in protected activity under Title VII, which caused the constructive discharge of many of these females.

JURISDICTION AND VENUE

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

6 2. The employment practices alleged to be unlawful were and are now being
7 committed within the jurisdiction of the United States District Court for the Northern
8 District of California, San Jose division.

9 **INTRADISTRICT ASSIGNMENT**

10 3. This action is appropriate for assignment to San Jose because the unlawful
11 employment practices alleged were and are being committed within Santa Clara
12 County, the employment record relevant to the unlawful practices are located in Santa
13 Clara County, and because Defendant's principal place of business is in Santa Clara
14 County.

15 **PARTIES**

16 4. Plaintiff, the Equal Employment Opportunity Commission
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
19 to bring this action by §706(f)(1) and (3) of Title VII, §2000-e(f)(1) and (3).

20 5. Defendant Harman - Chiu is a California company, doing business in the
21 State of California, in the County of San Joaquin, and has continuously had at least 15
22 employees.

23 6. At all relevant times, Defendant Harman - Chiu has continuously been an
24 employer engaged in an industry affecting commerce, within the meaning of Section
25 701(b), (g) and (h) of Title VII, 42 U.S.C. §2000-e(b), (g) and (h).

26 7. At all relevant times, Defendant Harman - Chiu was the sole employer of
27 Charging Party and similarly situated female employees for purposes of Title VII
28 liability.

STATEMENT OF CLAIMS
CLAIM FOR RELIEF

Violation of Title VII of Civil Rights Act : Sex Discrimination, Sexual Harassment

8. More than thirty days prior to the institution of this lawsuit, Charging Party filed her charge with Plaintiff Commission alleging violations of Title VII by Defendant. All conditions precedent to the institution of this lawsuit have been fulfilled.

9. Since at least August 2002, Defendant has engaged in unlawful practices of sex discrimination in violation §703(a) of Title VII, 42 U.S.C. §2000e-2(a) by subjecting the Charging Party and similarly situated female employees to a sexually hostile, abusive, intimidating and offensive work environment which culminated in tangible employment actions.

10. The effect of the actions complained of in Paragraph 9 above has been to deprive the Charging Party and similarly situated female employees of equal employment opportunities and otherwise adversely affect their status as employees because of their sex.

11. The unlawful employment practices complained of in Paragraph 9 above were intentional.

12. The unlawful employment practices complained of in Paragraph 9 above were done with malice or with reckless indifference to the federally protected rights of the Charging Party and similarly situated female employees.

Violation of Title VII of Civil Rights Act : Retaliation

13. More than thirty days prior to the institution of this lawsuit, Charging Party filed her charge with Plaintiff Commission, alleging violations of Title VII by Defendant. All conditions precedent to the institution of this lawsuit have been fulfilled.

14. Since at least September, 2002 Defendant has engaged in unlawful practices of retaliation, in violation §704(a) of Title VII, 42 U.S.C. §2000e-3(a), by subjecting Charging Party and similarly situated female employees to adverse actions

1 for engaging in protected activity, including reducing their work hours and ultimately
2 wrongfully discharging them.

3 15. The effect of the actions complained of in Paragraph 14 above has been to
4 deprive the Charging Party and similarly situated female employees of equal
5 employment opportunities and has otherwise adversely affected their status as
6 employees because of their protected activity.

7 16. The unlawful employment practices complained of in Paragraph 14 above
8 were intentional.

9 17. The unlawful employment practices complained of in Paragraph 14 above
10 were done with malice or with reckless indifference to the federally protected rights of
11 the Charging Party and similarly situated female employees.

12 **PRAYER FOR RELIEF**

13 Wherefore, the Commission respectfully requests that this Court:

14 A. Grant a permanent injunction enjoining Defendant, its officers, successors,
15 assigns, and all persons acting in concert or participation with Defendant, from
16 engaging in discrimination against its employees including harassment based on sex
17 and retaliation.

18 B. Order Defendant to institute and carry out policies, practices, and
19 programs which prohibit harassment based on sex and retaliation and which eradicate
20 the effects of its unlawful employment practices.

21 C. Order Defendant to make whole Charging Party and similarly situated
22 female employees by providing appropriate back pay and benefits with prejudgment
23 interest, and other affirmative relief necessary to eradicate the effects of its unlawful
24 employment practices, including but not limited to reinstatement and/or front pay and
25 other appropriate relief to be determined at trial.

26 D. Order Defendant to make whole Charging Party and similarly situated
27 female employees harmed by providing compensation for past and future pecuniary
28 losses resulting from the unlawful employment practices complained of above,

1 including but not limited to such out-of-pocket expenses as medical care necessitated by
2 Defendant's unlawful conduct, in amounts to be determined at trial.

3 E. Order Defendant to make whole Charging Party and similarly situated
4 female employees harmed by providing compensation for past and future
5 nonpecuniary losses resulting from the unlawful practices complained of above
6 including, but not limited to emotional pain and suffering, inconvenience, loss of
7 enjoyment of life and humiliation, in amounts to be determined at trial.

8 F. Order Defendant to pay Charging Party and similarly situated female
9 employees harmed by providing punitive damages for the malicious and reckless
10 conduct described above, in amounts to be determined at trial.

11 G. Grant such further relief as the Court may deem just and proper in the
12 public interest.

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

14 **DEMAND FOR JURY TRIAL**

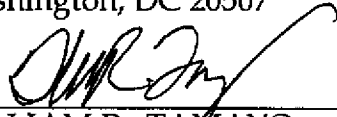
15 Pursuant to the provisions of Federal Rule of Civil Procedure 38(b), Plaintiff
16 hereby demands a jury trial.

17 James L. Lee
18 Deputy General Counsel

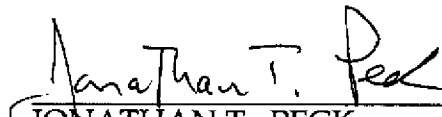
19 Gwendolyn Young Reams
20 Associate General Counsel

21 **Equal Employment Opportunity
22 Commission**
23 1801 L Street, N.W.
24 Washington, DC 20507

23 Date: September 8, 2005


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25 _____
26 WILLIAM R. TAMAYO
27 Regional Attorney

27 Date: Sept. 8, 2005

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30 JONATHAN T. PECK
31 Supervisory Trial Attorney

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Date: Sept 8, 2005


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