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Clerk, U. S. Dist. Court
W. Dist of N. C.

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
STATESVILLE DIVISION

FILED
STATESVILLE, N.C.

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U.S. DISTRICT COURT
W. DIST. OF N.C.

<p>U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION</p> <p>Plaintiff</p> <p>v.</p> <p>FURNITURE DISTRIBUTORS, INC., KIMBRELL'S OF STATESVILLE, N.C., INC. and KIMBRELL'S, INCORPORATED, collectively doing business as KIMBRELL'S FURNITURE</p>	<p>Civil Action No: <u>5:02CV101-McK</u></p> <p>COMPLAINT IN INTERVENTION</p>
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Robin W. Drye, Plaintiff-Intervenor, alleges as follows:

1. This complaint-in-intervention is filed by Robin W. Drye pursuant to 42 U.S.C. § 2000e-5(f), there having been a complaint filed by the U.S. Equal Employment Opportunity Commission, called the Commission, in the above captioned matter alleging that Defendants subjected Robin W. Drye to a sexually hostile work environment, including sexual comments and sexual advances by a male co-worker; and constructively discharging Robin W. Drye.

2. Robin W. Drye is a person aggrieved under 42 USC §2000e-5(f) and thereby has the right to intervene in the above captioned civil action brought by the Commission.

3. Defendants are North Carolina corporations operating and doing business in North Carolina and with a store and office located in Statesville, Iredell County, North Carolina.

4. This Court has jurisdiction as invoked by Plaintiffs pursuant to 28 USC §§ 451, 1331, 1337, 1343 and 1345. The initial action was authorized and instituted pursuant to Section 706(f)(1) and (3) of Title VII of the Civil Rights Act of 1964, as amended, 42 USC §2000e-5(f)(1) and (3) ("Title VII") and Section 102 of the Civil Rights Act of 1991, 42 USC -1981a.

5. Robin W. Drye was an employee of Defendants from on or about July 1, 1998 to on or about January 29, 2001.

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6. During her employment and since least June of 2000, Defendants have engaged in unlawful employment practices at their Statesville, North Carolina facility, in violation of Section 703(a)(1) of Title VII, 42 USC §§2000e-2(a)(1). The unlawful practices have included, among other things:

- a. subjecting Robin W. Drye to a sexually hostile work environment, including sexual comments and sexual advances by a male co-worker; and
- b. constructively discharging Robin W. Drye.

7. Although Defendants received complaints about the sexual harassment, and otherwise knew or reasonably should have known about the sexual harassment, Defendants failed to take appropriate action to stop it.

8. Robin W. Drye seeks compensatory and punitive damages as a result of Defendants' deliberate indifference to the creation of a sexually hostile work environment including sexual comments and sexual advances by a male co-worker and failing to take appropriate action to stop it.

9. The sexual harassment to which Plaintiff was subjected were intentional, severe, pervasive, and objectively offensive and were done with malice or with reckless indifference to the federally protected rights of Robin W. Drye.

10. The effect of the practices complained of above has been to deprive Robin W.; Drye of equal employment opportunities and otherwise adversely affect her status as an employee because of sex.

11. While employed by Defendants, Defendants agreed to pay Robin W. Drye commissions for all sales made by her. Robin Drye, during the course and scope of her employment by Defendants, made sales for which she either received no commission or less commission than that to which she was contractually entitled.

12. Defendants breached their contract to compensate Robin W. Drye for her work as a sales person for Defendants.

13. Upon information and belief, the amount of compensation to which Robin W. Drye is entitled to recover of and from Defendants, jointly and severally, is in excess of \$10,000, the specific amount to be determined upon the trial of the matter.

WHEREFORE, Robin W. Drye prays the Court to order that:

1. Declare that Defendants have discriminated on the basis of sex by failing to

address, prevent, and remedy sexual harassment.

2. Defendants, jointly and severally, make whole Robin W. Drye by:

- a. Providing appropriate back pay with prejudgment interest, in amounts to be determined at trial, and other affirmative relief necessary to eradicate the effects of their unlawful employment practices, including but not limited to reinstatement or front pay to Robin W. Drye.
- b. Providing compensation for her past and future pecuniary losses resulting from the unlawful employment practices described above, including but not limited to medical expenses and job search expenses, in amounts to be determined at trial.
- c. Providing compensation to Robin W. Drye for her past and future nonpecuniary losses resulting from the unlawful employment practices complained of herein including but not limited to emotional pain, suffering, inconvenience, loss of enjoyment of life, loss of civil rights, and humiliation, in amounts to be determined at trial.

3. Defendants, jointly and severally, pay Robin W. Drye punitive damages for their malicious and reckless conduct described herein above in amounts to be determined at trial.

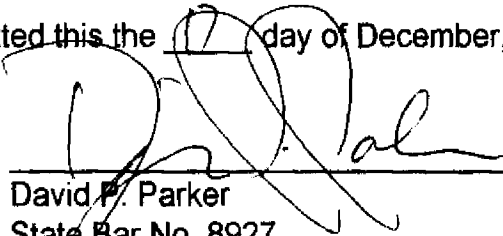
4. Defendants pay Robin W. Drye for their breach of their employment and compensation agreement with Robin W. Drye for commissions upon sales in amounts to be determined upon the trial of the matter.

5. Grant any additional relief as the needs of justice may require.

6. Award Robin W. Drye the costs incurred by her in this action including, if the law so provides, attorneys fees.

7. Robin W. Drye requests a jury trial on all questions of fact raised by her Complaint in Intervention.

Respectfully submitted this the 17 day of December, 2002.

A handwritten signature in black ink, appearing to read "D. Parker", is written over a horizontal line. The signature is stylized and somewhat cursive.

David F. Parker
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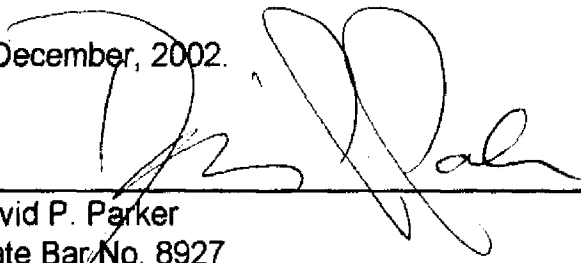
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Motion to Intervene and Complaint in Intervention has been served by depositing a copy of same in the United States Mail, sufficient postage prepaid, addressed as follows:

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This the 17 day of December, 2002.



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