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Attorneys for Plaintiff

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA**

Marlene Wight,

Plaintiff-Intervener,

vs.

Sunwest Federal Credit Union, a Federally  
Chartered Credit Union,

Defendant.

Cause No. 2:06-CV-02284-PHX-  
SRB

**PLAINTIFF-INTERVENER'S  
COMPLAINT**

**(Jury Trial Demanded)**

This action is based on unlawful and prohibited employment practices on the part of the Defendant, Sunwest Federal Credit Union ("Defendant" or "Sunwest Federal") and seeks to provide appropriate relief for Marlene Wight ("Ms. Wight" or "Plaintiff") who was adversely affected by such practices. Plaintiff alleges that Defendant violated Title VII of the Civil Rights Act of 1964, as amended, by discriminating against Ms. Wight on the basis of her sex, female, retaliating against her for complaining of a sexually hostile work environment and terminating Plaintiff because she complained to management.

**JURISDICTION AND VENUE**

1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 451, 1331, 1337, 1343 and 1345. This action is authorized and instituted pursuant to Section 706 (f)(1)

1 of the Civil Rights Act of 1964 as amended, (“Title VII”), 42 U.S.C. § 2000e(f)(1) and (3),  
2 and pursuant to Section 102 of the Civil Rights Act of 1991, 142 U.S.C. § 1981a.

3 2. The employment practices alleged below to be unlawful were  
4 committed within the jurisdiction of the United States District Court for the District of  
5 Arizona.

6 3. Plaintiff-Intervener Marlene Wight at all times was a resident of  
7 Maricopa County, Arizona.

8 4. Upon information and belief, at all relevant times to this action,  
9 Sunwest Federal has been doing business in the State of Arizona.

10 5. At all times relevant, Sunwest Federal has continuously had at  
11 least 15 employees.

12 6. At all relevant times to this action, Sunwest Federal has  
13 continuously been an employer engaged in an industry affecting commerce with the meaning  
14 of 42 U.S.C. § 2000e (b), (g) and (h).

15 **GENERAL ALLEGATIONS**

16 7. Plaintiff, Marlene Wight, is a member of a protected class, female, and,  
17 at all times relevant was an “employee” of Sunwest Federal within the meaning of Title VII.

18 8. At all times relevant, Sunwest Federal was Plaintiff’s “employer”  
19 within the meaning of Title VII.

20 9. Plaintiff was employed by Sunwest Federal for approximately 22  
21 years and in approximately 1998 was promoted to the position of manager of business  
22 development.

23 10. In or about January 2004, Plaintiff began to be supervised by the  
24 Sunwest Federal Marketing Director, Kiloh Smith.

25 11. Shortly thereafter, Plaintiff and other female employees became the  
26 victim of a continuous and ongoing, sexually hostile work environment at the hands of Mr.

1 Smith.

2 12. Plaintiff complained to upper management of Sunwest Federal  
3 regarding Mr. Smith's behavior directed not only at her but also at other female Sunwest  
4 Federal employees.

5 13. The unlawful and prohibited employment practices on the part of Kiloh  
6 Smith and Defendant, Sunwest Federal, were continuous, ongoing and pervasive and  
7 consisted of, but were not limited to, the following:

- 8 (a) Leering and touching female employees without their  
9 consent;
- 10 (b) Referring to women and Plaintiff as "bitches;"
- 11 (c) Mr. Smith telling female employees that he was a "babe  
12 magnet," constantly referring to himself as such in the  
13 presence of female employees and engaging in behavior that  
14 can best be described as "sexual grooming"; and
- 15 (d) yelling at, demeaning and intimidating female employees  
16 including Plaintiff.

17 14. When Plaintiff complained to upper management regarding Mr. Smith's  
18 behavior, she was simply told to "deal with it." Sunwest Federal failed to conduct any  
19 investigation into Plaintiff's charges of a sexually hostile work environment and Plaintiff was  
20 forced to continue to endure Mr. Smith's unlawful and abusive behavior on a daily basis.

21 15. In or about May 2004 and after having complained about Mr. Smith's  
22 behavior, Plaintiff was presented with a new job description and a significant increase in her  
23 job duties and responsibilities. Unrealistic and unreasonable performance goals were set by  
24 Defendant. These and other unlawful employment practices by Mr. Smith and upper level  
25 management at Sunwest Federal continued which included, but was not limited to:

- (a) demanding that Plaintiff meet the unrealistic performance goals established solely for her;
- (b) placing Plaintiff on an unjustified probationary status, increasing surveillance and monitoring her activities;
- (c) continuing the harassing and offensive behavior outlined above;
- (d) threatening Plaintiff with immediate termination;
- (e) giving Plaintiff unwarranted discipline and ultimately discharging her effective August 31, 2004;

16. At all times relevant, Kiloh Smith was acting as an agent and employee of Sunwest Federal within the course and scope of his employment or under such circumstances as to make Sunwest Federal vicariously liable for his acts and omission as described herein.

17. The unlawful and prohibited employment practices set forth above were intentional, done with malice or with a reckless indifference to the federally protected rights of Plaintiff so as to justify an award of both compensatory and punitive damages.

**COUNT I**  
**(Violation of Title VII-Discrimination)**

Plaintiff repeats and realleges each of the previous paragraphs as though set forth fully herein.

18. Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 42 U.S.C. § 2000e-2(a)(1) provides, in pertinent part, that it shall be an unlawful employment practice for an employer:

to . . . discharge . . . or otherwise discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment because of such individual's race, color, religion, sex or national origin.

19. Defendant, Sunwest Federal, has unlawfully discriminated against Plaintiff and other female employees by ignoring and allowing the pervasive sexual harassment by Kiloh Smith as set forth herein to continue unabated and by creating and allowing to continue a hostile and intimidating work environment which substantially altered the terms and conditions of Plaintiff's employment with Sunwest Federal.

20. At all times relevant, Sunwest Federal did not have a policy in place prohibiting sexual harassment in the workplace or, alternatively, it failed to properly investigate complaints of alleged sexual harassment and/or failed to effectively enforce any policy that may have been in place in order to eliminate sexual harassment and retaliation in the workplace.

21. By virtue of the foregoing violations of Title VII alleged herein, Plaintiff has been damaged, has suffered both economic and non-economic loss and is entitled to back pay with interest thereon, front pay, lost past and future employee benefits with interest thereon, damages for emotional distress and mental anguish, other equitable relief and compensatory damages recoverable pursuant to 42 U.S.C. § 2000e et seq. and 42 U.S.C. § 1981a. Plaintiff is also entitled to an award of punitive damages together with her reasonable attorney fees and costs pursuant to 42 U.S.C. § 1988 (b).

**COUNT II**  
(Violation of Title VII-Retaliation)

Plaintiff repeats and realleges each of the previous paragraphs as though set forth fully herein.

22. Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 42 U.S.C. § 2000e-3(a) provides, in pertinent part, that it shall be an unlawful employment practice for an employer to:

discriminate against any of his employees . . . because he has opposed any practice made an unlawful employment practice by this subchapter, or because he has made a

charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this subchapter.

23. As set forth above and described herein, Plaintiff was discriminated against and sexually harassed on the basis of her sex, female, and was then retaliated against by Defendant and Kiloh Smith for opposing Mr. Smith's and Defendants' unlawful employment practices after she made internal complaints about these practices to various management personnel within Sunwest Federal.

24. As set forth above and described herein, Plaintiff was further retaliated against by Defendant for having made complaints internally and was ultimately terminated from her employment by Defendant.

25. By virtue of the foregoing violations of Title VII alleged herein, Plaintiff has been damaged, has suffered both economic and non-economic loss and is entitled to back pay with interest thereon, front pay, lost past and future employee benefits with interest thereon, damages for emotional distress and mental anguish, other equitable relief and compensatory damages recoverable pursuant to 42 U.S.C. § 2000e et seq. and 42 U.S.C. § 1981a. Plaintiff is also entitled to an award of punitive damages together with her reasonable attorney fees and costs pursuant to 42 U.S.C. § 1988 (b).

WHEREFORE, Plaintiff prays for the following relief against the Defendant:

A. A declaration that Defendant, Sunwest Federal Credit Union, committed unlawful employment practices in violation of Title VII of the Civil Rights Act of 1964, as amended;

B. An award of back pay with interest thereon, front pay, lost past and future employee benefits with interest thereon, damages for emotional distress and mental anguish, other equitable relief and all compensatory and punitive damages recoverable pursuant to 42 U.S.C. § 2000e et seq. and 42 U.S.C. § 1981a;

C. An award of attorneys' fees and costs against the Defendant; and

1 D. Such other and further relief as the Court deems appropriate.  
2

3 **A JURY TRIAL IS REQUESTED ON ALL ISSUES ENUMERATED IN**  
4 **THE COMPLAINT PURSUANT TO RULE 38 OF THE FEDERAL RULES OF**  
5 **CIVIL PROCEDURES AND 42 U.S.C. § 1981(a)(c).**  
6

7 Dated this 29<sup>th</sup> day of November, 2006.  
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9 **MARTIN & BONNETT, P.L.L.C.**  
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11 By: s/Daniel L. Bonnett  
12

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2 **CERTIFICATE OF SERVICE**

3 I hereby certify that on November 29, 2006, I electronically transmitted the attached  
4 document to the Clerk's Office using the CM/ECF System for filing and transmission of a  
Notice of Electronic Filing to the following CM/ECF registrants:

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