

EXHIBIT "A"

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

Case Number: 06-61483-CIV-MOORE/GARBER

UNITED STATES EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION,

Plaintiff,

and

DANIEL WOLANSKY,

Plaintiff/Intervenor,

vs.

UNITED HEALTHCARE OF FLORIDA, INC.,

Defendant.

INTERVENOR'S COMPLAINT AND DEMAND FOR JURY TRIAL

Plaintiff/Intervenor, DANIEL WOLANSKY, ("WOLANSKY"), by and through his undersigned attorneys, files this, his Complaint against Defendant, UNITED HEALTHCARE OF FLORIDA, INC., ("UNITED"), a Florida corporation, and states as follows:

INTRODUCTION

1. This is an action for injunctive relief and monetary damages to remedy discrimination on the basis of sex in the terms, conditions, and privileges of employment, retaliation, and to redress the deprivation of rights secured to Plaintiff/Intervenor by Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e et seq., ("Title VII"), as amended by the Civil Rights Act of 1991, Pub. L. No. 102-166, 105 Stat. 1071 (1991), and the Florida Civil Rights Act of 1992, Chapter 760, Florida Statutes.

2. At all times material hereto, Plaintiff/Intervenor was and continues to be a citizen of the State of Florida.

3. At all times material hereto, Defendant, Cognisa, was and continues to be a Florida Corporation.

4. At all times material hereto, Plaintiff/Intervenor is seeking damages against the Defendant in excess of \$ 75,000.00 exclusive of interest, attorney's fees and costs.

JURISDICTION

5. The jurisdiction of the Court over this controversy is based upon the following:

- a. The Court's jurisdiction conferred by 28 U.S.C. §§ 1331 and 1343(a)(4) conferring original jurisdiction upon this Court of any civil action to recover damages or to secure equitable relief under any act of Congress providing for the protection of Civil Rights;
- b. Title VII, 42 U.S.C. § 2000e-5(f)(1), (3), and
- c. 28 U.S.C. § 1332.

VENUE

6. The venue of this Court over this controversy is based upon the following:

- a. The unlawful employment practices alleged below occurred and/or were committed within the State of Florida, within Broward County. Accordingly, venue lies in the United States District Court for the Southern District of Florida pursuant to 28 U.S.C. § 1391(b); and
- b. Plaintiff/Intervenor avers that Defendant is a corporation doing business in this judicial district within the meaning of 28 U.S.C. § 1391(c). Accordingly, venue lies in this judicial district pursuant to 28 U.S.C. §1391(c).

PARTIES

7. At all times material hereto, Plaintiff/Intervenor, WOLANSKY, was and continues to be a male citizen of the United States, and a resident of Broward County, Florida.

8. At all times material hereto, Plaintiff/Intervenor, WOLANSKY, was an employee or former employee of Defendant.

9. At all times material hereto, Plaintiff/Intervenor, WOLANSKY, was employed by Defendant in Broward County, Florida.

10. At all times material hereto, Defendant transacted and continues to transact business and perform services in Broward County, Florida, within the Southern District of Florida.

11. At all times material hereto, Defendant was and continues to be an “employer” within the meaning of Title VII and the Florida Civil Rights Act of 1992.

12. At all times material hereto, Defendant had and continues to have more than 100 employees in each of twenty or more calendar weeks in the current or preceding year.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

13. Plaintiff/Intervenor, WOLANSKY, has fulfilled all conditions precedent to the institution of this action by timely filing a written Charge of Discrimination with the Equal Employment Opportunity Commission, (“EEOC”), and the Florida Commission on Human Relations, (“FCHR”).

14. Plaintiff, EEOC issued a letter of determination, finding that there was reasonable cause to believe the Defendant committed violations of Title VII in the form of sex discrimination and retaliation.

15. After attempts at conciliation were unsuccessful, on or about September 28, 2006, the Plaintiff, EEOC, filed a lawsuit against the Defendant under Title VII of the Civil Rights Act

of 1964, as amended, seeking to provide appropriate relief for Plaintiff/Intervenor, WOLANSKY, and any other similarly situated individuals.

16. In conjunction with this Complaint, Plaintiff/Intervenor, WOLANSKY, has moved this Honorable Court to intervene as a party to the Plaintiff's, EEOC, Title VII action against the Defendant as well as adding a cause of action based on the Defendant's violation of the Florida Civil Rights Act of 1992, as amended.

17. At all times material hereto, Plaintiff/Intervenor's claims brought under the Florida Civil Rights Act have been brought more than 180 days from the date of his filing a charge of discrimination with the Florida Commission on Human Relations.

STATEMENT OF FACTS

18. Plaintiff/Intervenor was hired by Defendant as an account executive on or about 1996.

19. At all times material hereto, Plaintiff/Intervenor, WOLANSKY, was qualified for his position and performed his job duties with distinction.

20. Beginning in February of 2004, and continuing throughout his employment, Plaintiff/Intervenor was subjected to a sexually hostile working environment by Defendant, by Plaintiff's/Intervenor's superior, Bill Condon, the regional vice president.

21. Some of the unlawful sexual harassment by and through the actions of Defendant, by and through Bill Condon, included, without limitation:

- a. Discussing details of his sex life with Plaintiff/Intervenor;
- b. Discussing on several occasions how Mr. Condon spent Valentine's Day, to wit, how he and his partner lounged around naked and making love all day while a naked chef prepared a special meal for them;

- c. Discussing how on a business trip Mr. Condon picked up another gentleman and had sexual relations with him all night;
- d. Stating that his skiing was like his felatio, “they both get worse with age”;
- e. Telling Plaintiff/Intervenor that he was “much cuter in person”;
- f. Frequently calling Plaintiff/Intervenor “Honey” and “Sweetie”;
- g. Telling Plaintiff/Intervenor that time for him to give Plaintiff/Intervenor “hugs and kisses”;
- h. Attempts to caress Plaintiff/Intervenor’s back.

21. From February, 2004 through June, 2004, Plaintiff/Intervenor continuously complained to Human Resources regarding the wholly inappropriate conduct and comments of Condon.

22. Human Resources initially told Plaintiff/Intervenor that it had conducted an investigation. However, no actions were taken to remedy the situation, and Plaintiff/Intervenor was not even interviewed.

23. Plaintiff/Intervenor was not told about the results of Defendant’s “investigation.”

24. After Plaintiff/Intervenor was forced to submit additional complaints due to Condon’s behavior, Plaintiff/Intervenor was contacted by human resources. Plaintiff/Intervenor told Defendant’s human resource department that he wanted the sexual harassment and hostile work environment to end.

25. Upon complaining to human resources, Defendant began retaliating against Plaintiff/Intervenor. Some actions included, but not limited to, disciplining Plaintiff/Intervenor for unfounded complaint; “papering” Plaintiff/Intervenor’s file; failing to approve Plaintiff/Intervenor’s deals; refusing to award Plaintiff/Intervenor stock options that had been

earned; depriving Plaintiff/Intervenor of commissions and bonuses that were earned; and continuing to subject Plaintiff/Intervenor to a hostile work environment.

26. Defendant's actions made it impossible to continue in his position, and Plaintiff/Intervenor was forced to resign effective January 11, 2005.

27. Soon after Plaintiff/Intervenor was constructively discharged, Defendant forced Bill Condon to resign.

28. Plaintiff/Intervenor has retained the law firm of ROTHSTEIN ROSENFELDT ADLER to represent him in this litigation and the firm is entitled to be paid a reasonable fee for its services.

STATEMENT OF CLAIMS

COUNT I

VIOLATION OF TITLE VII AGAINST DEFENDANTS

HOSTILE WORK ENVIRONMENT/SEXUAL HARASSMENT

29. Plaintiff/Intervenor realleges and reavers paragraphs 1 through 28 of this Complaint as if fully set forth herein.

30. Defendant has discriminated against Plaintiff/Intervenor in the terms and conditions of his employment by allowing him to be sexually harassed in the workplace and by failing to take any action to prevent the sexually hostile environment.

31. The unlawful discrimination pattern, practice, usage and custom by Defendant, its agents and employees, as set forth herein, violates Title VII of the Civil Rights Act of 1964, 42 U.S.C. §2000e, as amended by the Civil Rights Act of 1991, Pub. L. No., 102-166, 105 Stat. 1071 (1991).

32. As a direct and proximate result of Defendant's unlawful and discriminatory employment policies and practices, Plaintiff/Intervenor has suffered damages and will continue to suffer irreparable injury and damages in the future, including, but not limited to:

- a. Loss of past and future income;
- b. Loss of insurance benefits;
- c. Loss of other fringe benefits;
- d. Stress, anxiety and emotional distress;
- e. Significant past and future pain and suffering;
- f. Punitive damages; and
- g. Other financial losses.

33. Plaintiff/Intervenor is entitled to an award of reasonable attorneys' fees, exerts fees, costs and expenses related to the litigation pursuant to §706(k) of Title VII, 42 U.S.C. §2000e-5(k), as amended by Section 113 of the Civil Rights Act of 1991.

WHEREFORE, Plaintiff/Intervenor respectfully requests that judgment be entered in his favor against Defendant:

- a. Declaring, pursuant to 28 U.S.C. §§2201 and 2202, that the acts and practices complained of herein are in violation of Title VII;
- b. Permanently enjoining Defendant from continuing and/or maintaining the policy, practice and custom of denying, abridging, withholding or conditioning the federally protected rights of employees on the basis of sex;
- c. Directing Defendant to implement and post an appropriate sexual harassment policy in accordance with current EEOC regulations at Defendant's places of business;

- d. Awarding back pay, prejudgment interest, post judgment interest and damages for all employment benefits Plaintiff/Intervenor would have received but for the discriminatory acts and practices of Defendant;
- e. Directing that Defendant award Plaintiff/Intervenor front pay in lieu of reinstatement;
- f. Awarding Plaintiff/Intervenor compensatory, consequential and punitive damages pursuant to Title VII, 42 U.S.C. § 2000e-5(k);
- g. Awarding reasonable attorney's fees, expert fees, and costs incurred in this action pursuant to Section 706(k) of Title VII, 42 U.S.C. §. 2000(e)-5(k), as amended by Section 113 of the Civil Rights Act of 1991;
- h. Awarding Plaintiff/Intervenor all other sums of money, medical benefits and other employment benefits with interest thereon, to which Plaintiff/Intervenor is entitled; and
- i. Ordering any other relief this Court deems to be just and proper.

COUNT II

VIOLATION OF §760.10, FLORIDA STATUTES

SEXUAL HARASSMENT

34. Plaintiff/Intervenor realleges and reavers paragraphs number 1 through 28 of this Complaint as if fully set forth herein.

35. Defendant has discriminated against Plaintiff/Intervenor in the terms and conditions of his employment by allowing him to be sexually harassed in the workplace and by failing to take any action to prevent the sexually hostile environment.

36. The unlawful discriminatory pattern, practice, usage and custom by Defendant and its agents and employees, as set forth above, violates the Florida Civil Rights Act of 1992, Section 760.10, Florida Statutes.

37. As a direct and proximate result of Defendant's unlawful and discriminatory employment policies and practices, Plaintiff/Intervenor has suffered damages and will continue to suffer irreparable injury and damages in the future, including, but not limited to:

- a. Loss of past and future income;
- b. Loss of future earning capacity;
- c. Loss of medical insurance and benefits;
- d. Loss of other fringe benefits;
- e. Stress, anxiety and emotional distress;
- f. Significant past and future pain and suffering; and
- g. Other financial losses.

38. Plaintiff/Intervenor is entitled to an award of reasonable attorney's fees, expert fees, costs and expenses related to this litigation pursuant to § 760.11(5), Florida Statutes (1995).

WHEREFORE, Plaintiff/Intervenor respectfully requests that judgment be entered in his favor against Defendants:

- a. Declaring, pursuant to 28 U.S.C. 2201 and 2202, that the acts and practices complained of herein are in violation of the Florida Civil Rights Act of 1992;
- b. Permanently enjoining Defendants from continuing and/or maintaining the policy, practice and custom of denying, abridging, withholding or conditioning, the state protected rights of employees on the basis of sex;
- c. Awarding Plaintiff front pay in lieu of reinstatement;

- d. Awarding Plaintiff back pay, prejudgment interest, postjudgment interest and damages for all employment benefits Plaintiff/Intervenor would have received but for the discriminatory acts and practices of Defendants;
- e. Awarding Plaintiff/Intervenor compensatory, consequential and punitive damages for Plaintiff/Intervenor's mental anguish and humiliation pursuant to 760.11(5), Florida Statutes;
- f. Awarding reasonable attorney's fees, expert fees, and costs incurred in this action pursuant to 760.11(5), Florida Statutes;
- g. Awarding Plaintiff/Intervenor all other sums of money, including medical benefits and other employment benefits with interest thereon, to which Plaintiff/Intervenor is entitled; and
- h. Ordering any other and further relief this Court deems to be just and proper

COUNT III

VIOLATION OF TITLE VII: RETALIATION

39. Plaintiff/Intervenor realleges and reavers paragraphs 1 through 28 of this Complaint as if fully set forth herein.

40. Defendant retaliated against Plaintiff/Intervenor for complaining about sexual harassment in the workplace, and by failing to take any action to prevent the sexually hostile environment.

41. The unlawful discriminatory pattern, practice, usage and custom by Defendant and their agents and employees, as set forth above, violates Title VII of the Civil Rights Act of 1964, 42 U.S.C. §2000e, as amended by the Civil Rights Act of 1991, Pub. L. No., 102-166, 105 Stat. 1071 (1991).

42. After making multiple complaints to his supervisors, Plaintiff/Intervenor was subsequently retaliated against and constructively discharged, for complaining about the sexually hostile environment.

43. As a direct and proximate result of Defendant's unlawful retaliation, Plaintiff/Intervenor has suffered damages and will continue to suffer irreparable injury and damages in the future, including, but not limited to:

- a. Loss of past and future income;
- b. Loss of future earning capacity;
- c. Loss of medical insurance and benefits;
- d. Loss of other fringe benefits;
- e. Stress, anxiety and emotional distress;
- f. Significant past and future pain and suffering; and
- g. Other financial losses.

44. Plaintiff/Intervenor is entitled to an award of reasonable attorney's fees, expert fees, costs and expenses related to this litigation pursuant to Title VII, 42 U.S.C. § 2000(e)-5(k), as amended by Section 113 of the Civil Rights Act of 1991.

WHEREFORE, Plaintiff/Intervenor respectfully requests that judgment be entered in his favor against Defendant:

- a. Declaring, that the acts and practices complained of herein are in violation of Section 706(k) of Title VII, 42 U.S.C. § 2000(e)-5(k), as amended by Section 113 of the Civil Rights Act of 1991;
- b. Permanently enjoining Defendant from continuing and/or maintaining the policy, practice and custom of denying, abridging, withholding or conditioning, the state protected rights of employees on the basis of sex;

- c. Awarding Plaintiff/Intervenor front pay in lieu of reinstatement;
- d. Awarding Plaintiff/Intervenor back pay, prejudgment interest, post-judgment interest and damages for all employment benefits Plaintiff, LISA, would have received but for the retaliatory acts and practices of Defendant;
- e. Awarding Plaintiff/Intervenor compensatory, consequential and punitive damages for Plaintiff/Intervenor's mental anguish and humiliation pursuant to Section 706(k) of Title VII, 42 U.S.C. § 2000(e)-5(k), as amended by Section 113 of the Civil Rights Act of 1991;
- f. Awarding reasonable attorney's fees, expert fees, and costs incurred in this action pursuant to Section 706(k) of Title VII, 42 U.S.C. § 2000(e)-5(k), as amended by Section 113 of the Civil Rights Act of 1991;
- g. Awarding Plaintiff/Intervenor all other sums of money, including medical benefits and other employment benefits with interest thereon, to which Plaintiff/Intervenor is entitled; and
- h. Ordering any other and further relief this Court deems to be just and proper

COUNT IV

VIOLATION OF THE FCRA: RETALIATION

45. Plaintiff/Intervenor realleges and reavers paragraphs 1 through 28 of this Complaint as if fully set forth herein.

46. Defendant retaliated against Plaintiff/Intervenor for complaining about sexual harassment in the workplace, and by failing to take any action to prevent the sexually hostile environment.

47. The unlawful discriminatory pattern, practice, usage and custom by Defendant and their agents and employees, as set forth above, violates the Florida Civil Rights Act of 1992, Section 760.10, Florida Statutes.

48. After making multiple complaints to his supervisors, Plaintiff/Intervenor was subsequently retaliated against and constructively discharged, for complaining about the sexually hostile environment.

49. As a direct and proximate result of Defendant's unlawful retaliation, Plaintiff/Intervenor has suffered damages and will continue to suffer irreparable injury and damages in the future, including, but not limited to:

- a. Loss of past and future income;
- b. Loss of future earning capacity;
- c. Loss of medical insurance and benefits;
- d. Loss of other fringe benefits;
- e. Stress, anxiety and emotional distress;
- f. Significant past and future pain and suffering; and
- g. Other financial losses.

50. Plaintiff/Intervenor is entitled to an award of reasonable attorney's fees, expert fees, costs and expenses related to this litigation pursuant to § 760.11(5), Florida Statutes (1995).

WHEREFORE, Plaintiff/Intervenor respectfully requests that judgment be entered in his favor against Defendant:

- a. Declaring, that the acts and practices complained of herein are in violation of the Florida Civil Rights Act of 1992;
- b. Permanently enjoining Defendant from continuing and/or maintaining the policy, practice and custom of denying, abridging, withholding or conditioning, the state

protected rights of employees on the basis of sex;

- c. Awarding Plaintiff/Intervenor front pay in lieu of reinstatement;
- d. Awarding Plaintiff/Intervenor back pay, prejudgment interest, post-judgment interest and damages for all employment benefits Plaintiff, LISA, would have received but for the retaliatory acts and practices of Defendant;
- e. Awarding Plaintiff/Intervenor compensatory, consequential and punitive damages for Plaintiff/Intervenor's mental anguish and humiliation pursuant to 760.11(5), Florida Statutes;
- f. Awarding reasonable attorney's fees, expert fees, and costs incurred in this action pursuant to § 760.11(5), Florida Statutes;
- g. Awarding Plaintiff/Intervenor all other sums of money, including medical benefits and other employment benefits with interest thereon, to which Plaintiff/Intervenor is entitled; and
- h. Ordering any other and further relief this Court deems to be just and proper.

JURY DEMAND

Plaintiff demands trial by jury on all issues so triable by right

Respectfully submitted,

ROTHSTEIN ROSENFELDT ADLER
COUNSEL FOR PLAINTIFF/INTERVENOR
LAS OLAS CITY CENTRE, SUITE 1650
401 EAST LAS OLAS BOULEVARD
Fort Lauderdale, FL 33301
TEL: (954) 522-3456
FAX: (954) 527-8663
Email: sbirken@rra-law.com

/s/ Shawn L. Birken, Esq.

Stuart A. Rosenfeldt, Esq.
Fla. Bar No. 316113
Shawn L. Birken, Esq.
Fla. Bar No. 418765

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