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9 **UNITED STATES DISTRICT COURT**
10 **EASTERN DISTRICT OF CALIFORNIA**

11 U.S. EQUAL EMPLOYMENT
12 OPPORTUNITY COMMISSION,

13 Plaintiff,

14 v.

15 FOAM WORKS, LLC,
16 Defendant.
17
18
19

CASE NO.:

COMPLAINT – CIVIL RIGHTS
SEX HARASSMENT;
RETALIATION

(42 U.S.C. §§ 2000e, *et seq.*)

JURY TRIAL DEMAND

20
21 **NATURE OF THE ACTION**

22 This is a sexual harassment and retaliation action brought by the United
23 States Equal Employment Opportunity Commission, (“EEOC”) under Title VII of
24 the Civil Rights Act of 1964, as amended, to correct unlawful employment
25 practices on the basis of sex and to provide appropriate relief to the Charging
26 Party, Melodie Clark (“Ms. Clark”) who was adversely affected by such practices.
27 EEOC alleges Ms. Clark was sexually harassed or subjected to sex based
28 harassment during her employment with Defendant, Foam Works, LLC., a

1 business conducting operations in the State of California. Ms. Clark was
2 subjected to a hostile work environment perpetuated by a delivery driver and
3 Defendant's supervisor.

4 EEOC also alleges that when Ms. Clark complained about the harassment,
5 she was subjected to retaliation in the form of demotion (loss of duties), loss of
6 wages, and discharge.

7 **JURISDICTION AND VENUE**

8 1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 451,
9 1331, 1337, 1343 and 1345.

10 2. This action is authorized and instituted pursuant to Sections 706(f)(1)
11 and (3) and 707 of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C.
12 § 2000e-5(f)(1) and (3) and -6 ("Title VII") and Section 102 of Title I of the Civil
13 Rights Act of 1991, 42 U.S.C. § 1981a.

14 3. The employment practices alleged to be unlawful were committed
15 within the jurisdiction of the United States District Court for the Eastern District
16 of California.

17 **PARTIES**

18 4. Plaintiff, Equal Employment Opportunity Commission is the federal
19 agency of the United States of America charged with the administration,
20 interpretation and enforcement of Title VII, and is expressly authorized to bring
21 this action by Sections 706(f)(1) and (3) and 707 of Title VII, 42 U.S.C. § 2000e-
22 5(f)(1) and (3) and -6.

23 5. At all relevant times, Defendant Foam Works (the "Employer"), has
24 continuously been doing business in the State of California and the City of
25 Sacramento, and has employed continuously at least fifteen (15) employees.

26 6. At all relevant times, Defendant Employer continuously has been an
27 employer engaged in an industry affecting commerce within the meaning of
28 Sections 701(b), (g) and (h) of Title VII, 42 U.S.C. §§ 2000e(b), (g) and (h).

STATEMENT OF CLAIMS

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

6 8. Since on or about January 2003, Defendant Employer has engaged in
7 unlawful employment practices at its facility in Sacramento, California in violation
8 of §§ 703(a)(1) and 704(a) of Title VII, 42 U.S. C. §§ 2000e-2(a)(1) and -3(a).
9 The unlawful sexual harassment and sex based harassment in the form of verbal
10 harassment directed at Ms. Clark impacted the terms and conditions of her
11 employment and created a hostile working environment at Defendant Employer.
12 Ms. Clark was also retaliated against for engaging in a protected activity of
13 complaining about the work environment by reducing her hours and duties, which
14 reduced her wages and ultimately resulted in her discharge.

15 9. During the period from on or about January 13, 2003 to on or about
16 June 18, 2003, Defendant Employer knew about and was on notice regarding the
17 constant verbal harassment of Ms. Clark perpetuated by the third-party harasser
18 and ratified such behavior. When Ms. Clark complained to her supervisor about
19 the third-party harasser, the supervisor joined in the harassing behavior by making
20 statements to Ms. Clark about her going to work for the Mustang Ranch in Nevada
21 and other derogatory comments. When Ms. Clark complained, she was subjected
22 to retaliation leading to her discharge.

23 10. Since January 2003, the effect of the practices complained of above
24 have been to deprive Ms. Clark of equal employment opportunities and otherwise
25 adversely affect her status as an employee because of her sex.

26 11. The unlawful employment practices complained of above were
27 willful.

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1 12. The unlawful employment practices complained of above were
2 intentional.

3 13. The unlawful employment practices complained of above were done
4 with malice or with reckless indifference to the federally protected rights of Ms.
5 Clark.

6 **PRAYER FOR RELIEF**

7 Wherefore, the Commission respectfully requests that this Court:

8 A. Grant a permanent injunction enjoining Defendant Employer, its
9 officers, successors, assigns, and all persons in active concert or participation
10 with it, from (1) engaging in hiring, promotion and any other employment
11 practices which discriminates on the basis of sex; and (2) discriminating against
12 any individual because he or she has opposed any unlawful employment practice
13 or because he or she has made a charge, testified, assisted, or participated in any
14 manner in an investigation, proceeding, or hearing under 42 U.S.C. §2000e-3.

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

19 C. Order Defendant Employer to make whole Melodie Clark, by
20 providing appropriate backpay with prejudgment interest, in amounts to be
21 determined at trial, and other affirmative relief necessary to eradicate the effects of
22 its unlawful employment practices.

23 D. Order Defendant Employer to make whole Melodie Clark by
24 providing compensation for past and future pecuniary losses resulting from the
25 unlawful practices complained of above, including relocation expenses, job search
26 expenses, and medical expenses not covered by the Employer's employee benefit
27 plan, in amounts to be determined at trial.

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1 E. Order Defendant Employer to make whole Melodie Clark by
2 providing compensation for past and future nonpecuniary losses resulting from the
3 unlawful practices complained of above, including emotional pain, suffering,
4 inconvenience, loss of enjoyment of life, and humiliation, in amounts to be
5 determined at trial.

6 F. Order Defendant Employer to pay Melodie Clark punitive damages
7 for its malicious and reckless conduct described above, in amounts to be
8 determined at trial.

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

11 H. Award the Commission its costs of this action.

12 **JURY TRIAL DEMAND**

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

15 Respectfully Submitted,

16 U.S. EQUAL EMPLOYMENT
17 OPPORTUNITY COMMISSION
18 1801 "L" Street, N.W.
19 Washington, D.C. 20507

20 Ronald Cooper,
21 General Counsel

22 James Lee,
23 Deputy General Counsel

24 Gwendolyn Young Reams,
25 Associate General Counsel

26 Dated: September 27, 2006

27 BY: 

28 ANNA Y. PARK
Regional Attorney

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