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4	Attorney for Plaintiff	
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6	IN THE UNITED STATES DISTRICT COURT	
7	FOR THE DISTRICT OF ARIZONA	
8	Jacinta Hines,	Cause No.: CV 06-2324-PHX-ROS
9	Plaintiff Intervener,	
10	V.	INTERVENER'S COMPLAINT
11		(Title VII, 42 U.S.C. §§ 1981)
12	Apothecary Shop of Scottsdale,	(Jury Trial Demanded)
13	Inc.,d/b/a Apothecary Shops of Arizona; and Apothecary Shop of Gilbert, Inc.,	(Jury Irran Demanded)
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15	Defendants.	
16	Disintiff Issints Hings for her somelleint assint defendents alleges as	
17	Plaintiff, Jacinta Hines, for her complaint against defendants, alleges as follows:	
18	1. This Court has jurisdiction to hear this complaint and to adjudicate the	
19	claims stated herein under 28 U.S.C. §§ 451, 1331, 1337, 1343, 1343(4) and 1345 to	
20	redress the unlawful deprivation of Plaintiff's rights secured, guaranteed and	
21	protected by federal law. The Court also has jurisdiction pursuant to 28 U.S.C. §§	
22	2201 and 2207 relating to declaratory judgments.	
23	2. The action is brought under the Civil Rights Act of 1871, 42 U.S.C.	
24	\$ 1981, and $$$ 704 (a) and 706 (f)(1) and (3) of Title VII of the Civil Rights Act of	
25	1964, as amended, 42 U.S.C. §§ 2000e et seq. (Title VII) and §102 of the Civil Rights	
26	Act of 1991 and 42 U.S.C. § 1981A.	

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occurred in the District of Arizona and the defendants can be found in the District of 2 Arizona. 3 PARTIES 4 4. Plaintiff Jacinta Hines, an African American, at all relevant times, was a 5 resident of Maricopa County, Arizona. 6 5. Defendant Apothecary Shop of Scottsdale, Inc. and Apothecary Shop of 7 8 business in the State of Arizona and the Cities of Gilbert and Scottsdale. 9 6. 10 11 & (h) of Title VII 42 U.S.C. §§ 2000e (b), (g) and (h). 12 7. Defendants employs greater than 100 employees. 13 **GENERAL ALLEGATIONS** 14 8. 15 16 Rights Act of 1964, as amended. 9. 17 18 19 and § 1981. 10. 20 11. 21 only African American Pharmacy Director working for Defendants. 22 12. 23 because of her race and sex in violation of Title VII § 42 U.S.C. § 1981 A. 24 13. 25 by its employee handbook. 26

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Gilbert Inc., ("Defendants") have continuously been an Arizona corporations doing

Venue is proper in this Court because the practices complained of

At all relevant times, Defendants have continuously been employers engaged in an industry affecting commerce within the meaning of sections 701(b), (g)

Defendants are a covered employer as defined by Title VII of the Civil

Since at least December 2004, Defendants have engaged in unlawful employment practices by discriminating against Jacinta Hines in violation of Title VII

Jacinta Hines was employed by Defendants as a Pharmacy Director.

Upon information and belief, at all relevant times, Jacinta Hines was the

Defendants discharges Plaintiff from her position as Pharmacy Director

Defendants did not follow the progressive discipline policy mandated

14. In fact, Defendants never disciplined, counseled, reprimanded or warned Hines regarding the alleged deficient performance and/or conduct which purportedly lead to her termination.

In contrast to Defendants scrutiny of Hines' purported performance
and/or conduct, Defendant retained the employment of two non-African American
male Pharmacy Directors (both Caucasian) whom license had been suspended by the
State Pharmacy Board and/or they were placed on probation for conduct harmful to
customers.

16. Hines' license has never been subject to any disciplinary action by theState Pharmacy Board.

17. Hines' replacement was one of the white male Pharmacy Directors who had been previously disciplined by the State Pharmacy Board.

18. Jacinta Hines timely filed a charge of discrimination with the United
 States Equal Employment Opportunity Commission ("EEOC") alleging Defendants
 discriminated against her because of her race, African American and sex, female.

16 19. The EEOC issued a Letter of Determination finding cause to believe
17 that Defendants had discriminated against Hines because of her race and file a lawsuit
18 on her behalf.

19 20. Hines has complied with all of the administrative requirements, which
20 are a precondition to filing suit under Title VII of the Civil Rights Act of 1964, as
21 amended.

(<u>Title VII – Discrimination – Race & Sex</u>)

24 21. Plaintiff hereby repleads and incorporates all allegations set forth above.
25 22. Since at least December 2004, Defendants intentionally discriminated
26 against Jacinta Hines on the account of her race and sex, in violation of Title VII of

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the Civil Rights Act of 1964, by denying her equal terms, conditions and privileges of 1 employment, including but not limited to, discharging Jacinta Hines. 2

23. As a direct and proximate result of Defendants' acts, Jacinta Hines suffered and continues to suffer damages in amounts to be proven at trial, including embarrassment, pain and suffering, mental distress, ordeal, humiliation and emotional distress. 6

<u>COUNT II</u> (42 U.S.C. § 1981 – Race Discrimination)

Plaintiff hereby realleges and incorporates all allegations set forth

above.

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25. Section § 1981 provides in pertinent part:

> (a) Statement of equal rights... All persons... shall have the same right... to make and enforce contracts... and to the full and equal benefit of all laws and proceedings for the security of persons and property as is enjoyed by White citizens...

26. Defendants intentionally discriminated against Jacinta Hines on the

account of her race, in violation of 42 U.S.C. § 1981 by denying to her equal terms,

privileges and conditions of her employment and the right to contract as well as

interfering with her right to contract by terminating her employment.

20 As a direct and proximate result of Defendants' conduct, Hines has and 27. 21 continues to suffer damages in amounts to be proven at the time of trial.

22 28. The conduct of Defendants was in reckless disregard and/or callous 23 indifference of Hines' federally protected rights.

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29. Plaintiff is entitled to punitive damages.

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DEMAND FOR JURY TRIAL

30. Plaintiff hereby requests a jury trial.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully request that the Court:

A. Order Defendants to make Plaintiff whole by providing appropriate lost wages, including lost fringe benefits with prejudgment interest and front pay in amounts to be proven at trial, and other affirmative relief necessary to eradicate the effects of its unlawful practices.

B. Order Defendant Defendants to reinstate Plaintiff to her rightful positionas a Pharmacy Director, including retroactive seniority or pay front pay to Plaintiff.

C. Order Defendants to make whole Plaintiff by providing compensation for past and future pecuniary and non-pecuniary losses and compensatory damages resulting from the unlawful practices complained of above, including damages for emotional pain and suffering, anguish, emotional distress, humiliation, embarrassment, anxiety, fear/fright and ordeal, in amounts to be determined at trial.

D. Order Defendants to pay Plaintiff punitive damages.

E. Order Defendant to take appropriate remedial disciplinary action against
all employees who discriminated, against Hines.

F. Order Defendant Defendants to implement training and monitoring
programs administered by an entity external to Defendants.

G. Enter a declaratory judgment that Defendants have violated Plaintiff's
right to be free from discrimination and pursuant to Title VII and 42 U.S.C. § 1981.

H. Order Defendants to pay Jacinta Hines all statutory damages including
compensatory and punitive damages.

I. Grant a permanent injunction enjoining Defendant Defendants and its
 officers, supervisors, managers, successors, assigns and all persons in active concert

or participation with them, from engaging in any employment practice which discriminates on the basis of race or sex.

J. Order Defendant Defendants to institute and carry out policies, practices and programs which provide equal employment opportunities for qualified individuals, females and African Americans, which eradicate the effects of its past and present unlawful employment practices.

K. Award Plaintiff her reasonable attorney's fees and costs;

L. Award Plaintiff pre-judgment interest and post-judgment interest; on any awards at the highest rate allowed by law; and

M. Such other and further relief as this Court deems just, appropriate and proper.

DATED this 9th day of October 2007.

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By <u>/s/Trisha Kirtley</u> 3800 N. Central Avenue, Suite 615 Phoenix, AZ 85012 Attorney for Plaintiff