

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**EQUAL EMPLOYMENT OPPORTUNITY )  
COMMISSION, )  
 )  
                                  **Plaintiff,** )  
 )  
                                  **v.** )  
 )  
**HORA, INC. d/b/a DAYS INN and )  
MARSHALL MANAGEMENT, INC., )  
 )  
                                  **Defendants.** )  
\_\_\_\_\_ )****

**CIVIL ACTION NO.**

**COMPLAINT**  
**JURY TRIAL DEMAND**

**NATURE OF THE ACTION**

This is an action under Title VII of the Civil Rights Act of 1964 and Title I of the Civil Rights Act of 1991 to correct unlawful employment practices on the basis of sex, and to provide appropriate relief to Manessta Beverly (female) and a class of females who were adversely affected by such practices. The Commission alleges that during her employment, Ms. Beverly was sexually harassed by Defendant's Night Auditor Nelson Garcia when he subjected her to sexually offensive comments, unwelcome touching, and unwelcome sexual behavior which created a sexually hostile work environment. The Commission also alleges that Defendant retaliated against Ms. Beverly by terminating her employment after she complained of sexual harassment by Garcia. Ms. Beverly suffered backpay losses and sustained emotional distress as a result of the harassment and retaliatory discharge.

The Commission further alleges that a class of females were similarly subjected to a sexually hostile work environment. Moreover, the Commission alleges that although Defendant was aware

of the sexually hostile work environment caused by Garcia's conduct, Defendant failed to take any effective remedial action to rid the work environment of the illegal harassment. As a result of the harassment, the class members suffered monetary damages as well as emotional distress.

#### JURISDICTION AND VENUE

1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 451, 1331, 1337, 1343 and 1345. This action is authorized and instituted pursuant to 704(a), and 706 (f)(1) and (3) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §2000e-3(a), and §2000e-5(f)(1) and (3)("Title VII") and Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981a.

2. The employment practices alleged to be unlawful were committed within the jurisdiction of the United States District Court for the Eastern District of Pennsylvania.

#### PARTIES

3. Plaintiff, the Equal Employment Opportunity Commission (the "Commission"), is the agency of the United States of America charged with the administration, interpretation and enforcement of Title VII, and is expressly authorized to bring this action by Section 706(f)(1) and (3) of Title VII, 42 U.S.C. § 2000e-5(f)(1) and (3).

4. At all relevant times, Defendant, HORA, Inc., d/b/a Days Inn ("HORA") (the "Employer"), has continuously been doing business in the Commonwealth of Pennsylvania, and the City of Reading, and has continuously had at least 15 employees. HORA, Inc. owns the Days Inn franchise which employed Ms. Beverly and the class of aggrieved female employees.

5. At all relevant times, Defendant, Marshall Management Inc. ("Marshall Management") (the "Employer"), has continuously been doing business in the Commonwealth of Pennsylvania, and the City of Reading, and has continuously had at least 15 employees. Defendant

HORA, Inc., contracted with Defendant Marshall Management to manage the day-to-day operations of its Reading, Pennsylvania facility, including but not limited to, keeping the workplace free of unlawful harassment and discrimination.

6. At all relevant times, Defendant Employers have continuously been joint employers engaged in an industry affecting commerce within the meaning of Sections 701(b), (g) and (h) of Title VII, 42 U.S.C. §§ 2000e(b), (g) and (h).

#### STATEMENT OF CLAIMS

7. More than thirty days prior to the institution of this lawsuit, Manessta Beverly filed a charge with the Commission alleging violations of Title VII by Defendant Employer. All conditions precedent to the institution of this lawsuit have been fulfilled.

8. Since at least July 20, 2002, Defendant Employer has engaged in unlawful employment practices at its Reading, Pennsylvania facility, by unlawfully subjecting Ms. Beverly to a hostile work environment based on her sex, female, in violation of Section 703(a)(1) of Title VII, 42 U.S.C. § 2000e-2(a)(1). Defendant Employer also subjected Ms. Beverly to retaliation for her complaints of sexual harassment in violation of Section 704(a) of Title VII, 42 U.S.C. §2000e-(a). These unlawful practices include, but are not limited to, the following:

(a) From her date of hire, on or about June 27, 2002, until her retaliatory termination, on or about July 22, 2002, Ms. Beverly was subjected to sexually offensive comments and unwelcome touching by a male co-worker, Nelson Garcia, Night Auditor. Garcia was assigned to train Ms. Beverly in her position as Night Auditor.

(b) Garcia created a sexually hostile work environment during Ms. Beverly's employment

by regularly and consistently rubbing her hands, placing his hands around her waist, and standing in close proximity to her, clearly invading her personal space.

(c) Ms. Beverly repeatedly objected to Garcia's sexual advances, but he continued to harass her; when she complained, he threatened to advise management that she was not able to perform the Night Auditor job.

(d) On or about July 20, 2002, Garcia further subjected Ms. Beverly to sexual harassment when, in her presence, he began watching a pornographic movie in the hotel's reception area. Ms. Beverly called the hotel manager to verbally complain about Garcia's harassing behavior, but Defendants' dismissed her concerns.

(e) On or about the evening of July 20, 2002, Ms. Beverly informed Defendants that she could no longer withstand Garcia's sexually harassing behavior and left the facility. However, before leaving, Ms. Beverly filed a written complaint of sexual harassment against Garcia with Defendants.

(f) On or about July 22, 2002, Defendant terminated Ms. Beverly's employment because of her internal complaint of sexual harassment against Garcia.

(g) Prior to Ms. Beverly's complaint of sexual harassment to Defendants, other female employees complained of sexual harassment by Garcia. Dating as far back as December 2000, other female employees complained to Defendants that Garcia created a sexually harassing work environment by engaging in ongoing sexually offensive comments and touching.

(h) Despite having knowledge that Garcia was subjecting Ms. Beverly and a class of female employees to a sexually hostile work environment, Defendants failed to take any action, and the harassment continued, causing them to suffer damages.

9. The effect of the practices complained of in paragraph 8(a)-(h) above have been to deprive Manessta Beverly, and a class of female employees, of equal employment opportunities and otherwise adversely affect their status as employees, because of their sex, female.

9. The unlawful employment practices complained of in paragraph 8(a)-(h) above were intentional.

10. The unlawful employment practices complained of in paragraph 8(a)-(h) above were done with malice or with reckless indifference to the federally protected rights of Manessta Beverly, as a female, and the class of female employees.

#### PRAYER FOR RELIEF

Wherefore, the Commission respectfully requests that this Court:

A. Grant a permanent injunction enjoining Defendant Employers, its officers, successors, assigns, and all persons in active concert or participation with it, from engaging in harassment based upon sex and any other employment practice which discriminates on the basis of sex.

B. Order Defendant Employers to institute and carry out policies, practices, and programs which provide equal employment opportunities for women, and which eradicate the effects of its past and present unlawful employment practices.

C. Order Defendant Employers to make whole Manessta Beverly, and a class of affected female employees, by providing appropriate backpay with prejudgment interest, in amounts to be determined at trial, and other affirmative relief necessary to eradicate the effects of its unlawful employment practices.

D. Order Defendant Employers to make whole Manessta Beverly, and a class of affected female employees, by providing compensation for past and future pecuniary losses resulting from

the unlawful employment practices described in paragraph 7(a)-(g) above, including job search expenses, in amounts to be determined at trial.

E. Order Defendant Employers to make whole Manessta Beverly, and a class of affected female employees, by providing compensation for past and future nonpecuniary losses resulting from the unlawful practices complained of in paragraph 7(a)-(g) above, including emotional pain, suffering, depression, anxiety, loss of enjoyment of life and humiliation, in amounts to be determined at trial.

F. Order Defendant Employers to pay Manessta Beverly, and a class of affected female employees, punitive damages for its malicious and reckless conduct described in paragraph 7(a)-(g) above, in amounts to be determined at trial.

G. Grant such further relief as the Court deems necessary and proper in the public interest.

H. Award the Commission its costs of this action.

JURY TRIAL DEMAND

The Commission requests a jury trial on all questions of fact raised by its complaint.

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