

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

U.S. EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,

Plaintiff,

Case No.: 8:20-cv-02128

CASSANDRA JEROME,

Intervenor,

v.

CHIPOTLE MEXICAN GRILL, INC.,

Defendant.

INTERVENOR’S COMPLAINT AND DEMAND FOR JURY TRIAL

Cassandra Jerome (“Intervenor”) hereby sues CHIPOTLE MEXICAN GRILL, INC., (hereinafter “Defendant”) and in support thereof alleges as follows:

Nature of the Case

1. This action is brought pursuant to Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e *et seq.* (“Title VII”), and Florida Civil Rights Act (“FCRA”), Fla. Stat. § 760.10, *et seq.* to correct unlawful employment practices on the basis of sex, and to provide appropriate relief to Intervenor, who was adversely affected by such practices. As alleged with greater particularity below, Intervenor was subjected to unwelcome, sexual harassment, sexual assault and retaliation because of her sex, which created a hostile work environment. Intervenor complained about the sexual harassment then Defendant terminated her employment in retaliation for her complaints. Intervenor seeks back pay, front pay,

compensatory damages, punitive damages, attorneys' fees and costs and all other relief this Court deems just and proper.

2. Additionally, Defendant knew or should have known about a dangerous condition that existed and remained in existence throughout the employment of Intervenor. Specifically, Defendant employed, Mr. Lazaro Avila ("Avila"), who engaged in repeated unwanted, physical touching of a sexual nature, constituting tortious acts. Avila's conduct was foreseeable to Defendant, it was known or should have been known to Defendant that Avila would engage in this conduct, and/or that Avila had a propensity for this conduct. Furthermore, Defendant did not properly train Avila, nor was Defendant careful in hiring Avila who was foreseeably unfit to be an employee of Defendant, yet Defendant did nothing to protect Plaintiff from this danger though it had a duty to do so. Intervenor seeks all damages, compensatory, punitive and otherwise, for the injuries she has suffered as a but for and proximate cause of Defendant's negligent acts.

Jurisdiction and Venue

3. This Court has original jurisdiction over Plaintiff's claims under Title VII of the Civil Rights Act of 1964, as amended, pursuant to 28 U.S.C. §§ 451, 1331 1337,1343, and 1345. This Court has supplemental jurisdiction over Intervenor's state law claims pursuant to 28 U.S.C. § 1367, as her state law claims are so related to her claims under federal law that they form part of the same case or controversy.

4. The employment practices alleged to be unlawful were and are now being committed within the jurisdiction of the United States District Court for the Middle District of Florida, Tampa Division.

Parties

5. At all material times, Defendant is/was a Delaware corporation, headquartered at 1401 Wynkoop Street, Suite 500, Denver, CO 80202, and authorize to do business in the state of Florida. The Defendant owned and operated a facility located at the International Plaza, 2223 North Westshore Boulevard, Suite FC 204, Tampa, FL 33607 which is located within the Middle District of Florida.

6. At all material times, Defendant employed at least fifteen employees and was an employer within the meaning of the FCRA, and Title VII.

7. Plaintiff Equal Employment Opportunity Commission (“EEOC”) is the agency of the United States of America charged with the administration, interpretation and enforcement of Title VII.

8. At all material times, Intervenor was a female citizen of the United States and a resident of the State of Florida.

9. At all material times, Intervenor was an employee of Defendant and was an aggrieved person within the meaning of the FCRA, and Title VII.

STATEMENT OF TITLE VII CLAIMS

10. Intervenor restates and incorporates by reference the allegations set forth in paragraphs 1 through 9 above and set forth in paragraphs 12 through 31 of the Complaint and Demand for Jury Trial filed by the EEOC. (Doc. #1).

11. Intervenor has met all conditions precedent and has exhausted all administrative remedies prior to the initiation of this action.

12. As a result of the above actions, Intervenor has had to retain the undersigned law

firm to which she is obligated to pay reasonable attorneys' fees, costs and expenses.

STATEMENT OF FACTS

13. Intervenor began her employment with Defendant as a crew member in November 2017. Ms. Jerome hoped to make her job with Defendant a career and participated in a management and apprenticeship program.

14. Defendant also hired and employed Mr. Lazaro Avila. Beginning in approximately March 2018 Intervenor came into frequent contact with Defendant's employee Lazaro Avila ("Avila"). Mr. Avila began to sexually harass Intervenor. Initially the harassment was verbal to include Avila commenting on Ms. Jerome's breast size, and Mr. Avila's statements about wanting to perform sexual acts on Ms. Jerome. The comments were frequent and recurring on a weekly basis. Ms. Jerome objected to the comments.

15. Avila's verbal sexual harassment escalated to unwanted physical touching and sexual assault. On multiple occasions the unwanted touching included but was not limited to Avila rubbing against Ms. Jerome when he passed by her touching her buttocks.

16. Ms. Jerome reported the unwanted sexually charged comments and unwanted touching to her Defendant's management, including Defendant Apprentice Manager, Charissa Serrano and Defendant General Manager Allie O'Connor.

17. Ms. Serrano complained on Ms. Jerome's behalf to Ms. O'Connor.

18. Despite the multiple complaints and reports concerning Mr. Avila's unwanted sexual conduct, Defendant did not respond, investigate, or intervene to stop the conduct and protect Ms. Jerome. The harassing conduct continued. Avila remained Defendant's employee and remained on the schedule working the same days, hours, and alongside Jerome.

19. On one occasion Avila manipulated a food tray called a “hotel pan” and intentionally, and forcefully used it to touch Ms. Jerome’s genitalia causing pain, discomfort, embarrassment, and humiliation while at work.

20. During another incident while at work, Avila grabbed Ms. Jerome’s hair as she was kneeling down and physically thrust his pelvis and private area toward her face simulating oral sex.

21. Intervenor complained of and reported the sexual assault to her immediate supervisor, Charissa Serrano and the facility’s General Manager Allison O’Connor.

Intervenor made multiple complaints about the abusive and unlawful work environment.

22. Ms. Jerome and Ms. Serrano together reported the sexual assaults to Ms. O’Connor, who advised that appropriate steps would be taken to investigate and correct the problems.

23. Ms. O’Connor refused or failed to intervene or take corrective action. Defendant’s Tampa based management failed to appropriately end the unlawful, hostile work environment.

24. Intervenor requested O’Connor report the matter to a corporate level human resources representative. Despite assurances the report would be made, O’Connor declined or failed to report the complaint to Human Resources. Avila remained employed and on the schedule.

25. On or about May 22, 2018, the International Plaza store where Jerome worked was audited by a third party.

26. Ms. Jerome was not in charge of food safety nor was she the manager

responsible for ensuring that the employee wellness check book was completed at the time of the audit.

27. Defendant's policy was that the head manager on duty was responsible for any wellness check violations.

28. On the date of the third-party audit, Apprentice Manager Charissa Serrano was the head manager on duty.

29. On the date of the audit, Kitchen Manager Mario Diaz was also a manager on duty.

30. On the date of the audit, Ms. Jerome was also a service manager on duty.

31. The International Plaza store location scored poorly on several parts of the audit, including food safety issues and failing to have an employee sign the wellness check book completely.

32. Because Ms. Serrano was the head manager on duty that day, Ms. Serrano was responsible for any wellness check violations.

33. Defendant, however, blamed Jerome for the violations and held her accountable.

34. Defendant terminated Ms. Jerome's employment for these violations only after, and because Ms. Jerome complained about repeated sexual harassment.

35. Defendant terminated Jerome shortly after she complained to Ms. O'Connor and Ms. O'Connor advised she would forward the complaint to corporate.

36. The wellness violation was a pretext for terminating Ms. Jerome.

37. Ms. Jerome was the only manager terminated for the violations and the audit

performance.

38. Defendant's General Manager, on notice of repeated sexual harassment, and an alleged hostile work environment, convinced the Field Leader, that Ms. Jerome should be terminated after the audit and not the actual responsible manager.

39. Ms. Jerome's reports and complaints of sexual harassment, and her statement that the sexually harassing conduct needed to be forwarded to human resources and corporate were made in close temporal proximity to her termination.

40. As a direct consequence of Defendant terminating Ms. Jerome's employment, she suffered damages.

41. By complaining about sexual harassment Ms. Jerome engaged in protected activity.

STATEMENT OF CLAIMS

COUNT I

Sex Harassment/Discrimination in Violation of the FCRA

42. Intervenor repeats and realleges by reference the allegations set forth in paragraphs 1 through 41 above and set forth in paragraphs 12 through 31 of the Complaint and Demand for Jury Trial filed by the EEOC (Doc. #1), as though fully set forth herein.

43. Defendant's conduct including the unwelcome, sexually charged comments and unwanted and sexual physical conduct as herein alleged, violated the FCRA, which prohibits gender discrimination, including sexual harassment, and a sexually hostile work environment.

44. The foregoing actions of the Defendant constitute discrimination against Intervenor based upon her gender.

45. Defendant's actions were done willfully and with malice.

46. As a direct and proximate result of Defendant's discriminatory actions, Intervenor has suffered injury, to which Intervenor is entitled to legal and injunctive relief.

47. Intervenor has met all conditions precedent and has exhausted all administrative remedies prior to the initiation of this action. The FCRA charge had been pending with the FCHR for more than 180 days and this action is filed within four years of the discrimination.

48. Intervenor requests relief as described in the Prayer for Relief below.

COUNT II
Retaliation In Violation Of The FCRA

49. Intervenor repeats and realleges by reference the allegations set forth in paragraphs 1 through 48 above and set forth in paragraphs 12 through 31 of the Complaint and Demand for Jury Trial filed by the EEOC (Doc. #1), as though fully set forth herein.

50. Defendant's conduct as herein alleged, including terminating Intervenor's employment in retaliation for complaining of sexual harassment, violated the FCRA, which prohibits retaliation because of statutorily-protected activity.

51. By reporting and complaining about sexual harassment and by rejecting the unwelcome advances, comments and conduct, Intervenor engaged in statutorily-protected activity under the FCRA.

52. The foregoing actions of Defendant constitute retaliation against Intervenor because of her statutorily-protected activity.

53. Defendant's actions were willful and done with malice.

54. As a proximate result of Defendant's retaliatory actions, Intervenor has suffered injury, to which Intervenor is entitled to legal and injunctive relief.

55. Intervenor has met all conditions precedent and has exhausted all administrative

remedies prior to the initiation of this action. The FCRA charge had been pending with the FCHR for more than 180 days and this action is filed within four years of the retaliation.

56. Intervenor requests relief as described in the Prayer for Relief below.

57. As a result of the above actions, Intervenor has had to retain the undersigned law firm to which she is obligated to pay reasonable attorneys' fees, costs and expenses.

COUNT III
Negligent Infliction of Emotional Distress

58. Intervenor restates, realleges and re-incorporates paragraphs 1-57 above and paragraphs 12 through 31 of the Complaint and Demand for Jury Trial filed by the EEOC (Doc. #1), as though fully set forth herein.

59. Defendant hired and employed Lazaro Avila during the time period Mr. Avila victimized Intervenor.

60. Defendant employed Lazaro Avila on its premises, where Defendant similarly employed Intervenor.

61. Defendant provided Lazaro Avila items, and equipment to perform his job functions.

62. Included in the items and equipment were food pans, food trays, heating pans and trays. One of the items was a "hotel pan" which is a food pan used for food storage, holding and serving.

63. Defendant supplied Mr. Avila with a hotel pan, on Defendant's property, during work hours the Defendant employed Avila, and during the work hours Defendant employed Intervenor.

64. During Mr. Avila's employment, on Defendant's premises, using Defendant's

items, Avila touched Intervenor on, in, or about her genitals with the hotel pan with sufficient intent and force to cause pain, discomfort, and injury to Plaintiff's genitals.

65. Avila had access to Intervenor by virtue and because of his employment with Defendant.

66. Avila had access to the hotel pan by virtue of and because of his employment with Defendant.

67. Intervenor was the victim of outrageous conduct Defendant allowed, or permitted to occur on its premises, during work hours, while Defendant employed Avila and Intervenor.

68. Intervenor suffered significant emotional distress from the physical impact of Avila using Defendant's items to touch, hit, and/or make union with Intervenor's genitals.

69. Because of the unwanted, physical touching, Intervenor suffered emotional distress and physical distress to include: hair falling out or hair loss, sleeplessness and sleep disorder, anxiety, and severe upset stomach.

70. Avila's touching Intervenor's private parts with Defendant's equipment was an external force which caused a physical impact to Plaintiff.

71. Touching Intervenor with a hotel pan on her private parts is outrageous conduct, made possible only through Defendant's negligence in equipping Avila, with the instrumentality, the means, and opportunity to commit the physical touching.

72. Defendant also employed Mr. Avila during the time period in which Mr. Avila grabbed Intervenor's hair and thrust his pelvis and penis into Intervenor's face simulating a sex act.

73. When Mr. Avila grabbed Intervenor's hair it was a physical impact on intervenor.

74. When Mr. Avila thrust his pelvis and penis into Intervenor's face it created a physical impact from an external force.

75. Mr. Avila committed the thrusting, and simulation of oral sex action while an employee of Defendant, on Defendant's premises, during the work hours Defendant employed Avila, and during the work hours Defendant employed Intervenor.

76. Intervenor alerted, warned, and complained of Avila's sexual misconduct to Defendant before Avila used a hotel pan to touch Intervenor's private parts, and before Avila grabbed Intervenor's hair and thrust his penis into her face.

77. Defendant had to duty to ensure Avila did not commit outrageous physical assaults and touching against Intervenor.

78. Defendant breached its duty to protect Intervenor when she was physically touched, and assaulted by Avila, and Defendant took no action to correct, stop, or protect Intervenor after learning Avila was engaging in sexual misconduct during work hours, on Defendant's premises, and with Defendant's employees.

79. Intervenor has suffered emotional distress stemming from the unwanted touching of her genital area and the unwanted hair grabbing and penis thrusting into her face.

COUNT IV
Negligent Retention

80. Intervenor restates and incorporates by reference the allegations set forth in paragraphs 1 through 79 above and set forth in paragraphs 12 through 31 of the Complaint and Demand for Jury Trial filed by the EEOC(Doc.#1).

81. Defendant knew or should have known that Lazaro Avila was a threat to Ms. Jerome. Defendant had long-standing knowledge of Avila's unlawful workplace behavior. Specifically, Avila was previously accused of sexually assaulting another employee.

82. In November 2016, shortly after the Thanksgiving holiday, Avila sexually assaulted Defendant's employee, Austin Bristow in the parking lot of the International Plaza following their shift.

83. The incident was reported to Ms. Serrano who, as she did on behalf of Intervenor, reported the Avila's behavior to then general manager Hamed Harizi.

84. Harizi, as O'Connor, failed to appropriately correct the workplace behavior.

85. Harizi dismissed Bristow's complaint accusing him of being a "drama queen."

86. Harizi retained his employment.

87. It was known that Mr. Avila made sexually offensive, inappropriate and charged comments, and engaged in inappropriate touching of Mr. Bristow during work hours, and while employed by Defendant.

88. The sexually charged comments included references to performing sexual acts. These comments were unwanted by Mr. Bristow and complaints to Defendant were made concerning Avila's conduct. Defendant was on notice that Avila posed a threat to Jerome and other employees who worked for Defendant.

89. Defendant's management was aware of Mr. Avila's sexually inappropriate and offensive conduct toward Mr. Bristow, prior to Ms. Jerome becoming a victim of Mr. Avila.

90. Defendant's management did nothing to stop, intervene, correct or remove Mr. Avila from his employment despite having the ability to control, investigate, and remove

Avila from Defendant's employment, and premises.

91. Mr. Avila's conduct toward Mr. Bristow occurred prior to the sexual comments, and sexual touching Mr. Avila committed against Ms. Jerome.

92. Additionally, Ms. Jerome herself complained to Defendant's management of Mr. Avila's sexually offensive, and unwanted sexual comments he made to her.

93. With respect to Avila's sexual conduct to Bristow, Defendant did nothing to prevent Avila from making sexually unwanted comments to Ms. Jerome. Defendant did nothing to prevent Avila from touching, grabbing, and sexually assaulting Ms. Jerome despite knowledge that Avila had a history during his employment with Defendant of engaging in sexual misconduct with Defendant's employees.

94. Avila also made sexual comments to Ms. Jerome before she touched her against her will. Jerome reported and complained of the comments, Defendant similarly did nothing to prevent Avila from touching, grabbing, and sexually assaulting Ms. Jerome despite knowledge that Avila had a history during his employment with Defendant of making sexually offensive comments to Defendant's employees.

95. Because Defendant was aware or should have been aware of Avila's prior sexual misconduct towards its employees, Avila's sexual assault, and misconduct committed against Ms. Jerome was foreseeable to Defendant.

96. Because Ms. Jerome directly warned and complained about Avila's misconduct towards her in the form of verbal sexual comments about sex acts, Avila's sexual assaults, batteries, and misconduct in the form of touching and grabbing Jerome, Avila's conduct was foreseeable to Defendant.

97. Because Defendant employed Avila, it owed Jerome a duty to hire safe employees.

98. Because Defendant employed Avila, it owed Jerome a duty to retain safe and competent employees.

99. Because Defendant employed Avila and Jerome, and did not remove or prevent Avila from touching Jerome on her private part, or grabbing her hair and thrusting his pelvis into her face (tortious conduct for sexual battery, and battery) Defendant placed plaintiff in the immediate vicinity with Avila and thus put Jerome in the zone of risk reasonably foreseeable by the Defendant.

100. The sexual battery or battery occurred during work hours.

101. The sexual battery or battery occurred on Defendant's premises.

102. Defendant assigned Avila and Jerome to their work hours.

103. Jerome met and only knew or had a connection to Avila through her employment with Defendant. Likewise, Avila only knew, or had a connection to Jerome through his employment and her employment with Defendant.

104. Defendant negligently retained Avila.

105. Defendant had a duty to exercise reasonable care so as to control its employee/servant (Avila) while acting within the course of his employment to prevent him from intentionally harming others or from conducting himself as to create an unreasonable risk of bodily harm to others if;

(a) the employee/servant (Avila)

(i) is upon the premises in the possession of the master or upon which the servant is

privileged to enter only as his servant, or

(ii) is using a chattel of the master, and

(b) the master (i) knows or has reason to know that he has the ability to control his servant and (ii) knows or should know of the necessity and opportunity for exercising such control. *Malicki v Doe*, 814 So.2d 347, 361 n.14. (Fla 2002) (quoting Section 317 of the Restatement (Second) of Torts (1965) (emphasis added).

106. Intervenor was sexually assaulted pursuant to her attendance at work as required by Defendant, Intervenor was assaulted on the premises of the Defendant and the Defendant's servant/employee (Avila) effectuated his sexual assault by virtue of his employment with the Defendant.

107. It was unreasonable for Defendant to retain Avila and subject Plaintiff to the inevitability of an act of sexual assault committed by Avila who had been reported to engage in such misconduct by both prior employee Bristow, and by Jerome's report of sexually charged comments in the recent past.

108. It was unreasonable for Defendant to fail to protect Plaintiff, other employees from the likelihood of a repeat offense committed by Avila.

109. Intervenor's injuries were proximately caused by Defendant's negligent retention of Avila.

COUNT V
Negligent Supervision

110. Intervenor realleges and reincorporates paragraphs 1-109 above and set forth in paragraphs 12 through 31 of the Complaint and Demand for Jury Trial filed by the EEOC (Doc. #1), as though fully set forth herein.

111. During the course of Avila's employment with Defendant, Defendant was aware, should have become aware, or was constructively aware that Avila made sexually charged comments to Defendant's employees prior to Avila touching Jerome on her private parts and grabbing her hair and thrusting his penis into Jerome's face.

112. During the course of Defendant's employment of Avila, Defendant became aware, should have become aware, or was constructively aware of Avila's sexual touching of Defendant's employees prior to Avila touching Jerome against her will.

113. During the course of Defendant's employment of Avila, Defendant was aware that Jerome complained of unwanted sexually charged comments made by Avila to Jerome.

114. Defendant owed Jerome a duty to properly supervise its employees to ensure they act in a safe and competent manner.

115. Due to Defendant's negligence, it failed to supervise Avila which placed Jerome in the zone of risk.

116. Avila's sexual misconduct committed against Jerome was foreseeable to Defendant, was outside the scope of his employment, and Defendant had notice that Avila posed a risk and/or danger to Defendant's employees, specifically Ms. Jerome.

117. Had Defendant acted with due care, and caution, it would have adequately supervised Avila, investigated Avila, and removed Avila from its employment, and premises and preventing Avila from committing tortious acts upon Jerome.

118. Defendant failed to properly supervise Avila. Defendant breached its duty to Jerome.

119. Due to Defendant's negligent supervision of Avila, Jerome suffered injuries which were proximately cause by Defendant's negligence in employing, and failing to supervise, a risk and danger in the form of Avila.

COUNT VI
Negligent Training

120. Intervenor realleges and reincorporates paragraphs 1-119 above and set forth in paragraphs 12 through 31 of the Complaint and Demand for Jury Trial filed by the EEOC (Doc. #1), as though fully set forth herein.

121. Defendant prides itself on maintaining high standards in training employees.

122. Defendant trains employees pursuant to its employee handbook.

123. Defendant trained Avila.

124. Defendant trained Serrano.

125. Defendant trained O'Connor.

126. Defendant was negligent in implementing its training program for its employees which led to injuries suffered by Intervenor Jerome.

127. Defendant should have trained Avila on how to safely perform his job duties, to not touch co-workers in an unwanted manner, and how to speak to co-workers in the workplace by not making sexually charged comments.

128. Defendant's failure to properly train Avila caused an injury to Jerome, specifically Avila engaging in sexual harassment, and by touching her genitalia with the hotel pan, and grabbing her hair and forcing his pelvis into her face. These are recognized tortious acts under Florida law.

129. Because Defendant employed Jerome and Avila, and scheduled Jerome and Avila to work together, on Defendant's premises, and at the same time, Defendant placed Jerome, and Jerome, as an employee of Defendant was in a reasonably foreseeable zone of risk from the actions of Defendant's employee Avila such that a legal duty of care in training Avila exists between Defendant and Intervenor.

130. Additionally, Defendant failed to properly train General Manager O'Connor in responding to claims of sexual harassment.

131. Defendant should have trained O'Connor in investigating claims of sexual harassment, and proper reporting of complaints of sexual harassment, and proper response to complaints of employees against other employees of sexual harassment.

132. Because Defendant failed to properly train O'Connor in how to respond to employees' complaints of sexual harassment against other employees, O'Connor did not act, intervene, investigate or report Avila's sexually offensive and unwanted comments.

133. Although a General Manager, O'Connor's refusal or failure to properly respond to complaints of sexual harassment, foreseeably led to Avila perpetrating sexual assaults or batteries on Intervenor.

134. Had Defendant properly trained O'Connor in responding to complaints of sexual harassment, a reasonable employer, and a reasonable manager would have removed Avila from ever being able to commit tortious acts of sexual assault, battery, and sexual battery upon Intervenor Jerome.

135. Intervenor has suffered injuries proximately caused by Defendant's negligent conduct.

136. Intervenor has suffered damages due to Defendant's negligence.

COUNT VII
Negligent Hiring

137. Intervenor repeats and re-alleges the allegations set forth in Paragraphs 1 through 136 and set forth in paragraphs 12 through 31 of the Complaint and Demand for Jury Trial filed by the EEOC (Doc. #1), as though fully set forth herein.

138. Defendant hired Avila as an employee.

139. Defendant conducted an interview process prior to hiring Avila.

140. During the interview process, and hiring process Defendant was required to make an appropriate investigation of Avila but failed to do so.

141. An appropriate investigation would have revealed Avila was unfit to work for Defendant as a crew member.

142. Defendant conducted no background check to determine whether Avila had a criminal history.

143. By information and belief Avila does have criminal history.

144. Defendant failed to adequately investigate during the hiring process whether Avila had a propensity for sexual offensive acts or misconduct.

145. Had Defendant properly investigated Avila during the hiring process it would have determined Avila was unsuitable to work for Defendant.

146. Defendant had a duty to properly investigate Avila during the hiring process.

147. Defendant had a duty to Intervenor not to hire individuals it knew or should have known were dangers to her.

148. Defendant failed to take due take in its hiring of Avila thus breaching its duty to Jerome and as a result its negligence was the proximate cause of Intervenor's injuries to include tortious acts committed by Avila which were foreseeable to Defendant.

COUNT VIII
Sex Harassment/Discrimination in Violation of Title VII

149. Intervenor repeats and re-alleges the allegations set forth in Paragraphs 1 through 148 and set forth in paragraphs 12 through 31 of the Complaint and Demand for Jury Trial filed by the EEOC (Doc. #1), as though fully set forth herein.

150. Defendant's conduct, including the unwelcome, sexually charged comments and conduct as herein alleged, violated Title VII, which prohibits gender discrimination, including sexual harassment.

151. The foregoing actions of Defendant's constitute discrimination against Intervenor based upon her gender.

152. Defendant's actions were done willfully and with malice.

153. As a direct and proximate result of Defendant discriminatory actions, Intervenor has suffered injury, to which Intervenor is entitled to legal and injunctive relief.

154. Intervenor requests relief as described in the Prayer for Relief below.

COUNT IX
Retaliation in Violation of Title VII

155. Intervenor repeats and re-alleges the allegations set forth in Paragraphs 1 through 154 and set forth in paragraphs 12 through 31 of the Complaint and Demand for Jury Trial filed by the EEOC (Doc. #1), as though fully set forth herein..

156. Defendant's conduct as herein alleged, including terminating Intervenor's employment in retaliation for complaining of sexual harassment, violated Title VII, which prohibits retaliation because of statutorily-protected activity.

157. By complaining about sexual harassment and by rejecting the unwelcome advances, comments and conduct, Intervenor engaged in statutorily-protected activity under Title VII. The foregoing actions of Defendant's constitute retaliation against Intervenor because of her statutorily-protected activity.

158. Defendant's actions were willful and done with malice.

159. As a proximate result of Defendant's retaliatory actions, Intervenor has suffered injury, to which Intervenor is entitled to legal and injunctive relief.

160. Intervenor requests relief as described in the Prayer for Relief below.

Prayer for Relief

WHEREFORE, Intervenor respectfully requests that this Court:

A. Intervenor restates and incorporates by reference the allegations set forth in paragraphs A through G of the Prayer for Relief of the Complaint and Demand for Jury Trial filed by the EEOC.

B. Award Intervenor reasonable attorneys' fees and costs incurred in this action and such other relief, as the Court deems just and appropriate.

Intervenor requests that this Court:

1. Enter a declaratory judgment that the practices complained of in this amended complaint are unlawful and violate Title VII and the FCRA;

2. Grant all injunctive relief necessary to bring Defendant into compliance with Title VII and the FCRA;

3. Order Defendant to pay the wages, salary, employment benefits, and other compensation denied or lost to Intervenor to date by reason of Defendant's unlawful actions, in amounts to be proven at trial;

4. Order Defendant to pay compensatory damages for Intervenor's emotional pain and suffering, in an amount to be proven at trial;

5. Order Defendant to pay exemplary and punitive damages pursuant to Title VII and the FCRA;

6. Order Defendant to pay attorneys' fees and costs of the action pursuant to Title VII and the FCRA;

7. Order Defendant to pay interest at the legal rate on such damages as appropriate, including pre- and post-judgment interest;

8. Grant any further relief that the Court deems just and proper.

9. As a direct and proximate result of Defendant's wrongful acts, Intervenor has suffered in the past and will continue to suffer in the future, injuries and damages, including, but not limited to:

- a. Physical injuries;
- b. Anxiety;
- c. Mental anguish, pain and suffering;
- d. Embarrassment;
- e. Severe emotional distress;
- f. Psychological trauma;
- g. Severe emotional distress manifesting itself in the form of physical symptoms, conditions, illness and/or impairment;
- h. Past and future bills for medical and/or psychological and/or psychiatric care and treatment; and/or
- i. Loss of capacity for the enjoyment of life.

10. Said injuries are significant and continuing in their nature, and Intervenor will suffer such losses and impairment in the future.

WHEREFORE, Intervenor Jerome, demands judgment against the Defendant, for damages, plus costs of this action, and any other relief so entitled under Federal and Florida law, and respectfully requests a trial by jury of all issues so triable.

Demand for Jury Trial

Intervenor demands a trial by jury on all issues so triable.

Respectfully submitted,

WHITTEL & MELTON, LLC

/s/ William Sheslow

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 28th day of October 2020, I electronically filed the foregoing with the Clerk of Court by using the CM/ECF system, and that a copy hereof will automatically be sent to all counsel of record.

/s/ William Sheslow

William Sheslow, Esq.