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Attorneys for Intervenors Pierce and Munson

U.S. DISTRICT COURT  
U.S. BANKRUPTCY COURT  
DISTRICT OF IDAHO

APR 26 2001

LODGED                      M(REC'D)                       
FILED                     

U. S. COURTS

JUL 16 2001

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF IDAHO

REC'D                      FILED                       
CAMERON S. BURKE  
CLERK IDAHO

\* \* \*

EQUAL EMPLOYMENT OPPORTUNITY  
COMMISSION,

Plaintiff,

NO. CV 01-0157-N-EJL

KIMBERLY PIERCE and BARBARA  
MUNSON,

INTERVENORS' COMPLAINT FOR  
DAMAGES

Intervenors,

v.

RALPH'S INC., an Idaho corporation d/b/a  
SHERMAN IGA, WILLIAM PETERSON  
and JANE DOE PETERSON, individually  
and as a marital community, and IGA,  
INC., a foreign corporation,

Defendants.

\* \* \*

COME NOW Intervenor, by and through their attorney, Christine M. Weaver of Miller, Devlin, McLean & Weaver, P.S., and for complaint against Defendants allege as follows:

## **I. PARTIES**

1.1 Intervenor Kimberly Pierce (hereinafter Pierce) was at all times material to this action a resident of Kootenai County, State of Idaho.

1.2 Intervenor Barbara Munson (hereinafter Munson) was at all times material to this action a resident of Kootenai County, State of Idaho.

1.3 Defendant Ralph's Inc. (hereinafter Sherman IGA) is and was at all times material to this action, upon belief, an Idaho corporation doing business as Sherman Avenue IGA in Kootenai County, State of Idaho.

1.4 Defendant William Peterson (hereinafter Peterson) was at all times material to this action a resident of Kootenai County, State of Idaho.

1.5 Defendant IGA, Inc., is and was at all times material to this action upon belief a foreign corporation doing business in Kootenai County, State of Idaho.

## **II. STATEMENT OF FACTS**

2.1 All actions by manager, supervisors, employees, owners, or representatives of Defendants Sherman IGA and IGA, Inc. were committed in the course and scope of employment.

2.2 Pierce was employed by Defendants Sherman IGA and IGA, Inc. in or about April 1995. She was continually employed by Sherman IGA and IGA, Inc. until her resignation in or about August 1999.

2.3 Pierce was originally hired as a manager in the Deli Department and she retained that position until her resignation.

2.4 Munson was employed by Sherman IGA and IGA, Inc. in or about June 1991. She was continually employed by Sherman IGA and IGA, Inc. until her resignation in or about March 2000.

2.5 Munson was originally hired for the position of checker, but was promoted to manager of the Deli Department in or about September 1994.

2.6 In or about September 1999, Munson was again promoted to a supervisory role for the Deli and Bakery Departments simultaneously only after Pierce was forced to resign her position as Deli manager, due to the continued sexual harassment by Defendant Peterson. Munson received no additional compensation for her added duties.

2.7 During Pierce and Munson's employment, Defendant Peterson was their immediate supervisor as well as the owner of the Sherman IGA store.

2.8 Throughout Pierce and Munson's employment, Defendant Peterson made sexually charged comments to them.

2.9 Throughout Pierce and Munson's employment, Defendant Peterson made sexual comments regarding their anatomy, the anatomy of other co-workers, as well as the anatomy of female customers. (These comments contributed to and/or created a hostile work environment.)

2.10 Pierce and Munson notified Defendant Peterson separately and on several occasions that his inappropriate sexual comments bothered them and that they wanted the comments to stop. Defendant Peterson continued to make sexually charged comments and would often laugh about their objections.

2.11 Defendant Peterson propositioned Munson for sex on occasion.

2.12 On his regularly scheduled days off, Defendant Peterson would call the store claiming to check on the store but he would comment on Intervenor's appearances or anatomy. Defendant Peterson commented to Pierce that her "butt looked nice" during one or more telephone calls. Defendant Peterson commented on Munson's appearance or clothing during one or more telephone calls and in person.

2.13 On occasion Defendant Peterson hugged Pierce though this display was unwanted by her and she notified him of her disapproval.

2.14 On one occasion Defendant Peterson commented to Pierce that he had been checking her out for years.

2.15 On one or more occasion Defendant Peterson blocked Pierce in the cooler and commented on how cold the temperature was while staring at her breasts.

2.16 On one or more occasion Defendant Peterson blocked Munson in the cooler and commented on how cold the temperature was while staring at her breasts.

2.17 On at least one occasion, Defendant Peterson notified Munson that he had dreamed of her and that it gave him an erection.

2.18 On at least one occasion after opening the store, Defendant Peterson advised Munson that they would be alone for some time, then asked her to have sex with him on a large bakery table.

2.19 Due to his behavior and comments, Pierce and Munson feared being alone with Defendant Peterson.

2.20 On at least one occasion Defendant Peterson announced he was renting a room at Bennett Bay Inn and asked Munson to accompany him.

2.21 On at least one occasion Defendant Peterson was holding two melons and he announced he would like "to play with Rhonda's melons" referring to the produce manager.

2.22 On at least one occasion Defendant Peterson pulled Munson's shirt down below her shoulder.

2.23 On at least one occasion Defendant Peterson commented that he liked to watch Munson eat bananas.

2.24 Prior to Munson filing with the Idaho Human Rights Commission, Pierce had filed with the Idaho Human Rights Commission. Defendant Peterson approached Munson and requested she support his statements. He advised her that if she did not support him, he would be required to close the store and all employees would lose their jobs.

2.25 Pierce and Munson have filed claims with the Idaho Human Rights Commission as well as the Equal Employment Opportunity Commission.

2.26 The Idaho Human Rights Commission has investigated the matter and has issued a determination of probable cause that Defendants have violated the law.

2.27 Pierce and Munson eventually resigned their positions with Defendant due to the hostile work environment created by Defendant Peterson.

2.28 Pierce and Munson and other women were paid lower wages than men who were hired by and worked for Defendants.

2.29 Munson developed renal failure and requested accommodation for this medical condition.

2.30 Munson was originally denied this accommodation and she was required to request accommodation in writing.

2.31 Other employees were not required to formally request accommodation in writing.

### **III. CAUSES OF ACTION**

#### **A. Sexual Harassment and Hostile Work Environment**

3.1 Defendants Sherman IGA and Peterson violated Idaho and federal law by placing Plaintiffs in a work situation where they were subjected to continual sexual harassment and a hostile work environment.

3.2 Defendants Sherman IGA and Peterson discriminated against Intervenors by refusing to address the complaints made by them regarding the sexual harassment and inappropriate treatment they received.

3.3 Defendants Sherman IGA and Peterson discriminated against Intervenors by not remedying the hostile work environment and forcing them to resign from their positions.

3.4 Defendants Sherman, IGA, IGA, Inc., and Peterson are responsible for the actions, inactions, omissions, and illegal conduct of their supervisors, agents, employees, and representatives.

3.5 Defendant Peterson was an immediate or successively higher supervisor to Pierce and Munson. Defendants Sherman IGA and IGA, Inc. are strictly liable for the sexual harassment imposed on Pierce and Munson by Defendant Peterson.

#### **B. Constructive Discharge**

3.6 Intervenors have the right as employees not to be constructively discharged for reasons that violate clear public policy.

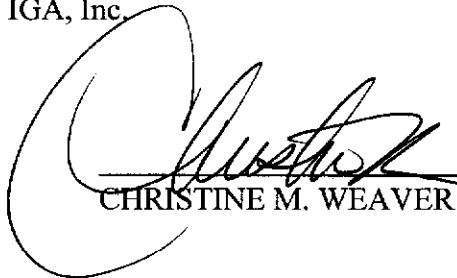
**CERTIFICATE OF SERVICE**

I hereby certify that on April 24, 2001, a true and correct copy of the foregoing was placed in an envelope, sealed and deposited into the United States Mail at Spokane, Washington, with first class postage fully prepaid thereon, addressed to the following:

A. Luis Lucero, Jr., Regional Attorney  
Barbara J. Standa, Supervisory Trial Attorney  
Zulema Hinojos-Fall, Senior Trial Attorney  
Equal Employment Opportunity Commission  
909 First Avenue, Ste. 400  
Seattle, WA 98104

Ralph's Inc., d/b/a Sherman IGA and IGA, Inc.  
1211 Sherman Ave.  
Coeur d'Alene, ID 83814-4309

William Peterson  
Ralph's Inc., d/b/a Sherman IGA and IGA, Inc.  
1211 Sherman Ave.  
Coeur d'Alene, ID 83814-4309



CHRISTINE M. WEAVER

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