

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

<b>EQUAL EMPLOYMENT OPPORTUNITY</b>	)	
<b>COMMISSION</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>and</b>	)	
	)	
<b>BROOKE SONNTAG,</b>	)	
	)	
<b>Plaintiff-Intervenor</b>	)	
	)	
<b>vs.</b>	)	<b>Civil Action No. 2:06-cv-02412-</b>
)	)	<b>JWL-DJW</b>
	)	
<b>THORMAN &amp; WRIGHT CORP., THORMAN</b>	)	
<b>ENTERPRISES, INC., ELDON THORMAN</b>	)	
<b>&amp; ASSOCIATES, INC., THE ELDON</b>	)	
<b>THORMAN FAMILY NO. 1 THROUGH</b>	)	
<b>NO. 5 LIMITED PARTNERSHIPS, and</b>	)	
<b>RED COACH INNS LTD.</b>	)	
	)	
<b>Defendants.</b>	)	

**FIRST AMENDED COMPLAINT IN INTERVENTION**

Plaintiff-Intervenor, Brooke Sonntag (“Sonntag”), brings this First Amended Complaint in Intervention pursuant to Rule 24(a) of the Federal Rules of Civil Procedure and states and alleges the following for her cause of action against Defendants Thorman & Wright Corp., Thorman Enterprises, Inc., Eldon Thorman & Associates, Inc., the Eldon Thorman Family No. 1 through 5 Limited Partnerships and Red Coach Inns Ltd. (“Defendants”):

**Jurisdiction and Venue**

1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 1331, 1337, 1343(a)(4), and 42 U.S.C. § 2000e-5(f).

2. Venue is proper because the employment practices alleged to be unlawful were committed within the jurisdiction of the United States District Court for the District of Kansas.

### **Parties**

3. Plaintiff Equal Employment Opportunity Commission is the federal agency authorized by federal law to enforce Title VII.

4. Plaintiff-Intervenor Sonntag is a white female residing in Tonganoxie, Kansas.

5. At all relevant times, Defendants have continuously been doing business in the State of Kansas and the City of Topeka, functioning as a single employer and continuously employing at least 15 employees.

6. At all relevant times, Defendants have continuously been an employer in Kansas within the meaning of 42 U.S.C. § 2000e(b), (g) and (h).

### **Exhaustion of Administrative Remedies**

7. Sonntag timely filed with the Equal Employment Opportunity Commission (“EEOC”) a charge alleging violations of Title VII against defendants (attached as Exhibit A).

8. After a reasonable investigation, the EEOC issued a Determination finding reasonable cause to believe that Defendants violated Title VII.

9. After an unsuccessful attempt at conciliation, the EEOC initiated this action.

10. All private, administrative and judicial prerequisites to the institution of this action have been fulfilled.

### **GENERAL ALLEGATIONS**

11. Paragraphs 1 through 10 above are incorporated as if stated fully herein.

12. Sonntag is a white female.

13. Sonntag became employed by Defendants in about June 2002 as the General Manager at the Best Western Meadow Acres in Topeka, Kansas.

14. Sonntag reported directly to owners Eldon Thorman and Ronald Wright.

15. As part of her job, Sonntag and her husband lived on the premises in a rent-free apartment.

16. Sonntag was qualified for and performed her job duties satisfactorily throughout her employment.

17. Sonntag's job duties included hiring and firing employees.

18. Shortly after Sonntag was hired, she observed and removed a sign from her office (where interviews occurred) which stated, "Blacks need not apply."

19. Throughout Sonntag's employment with Defendants, Mr. Thorman made derogatory and insulting comments about African-Americans, Hispanics and Indians in her presence, including but not limited to telling Sonntag to "fire the colored people"; "the problem with this property is that you hired all these coloreds"; and "Why did you hire all these Mexicans? They work for awhile and then they take off to Mexico and don't come back."

20. Mr. Thorman expressed to Sonntag that he did not want minority employees working in the "front of the house position," and he became very angry with Sonntag when she hired an African-American male to work at the front desk.

21. Mr. Thorman told Sonntag that the marquee outside the Best Western Meadow Acres stated "Owner Eldon Thorman," because he wanted people to know that the hotel was not run by someone from India.

22. Sonntag opposed Mr. Thorman's discriminatory views and practices based on race, color and national origin and communicated her opposition to Mr. Thorman and his business partner, Ron Wright.

23. Sonntag informed Mr. Wright that she was pregnant in July 2003. He suggested that she not tell Mr. Thorman she was pregnant.

24. Approximately one week later, Mr. Thorman hung up on Sonntag when she called him and informed him of her pregnancy.

25. On or about July 25, 2003, Sonntag and her husband had a meeting with Mr. Thorman and Mr. Wright in which Mr. Thorman instructed her to fire the "colored people and Mexicans." Sonntag stated she would not fire employees because of their race and that she hired employees based on their qualifications. Mr. Thorman stated, "No one will tell me who to hire and fire" and "no one is going to put a gun to my ribs."

26. In about August 2003, Mr. Wright informed plaintiff that he and Mr. Thorman were hiring a new General Manager for the property and she was being offered a sales job. When asked why she was being removed from the General Manager position, Mr. Wright stated that Mr. Thorman did not work well with her "type" and did not want her on his team.

27. Sonntag did not want a sales job with Defendants because such a position was not substantially similar to her position as General Manager. The sales job would have no guaranteed salary and would require Sonntag and her husband to vacate the apartment on the property where they had lived rent-free during Sonntag's employment as General Manager.

28. Defendants refused to let Sonntag keep her position as General Manager and terminated her.

29. The above described conduct of Mr. Thor man and Mr. Wright specifically, and the unlawful employment practices of Defendants generally, was intentional, malicious or with reckless indifference to the federally protected rights of Sonntag. Sonntag is therefore entitled to an award of punitive damages in an amount sufficient to punish Defendants or to deter them and other companies from like conduct in the future.

30. As a direct and proximate result of the practices complained of above, Sonntag has suffered intentional discrimination and retaliation by Defendants because of her opposition to unlawful employment practices and her pregnancy.

31. As a direct and proximate result of Defendants' actions and/or inactions, Sonntag has suffered and will continue to suffer lost income, lost fringe benefits and has incurred expenses in searching for replacement employment.

32. As a direct and proximate result of Defendants' actions and/or inactions, Sonntag has also suffered and will continue to suffer other compensatory damages, including but not limited to emotional distress, mental anguish, inconvenience, embarrassment and humiliation.

33. Sonntag is entitled to recover from Defendants reasonable attorney's fees, as provided in 42 U.S.C. § 2000e-5(k).

**COUNT I:  
PREGNANCY DISCRIMINATION IN  
VIOLATION OF TITLE VII**

34. Sonntag restates and incorporates by reference Paragraphs 1-33 as if stated fully herein.

35. Defendants have discriminated against Sonntag and terminated her because of her pregnancy, in violation of the Title VII of the Civil Rights Act of 1964, 42 U.S. C. § 2000e *et seq.*, as amended.

36. Defendants' conduct, as described above, was intentional, malicious or in reckless disregard of the rights of Sonntag.

37. By reason of defendants' discriminatory employment practices, Sonntag has experienced extreme harm, including loss of compensation, wages, back and front pay, and other employment benefits, and as such, is entitled to all remedies available under Title VII, including compensatory and punitive damages, pre-judgment interest and attorney's fees.

**COUNT II:**  
**RETALIATION IN VIOLATION OF SECTION 1981 AND TITLE VII**

38. Sonntag restates and incorporates by reference Paragraphs 1-37 as if stated fully herein.

39. Defendants have retaliated against Sonntag and terminated her in violation of 42 U.S.C. § 1981 and 42 U.S.C. § 2000e, as amended.

40. Defendants' conduct, as described above, was intentional, malicious or in reckless disregard of the rights of Sonntag.

41. By reason of defendants' discriminatory employment practices, Sonntag has experienced extreme harm, including loss of compensation, wages, back and front pay, and other employment benefits, and as such, is entitled to all remedies available under Title VII and Section 1981, including compensatory and punitive damages, pre-judgment interest and attorney's fees.

**PRAYER FOR RELIEF**

**WHEREFORE**, Sonntag requests that the Court enter judgment in her favor and against Defendants for such damages, actual and nominal, as are fair and reasonable, compensatory damages, including back pay and compensation for past and future monetary and non-monetary losses, front pay in lieu of reinstatement, punitive damages, reasonable attorney's fees and costs



## CERTIFICATE OF SERVICE

I certify that on April 5, 2007, I electronically filed the above and foregoing document with the Clerk of the Court using the CM/ECF system which sent notification of such filing to the following CM/ECF participants:

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