

1 **Lawrence P. Blunck OSB No. 84178**  
2 [larry@bluncklaw.com](mailto:larry@bluncklaw.com)  
3 **Scott D. Preston OSB No. 02430**  
4 [scott@bluncklaw.com](mailto:scott@bluncklaw.com)  
5 Lawrence Blunck, P.C.  
6 West Linn Law Center  
7 2350 Willamette Falls Drive  
8 West Linn, OR 97068  
9 Telephone: 503-656-1654  
10 Facsimile: 503-650-0603  
11 Attorneys for Plaintiffs in Intervention

9 UNITED STATES DISTRICT COURT  
10 FOR THE DISTRICT OF OREGON

12 **EQUAL EMPLOYMENT OPPORTUNITY**  
13 **COMMISSION,**

14 Plaintiff,

15 vs.

16 **UNITED STATES BAKERY, INC.,** an  
17 active Oregon corporation,

18 Defendant,

19 **WENDY BAKER, DONNA EMERSON,**  
20 **LAURIE DAMETZ AND CHRISTINE**  
21 **THOMPSON,**

22 Plaintiffs in Intervention  
23  
24  
25  
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No. CV 03 64-HA

COMPLAINT IN INTERVENTION

Unlawful Employment Practice  
42 U.S.C. §§ 2000e-2 and 2000e-3

Demand for Jury Trial

1 **COMPLAINT IN INTERVENTION**

2 **I.**

3 **NATURE OF THE ACTION AND RELIEF SOUGHT**

4 1. Currently, the Equal Employment Opportunity Commission (EEOC) representing the  
5 public interest is pursuing an action under Title VII of the Civil Rights Act of 1964 and Title I of  
6 the Civil Rights Act of 1991 to correct unlawful employment practices and provide relief to  
7 Wendy Baker, Donna Emerson, Laurie DaMetz, and Christine Thompson (hereafter “plaintiffs”),  
8 who were adversely affected by such practices.

9 2. After conferring with the EEOC, the EEOC has consented to plaintiffs’ Motion to  
10 Intervene regarding their interests under federal law claims.

11 **II.**

12 **JURISDICTION AND VENUE**

13 3. This is an action arising under the laws of the United States of America, in particular  
14 Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §§ 2000e-2 and 2000e-3.

15 4. The jurisdiction of this court is invoked pursuant to 28 U.S.C. §§451, 1331, 1337 and  
16 1343, this action is authorized and instituted pursuant to sections 706(f)(1) and (3) of Title VII,  
17 of the Civil Rights Act of 1964, as amended, 42 U.S.C. §§ 2000e-5 and section 102 of the Civil  
18 Rights Act of 1991, 42 U.S.C. § 1981.

19 5. The employment policies and practices alleged to be unlawful were committed within the  
20 jurisdiction of the United States District Court for the District of Oregon. Venue is appropriate  
21 in this District because it is the District where defendant resides and/or is authorized to conduct  
22 and is conducting business, and where plaintiffs reside, and where a substantial part of the events  
23 giving rise to this Complaint occurred.

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1 **III.**

2 **PARTIES**

3 6. Plaintiff Wendy Baker was at all relevant times an employee of defendant United States  
4 Bakery. She resides in Portland, Oregon.

5 7. Plaintiff Laurie DaMetz was at all relevant times an employee of United States Bakery.  
6 She resides in Portland, Oregon.

7 8. Plaintiff Donna Emerson was at all relevant times an employee of United States Bakery.  
8 She resides in Portland, Oregon.

9 9. Plaintiff Christine Thompson was at all relevant times an employee of United States  
10 Bakery. She resides in Portland, Oregon.

11 10. Defendant United States Bakery is an active Oregon corporation and has been doing  
12 business in Multnomah County, Oregon. At all material times, defendant United States Bakery  
13 employed plaintiffs in various positions throughout the Bakery.

14 **IV.**

15 **ADMINISTRATIVE PREREQUISITES**

16 11. Plaintiffs have complied with all of the administrative prerequisites to an action under  
17 Section 706 of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. Sections 2000e-  
18 5 as follows:

19 a. On or about February 6, 2001, plaintiffs timely filed a formal charge of unlawful  
20 employment discrimination on the basis of sex with BOLI;

21 b. Subsequently, on or about January 14, 2002 BOLI transferred the matter to the EEOC;

22 c. Plaintiffs promptly and diligently accommodated all BOLI and EEOC requests for  
23 information and fully cooperated in the agencies' investigations of this matter; and,

24 d. Plaintiffs have exhausted all available administrative remedies in accord with the  
25 aforementioned statutes prior to instituting this civil action.

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1 V.

2 **FACTUAL ALLEGATIONS**

3 **(Plaintiff Wendy Baker)**

4 12. In 1999, defendant hired plaintiff Wendy Baker to work in the production labor pool.

5 Two months after being hired she obtained the Checker position. Plaintiff has had good reviews  
6 pertaining to her job performance.

7 13. Over the course of her employment, plaintiff often worked with Jeff Fahlman, a Foreman  
8 in the Production area of United States Bakery. On numerous occasions Jeff Fahlman made  
9 sexual comments to plaintiff Baker and to other employees at the Bakery. One such example  
10 occurred on or about February 16, 2000, when Jeff Fahlman described to the plaintiff that his  
11 penis was large and that he could satisfy her sexually.

12 14. On numerous occasions Jeff Fahlman told the plaintiff sexually explicit jokes and spoke  
13 of how “*well endowed*” he was. On one occasion, when Ms. Baker flexed her bicep to show how  
14 the checker position had gotten her back in shape, Fahlman reached over, touched plaintiff’s arm  
15 and said, “*that’s about as hard as my dick.*” The plaintiff was embarrassed and left the office.

16 15. Daniel Christianson, Ms. Baker’s coworker, heard Jeff Fahlman make sexual comments  
17 about plaintiff. Fahlman said, “*What a great fuck she would be. She’s small, she’s tight. She*  
18 *would be squeaky tight.*” Mr. Christianson also witnessed Jeff Fahlman comment about the way  
19 Ms. Baker moved, with sexual implications.

20 16. Plaintiff also worked with Tom Caudle, the Foreman on graveyard shift. Caudle has said  
21 to plaintiff that she has a “*nice ass.*” On one occasion while plaintiff was bending over to pick  
22 up a tray, Mr. Caudle walked by, stopped behind her and said, “*mmm hmm!*” Caudle, like  
23 Fahlman, has described how “*well endowed*” he is. He told plaintiff that he is attracted to  
24 muscular women and how he and a female co-worker have almost “*gone all the way.*”

25 17. On June 8, 2000, Mr. Caudle told plaintiff in a hostile voice that he felt like spanking her  
26 like a child because she was not doing her job to the best of her abilities and then continued to

1 yell at plaintiff regarding company protocol. Plaintiff felt shocked and intimidated by the tone  
2 he used with her.

3 18. On June 15, 2000, Caudle gave plaintiff an unrealistic ultimatum to change her work shift  
4 so she could do his paperwork, or look for another job.

5 19. On numerous occasions Caudle told plaintiff she should look for another job and  
6 threatened plaintiff that she had only a few more write-ups and she would be terminated.

7 20. On July 28, 2000, a male co-worker informed plaintiff that Mr. Fahlman and Mr. Caudle  
8 referred to plaintiff as “*sweetheart*.”

9 21. Mr. Caudle told plaintiff that Bill McCarthy, a supervisor and Fahlman’s cousin, referred  
10 to plaintiff many times as “*a piece of shit*.”

11 22. These occurrences and other ongoing instances constitute an unlawful employment  
12 practice of discrimination.

13 **VI.**

14 **FACTUAL ALLEGATIONS**

15 **(Plaintiff Laurie DaMetz)**

16 23. In April 1995, defendant hired Laurie DaMetz to work in the production office. Her  
17 tasks include managing many of the accounting tasks for the Bakery.

18 24. Since 1995, and over the course of time at the Bakery, plaintiff has been sexually  
19 harassed by Jeff Fahlman, Foreman at the Bakery. When passing by, Fahlman would frequently  
20 make sexual comments or advances toward plaintiff. On occasion he asked plaintiff DaMetz, “*If*  
21 *I weren’t married and you weren’t married, would you go out with me?*”

22 25. In 1997, plaintiff moved to a separate office away from other office workers. The  
23 harassing comments by Fahlman escalated. He would grab the back of plaintiff’s chair and do  
24 pelvic thrusting motions toward the chair. On one occasion when plaintiff was leaning through a  
25 window, Fahlman pulled plaintiff towards him and did a pelvic thrust.

26 26. Fahlman repeatedly talked about sex to plaintiff DaMetz, including bestiality and brought

1 pictures to work displaying these actions.

2 27. Fahlman made comments in a sexual manner to plaintiff such as:

3 “Come on, right now, in the parking lot, you’re going to suck me off.”

4 “How much money would it take to for you suck off a dog and let me watch?”

5 “Can’t you give me a blow job?”

6 “Would you suck off a horse and let it run all over your body?”

7 “Would you do a dog?”

8 “Hold that position, I’m almost ready.”

9 “It would be really fast, just three pumps and a dump.”

10 28. In December of 1999, Mike Dower, plaintiff’s supervisor, walked into her office  
11 following a recent visit by Fahlman to plaintiff’s office where Fahlman had been very offensive.  
12 Plaintiff was visibly upset and Dower informed plaintiff that he had informed Marc Albers, the  
13 General Manager, about Fahlman’s behavior. Fahlman told plaintiff that he had been called in to  
14 the office *again* for a reprimand, but his behavior did not change.

15 29. In June 2000, DaMetz reported Fahlman’s harassment directly to Marc Albers, the  
16 General Manager at the Bakery.

17 30. On December 4, 2000 Marc Albers, the General Manager, personally met with plaintiff  
18 and in that meeting discouraged her from making any complaints against the Bakery. Albers  
19 denied that plaintiff ever complained in the past and stated to plaintiff, “*you can be a good*  
20 *witness or a bad witness.*” He also told plaintiff that jobs could be “*eliminated.*” He further  
21 explained that names can be dragged through the mud in the same way claimants are making  
22 accusations. As a result of these comments plaintiff felt threatened and feared losing her job.

23 31. These occurrences and other ongoing instances constitute an unlawful employment  
24 practice of discrimination and retaliation.

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1 **VII.**

2 **FACTUAL ALLEGATIONS**

3 **(Plaintiff Donna Emerson)**

4 32. Defendant hired plaintiff Donna Emerson approximately 13 years ago as a “wrap helper.”

5 33. Over the last 10 years plaintiff has often worked with Jeff Fahlman.

6 34. During this period of 10 years, at least 3-4 times each week, Jeff Fahlman sexually  
7 harassed plaintiff.

8 35. This harassment occurred almost on a daily basis. Fahlman constantly talked about sex  
9 and told sexual jokes. This sexual harassment included sexual statements and conduct such as:

10 a. Fahlman would grab his crotch and say to plaintiff “*why don ’t you just suck on this for*  
11 *a while.*”

12 b. Fahlman motioned to plaintiff and said, “*I just wanted to see if I could make you come*  
13 *with my finger.*”

14 c. Fahlman asked plaintiff “*what color panties do you have on?*”

15 d. While standing in a particular place where his face was at the height of plaintiff’s  
16 breasts, Fahlman said, “*You ’re perfect right where you are.*”

17 e. Fahlman also commented to plaintiff “*I’ve gotta have sex every day.*”

18 36. On one occasion, Daniel Christianson, plaintiff’s coworker, heard Jeff Fahlman ask  
19 Donna Emerson about her sexual practices.

20 37. On numerous occasions, plaintiff complained to Fahlman about his behavior. On these  
21 occasions, Fahlman would explain that it was his word against hers, because there were no  
22 witnesses to his comments. He would often state “*No one is around,*” or “*Who are they going to*  
23 *believe, you, a woman, or me, the foreman?*”

24 38. At one point in her employment with defendant, plaintiff was selected for a position in  
25 the checking department. She decided against taking the position because it would require her to  
26 work with Mr. Fahlman. In response to her declining the position Fahlman stated to plaintiff, “*If*

1 *you don't take this job, you'll never work in this department.*" He also said "*You couldn't do it*  
2 *anyway, you're a woman.*"

3 39. These occurrences and other ongoing instances constitute an unlawful employment  
4 practice of discrimination.

## 5 VIII.

### 6 FACTUAL ALLEGATIONS

#### 7 (Plaintiff Christine Thompson)

8 40. On August 20, 1998, defendant hired plaintiff Christine Thompson as a general laborer  
9 and in January 2000, plaintiff started working in a checking position.

10 41. On January 8, 2000, Jeff Fahlman, plaintiff's supervisor, began to constantly threaten  
11 plaintiff with termination. He stated, "*You're a woman and as you can see there are no women*  
12 *in checking because it's so difficult.*" He told plaintiff that she could be terminated for just about  
13 anything. He further explained that checking department employees did not get overtime and  
14 threatened that Bill McCarthy, the Plant Supervisor, would reprimand plaintiff for not having her  
15 work done by the end of her shift.

16 42. In March 2000, Fahlman began telling plaintiff sexually explicit jokes. Fahlman also  
17 asked plaintiff if she would date him if she were not married.

18 43. On one occasion, Fahlman stated to plaintiff that he watched pornographic videos that  
19 included women "*fucking*" animals. He then asked plaintiff if she watched that kind of movie or  
20 if she participated in such sexual activities. Plaintiff expressed her offense to the comments and  
21 question and Fahlman responded by saying "*I say these things with no witnesses, so it's my word*  
22 *against yours.*"

23 44. On one occasion, Daniel Christianson, Thompson's co-worker, witnessed Fahlman ask  
24 plaintiff, "*Have you ever had sex with animals?*" Christianson also witnessed Fahlman ask  
25 plaintiff, "*Do you have body piercing? Have you pierced anything in your vagina? Can I touch*  
26 *it?*"



1 45. On or about April 2000, Fahlman told plaintiff a “nigger” joke. Plaintiff was so shocked  
2 by the joke she only remembers the punch line which was “hang ‘em high.” Plaintiff is black.

3 46. Plaintiff Thompson attempted to talk to Bill McCarthy, the Plant Supervisor, but later  
4 learned that Fahlman was Bill McCarthy’s cousin. Because of this relationship, plaintiff felt she  
5 could not speak to Bill McCarthy for fear she would lose her job.

6 47. On May 11, 2000, plaintiff requested to work overtime in a different department of the  
7 Bakery. Fahlman told plaintiff she was not allowed to work overtime because it was against  
8 company policy to allow a checker to work in any other departments. Upon plaintiff’s request to  
9 see the policy, Fahlman replied it was an unwritten rule. Plaintiff was not satisfied with this  
10 response and asked another foreman about this “rule.” The other foreman informed her there  
11 was no such rule.

12 48. On May 12, 2000, plaintiff worked in the other department. Fahlman arrived at the  
13 Bakery and discovered plaintiff working. After some discussion about the “rule,” Fahlman told  
14 plaintiff, “I usually tell bitches to go out in the parking lot and suck my dick.”

15 49. As a result of these comments, plaintiff requested a transfer from the checker department.

16 50. These occurrences and other ongoing instances constitute an unlawful employment  
17 practice of discrimination based on the plaintiff’s race/color and or sex.

18 **COUNT I**

19 **Unlawful Employment Practices Against Plaintiffs (42 U.S.C. § 2000e-2)**

20 51. Plaintiffs incorporate herein by reference paragraphs 1 through 50.

21 52. Defendant United States Bakery has committed unlawful employment practices by  
22 discriminating against plaintiffs in their terms, conditions or privileges of employment because  
23 of plaintiffs’ sex and or race. Defendant’s conduct was intentional and done with malice or with  
24 reckless indifference to the federally protected rights of the plaintiffs in violation of 42 U.S.C. §  
25 2000e-2.

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1 **COUNT II**

2 **Discrimination Against Plaintiffs (42 U.S.C. § 2000e-3)**

3 53. Plaintiffs incorporate by reference paragraphs 1 through 50.

4 54. Defendant has discriminated against plaintiffs because of their opposition to United  
5 States Bakery's unlawful employment practices or because they have made charges, testified,  
6 assisted, or participated in an investigation or proceeding regarding the unlawful employment  
7 practices. Defendant's conduct was intentional and done with malice or with reckless  
8 indifference to the federally protected rights of the plaintiffs in violation of 42 U.S.C. § 2000e-3.

9 WHEREFORE, plaintiffs pray for judgment against defendant United States Bakery as  
10 follows:

11 A) Under Count I for discrimination under 42 U.S.C. § 2000e-2, compensation for past and  
12 future pecuniary damages for each plaintiff to be determined at trial; compensatory  
13 damages of \$1,000,000.00 for each plaintiff resulting from, but not limited to, emotional  
14 pain, suffering, and loss of enjoyment of life as a result of defendant's intentional,  
15 malicious or reckless conduct; reasonable attorney fees pursuant to 42 U.S.C. § 2000e-  
16 5(k); and such other and further relief as the Court may deem proper.

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1 B) Under Count II for Retaliation under 42 U.S.C. § 2000e-3, compensation for past and  
2 future pecuniary damages to be determined at trial for each plaintiff; compensatory  
3 damages of \$1,000,000.00 for each plaintiff resulting from, but not limited to, emotional  
4 pain, suffering, and loss of enjoyment of life as a result of defendant's intentional,  
5 malicious or reckless conduct as a result of defendant's intentional, malicious or reckless  
6 conduct; reasonable attorney fees pursuant to 42 U.S.C. § 2000e-5(k); and such other and  
7 further relief as the Court may deem proper.

8 **DEMAND FOR JURY TRIAL**

9 Dated this 3<sup>rd</sup> day of October, 2003.

10 LAWRENCE P. BLUNCK, P.C.

11  
12 By: s/ Lawrence P. Blunck  
13 Lawrence P. Blunck, OSB #84178  
14 Scott D. Preston OSB #02430  
15 503-656-1654  
16 Of Attorneys for Plaintiffs Wendy Baker,  
17 Donna Emerson, Laurie DaMetz and  
18 Christine Thompson  
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1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on the 3rd day of October, 2003, I served the foregoing  
3 COMPLAINT IN INTERVENTION on the following parties at the following addresses:

4 Lynda J. Hartzell  
5 Tonkon Torp LLP  
6 1600 Pioneer Tower  
7 888 SW Fifth Avenue  
8 Portland, OR 97204  
9 Of Attorneys for Defendant

A Luis Lucero, Jr  
John F. Stanley  
Wesley Katahira  
Lisa Cox  
Equal Employment Opportunity  
Commission  
909 First Ave, Suite 400  
Seattle, WA 98104-1061  
Of Attorneys for Plaintiff  
Equal Employment Opportunity  
Commission

10  
11  
12 by electronically filing via the USDC ECF website.

13  
14 s/ Scott D. Preston  
15 Scott D. Preston  
16 OSB #02430  
17 503-656-1654  
18 Of Attorneys for Plaintiffs Wendy Baker, Donna  
19 Emerson, Laurie DaMetz and Christine Thompson  
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