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7 **The Honorable Judge Ricardo S. Martinez**  
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11 **UNITED STATES DISTRICT COURT**  
12 **WESTERN DISTRICT OF WASHINGTON**  
13 **AT SEATTLE**

14 GLORIA CROUCH,

15 Plaintiff,

16 vs.

17 RLS, Inc., dba SEBO'S DO-IT CENTER,

18 Defendants.  
19  
20

NO. C04-2066RSM

**INTERVENER'S  
AMENDED  
SUPPLEMENTAL  
COMPLAINT FOR  
DAMAGES FOR  
HARASSMENT AND  
DISCRIMINATION WITH  
JURY DEMAND**

21 COMES NOW, the above-referenced Plaintiff, by and through attorney of record,  
22 PETER MOOTE, and alleges as causes of action in this first Amended Supplemental Complaint  
23 against the Defendants named herein and above as follows:  
24

25 **I. PARTIES**

26 1.1 Plaintiff, GLORIA CROUCH, resides in Island County.

1.2 Defendant, RLS, Inc., dba SEBO'S DO-IT CENTER, is a domestic corporation

**INTERVENER'S AMENDED SUPPLEMENTAL  
COMPLAINT FOR DAMAGES - 1**

1 doing business in the State of Washington. It had authority to take all actions alleged herein and  
2 did take such actions by way of its agents and/or employees. This corporate Defendant is  
3 responsible for all liability caused by its employees and managers under the doctrine of respondeat  
4 superior.  
5

6 1.3 Plaintiff believes and, therefore, alleges that other persons or entities presently  
7 not known may be responsible for the allegations and damages alleged herein. Plaintiff is  
8 designating said Defendants pursuant to RCW 4.28.150 and reserves the right to specifically  
9 amend the Complaint to name such parties should their identity become known to Plaintiff.  
10 Plaintiff presently designates them as John Doe and Jane Doe, I - III.  
11

12 1.4 Alternative Hypothetical Pleading. Pursuant to Civil Rule 8(e)(2), Plaintiff  
13 pleads hypothetically against Defendants that in the event, and only in the event, that any  
14 Defendant attempts to avoid joint and several liability for the injuries, claims and causes of action  
15 set forth herein under RCW 4.22.070, that this said Defendant or some other Defendant's  
16 negligence was a proximate cause of the injuries and causes of action alleged herein, then Plaintiff  
17 makes the same claims against the other alleged Defendants or alleged persons or entities as are  
18 made against the Defendants in this action. The Judgment sought herein would then also be  
19 claimed against said additional Defendants jointly and severally.  
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21

## 22 **II. JURISDICTION AND VENUE**

23 2.1 The above-referenced Court has subject matter and personal jurisdiction of the  
24 actions alleged herein and the parties hereto.  
25  
26

2.2 The above-referenced Court is the proper venue for this action.

2.3 Plaintiff exhausted her efforts to obtain administrative help. She filed a Complaint with the EEOC under Charge No.380-2004-00787 . The EEOC has decided to act on the complaint and has filed an action against the same Defendants in Cause No. C04-2066RSM alleging Title VII and 42 USCA 2000e violations.

2.4 This Plaintiff is filing a Motion to Intervene as authorized under 42 USCA 2000e-5(f)(1) and FRCP 24. The Motion to Intervene and this Complaint are timely filed.

2.5 Demand for a jury of twelve is hereby made.

2.6 Damages are in excess of \$250,000.00.

### III. FACTUAL ALLEGATIONS

3.1 GLORIA CROUCH is a resident of Island County, Washington. She is an individual residing in Island County, Washington.

3.2 The Plaintiff was employed by the Defendants commencing in 2001 as a sales associate.

3.3 During the course of her employment, she was subjected to pervasive, unwanted and offensive sexual conduct that was inappropriate and shocking to the conscience of a reasonable woman. The conduct was committed by her direct manager.

3.4 The Defendants were aware of, or should have been aware of, the offensive and wrongful sexual harassment and failed to take effective prompt remedial action to protect the Plaintiff and other women working for Defendants.

### 3.5 No reasonable woman could be expected to continue to work under such

1 conditions that interfered in her ability to perform the essential functions of her job.

2 3.6 The Plaintiff was unable to continue working under such conditions and was  
3 forced to discontinue the employment to her financial and personal detriment. She was wrongfully  
4 constructively terminated.  
5

#### 6 **IV. CAUSES OF ACTION**

7 4.1 Sexual Harassment/Hostile Work Environment. Plaintiff is a female and a  
8 member of this protected class. Plaintiff was subjected to unwelcomed sexual and abusive  
10 conduct that caused her emotional distress, anxiety, fear and humiliation. The Plaintiff was  
11 offended by the wrongful sexual harassment of the Defendants . The wrongful sexual conduct  
12 occurred during work-required duties and interfered with her ability to perform her work and  
13 created a hostile or abusive work environment. Plaintiff gave notice of the sexual harassment to  
14 the employer and the agents of the employer. The employer had advance notice of the abusive and  
15 wrongful conduct and failed to take prompt remedial action to correct it in a reasonable manner.  
16 The wrongful sexual harassment was committed against the Plaintiff by her direct manager. As a  
17 consequence of this failure to take remedial action, Plaintiff was left to suffer such abusive  
18 conduct. These actions constitute sexual harassment, quid pro quo harassment and creation of a  
19 hostile work environment in violation of Title VII of the Civil Rights Act of 1964 and 1991, 42  
20 U.S.C., Section 2000e and the Washington Law Against Discrimination, RCW 49.60.030, 180 et  
21 seq.  
22

24 4.2 Disparate Treatment Violations. Plaintiff was discriminated against and harassed for  
25 civil rights violations that were caused by wrongful disparate treatment by the Defendants. These  
26 conditions are in violation of anti-discrimination laws found in Title VII of the Civil

1 Rights Act of 1964 and 1991, 42 U.S.C., Section 2000e and the Washington Law Against  
2 Discrimination, RCW 49.60.030, 180 et seq. and other authority cited in this action.

3 4.3 Breach of Contract/Wrongful Termination. Plaintiff has written, verbal, and implied  
4 contractual terms of employment to be protected from wrongful and unsafe conduct in the work  
5 place. Defendants breached these contractual terms of employment and are liable to Plaintiff in  
6 equity and in damages at law in amounts to be proven at trial. The wrongful conduct resulted in a  
7 wrongful constructive termination of the Plaintiff.  
8

10 4.4 Public Policy and Common Law. The actions of the Defendants violated public  
11 policy and common law protections against discrimination or other tortious and outrageous  
12 conduct in the State of Washington. The wrongful sexual harassment perpetrated against Plaintiff  
13 amounts to violation of employment and personal and civil rights and were in violation of  
14 Thompson v. St. Regis Paper Co., 102 Wn.2d 219 (1984) and Dicomes v. Washington,  
15 113 Wn.2d 612 (1989) and Moorpark v. Superior Court for Ventura County, 18 Cal4th 1143,  
16 959 P.2d 752 (1998).  
17

18 4.5 Infliction of Emotional Distress. As a direct and proximate result of the actions  
19 alleged herein by the Defendants, Plaintiff has suffered intentional and/or negligent infliction of  
20 emotional distress. Defendants knew or should have known the actions being taken would cause  
21 emotional distress. Any reasonable person would know the actions and conduct alleged herein  
22 would cause emotional distress to another. The Defendants had a duty to refrain from such  
23 actions or to stop such actions when they became aware of such actions and failed to do so. As a  
24 direct and proximate result, the Plaintiff has suffered damages in amounts to be proven at trial.  
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1           4.6 Outrage. The conduct and actions of the Defendants as set forth herein were so  
2 outrageous in character and so contrary to law and society as to exceed all possible bounds of  
3 human decency. The actions of these Defendants were so outrageous as to be totally intolerable  
4 in a civilized community. As a result of the outrageous conduct, there was an infliction of severe  
5 harm and emotional distress to the Plaintiff. Such harm and distress is wrongful in the State of  
6 Washington and subjects the Defendants to all damages causally related thereto of a general and  
7 special nature. The amounts of these damages will be proven at trial.

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10           4.7 Negligent Supervision and Training. The actions of the Defendants were negligent in  
11 training, managing and supervising their managers, supervisors, employees and agents. The  
12 Defendants were aware of or should have been aware of the discriminatory and harassing actions  
13 of their managers and supervisors and employees and the failures of their managers to correct the  
14 wrongful conduct. As a direct and proximate result of such negligent supervision and  
15 management, Plaintiff has suffered general and special damages.

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17           4.8 Punitive Damages. The actions of the Defendants were so reckless and indifferent to  
18 the rights of the Plaintiff as to constitute justification for award of punitive damages allowed  
19 under the legal authority set forth herein and Kolstad v. American Dental Association, 527 U.S.  
20 526 (1999) and Bruso v. United Airlines, Inc., 00-1699 (7th Cir., 2001). Further authority is  
21 found in the Civil Rights Act of 1991. Punitive damages are prayed for.

## 22 23           **V. RESPONDEAT SUPERIOR/VICARIOUS LIABILITY**

24           5.1 Defendants are liable for all actions of their managers and employees under the  
25 Doctrine of Respondeat Superior. The conduct of these employees, managers, and agents was  
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1 implicitly ratified by the employer making the employer liable for the wrongful conduct. Lehmann  
2 v. Toys R Us, 133 NJ 587, 626 A2d 445 (1993).

3  
4 5.2 Defendants are vicariously liable for the actions of their managers, supervisors, agents  
5 and employees under the doctrine of vicarious liability. Alexander v. Alcatel Cable Systems,  
6 (4th Cir., Oct., 2002) Lexis 21498; Paroline v. Unisys Corporation, 879 F.2d 100 (4th Cir., 1989) and  
7 Burlington Industries, Inc. v. Ellerth, 524 U.S. 742 (1998) and in Snyder v. Med. Servs. Corp. of  
8 E. Wash., 145 Wn.2d 233, 242-43, 35 P.3d 1158 (2001).

## 10 VI. PRAYER FOR RELIEF

11 1. Special Damages. Loss of earning capacity; past and future loss of wages and benefits  
12 of employment; medical treatment and other compensatory and special damages as proven at the  
13 time of trial.

14 2. General Damages. Emotional distress, psychological impairment, loss of enjoyment of  
15 life, mental health impairment/disability and civil rights violations in amounts proven at trial.

16 3. Attorneys' Fees and Costs. All reasonable attorneys' fees, including contingent  
17 attorneys' fees, and all costs of Plaintiff's should be awarded as a damage Judgment against  
18 Defendants.

19 4. Punitive Damages. Punitive damages should be assessed against the Defendants in  
20 amounts determined appropriate at trial.

21 5. Taxes and Interest. Defendants are liable for payment of the taxes of the Plaintiff and  
22 interest on certain damages awarded.

23 6. Other Relief. The Court should award such other and further relief as deemed  
24 appropriate, equitable or just.

1 DATED this 9th day of February, 2005.

2 /s/

3 PETER MOOTE

4 State Bar No. 6098

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