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SOUTHERN DISTRICT OF CALIFORNIA

BY do DEPUTY

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7 U.S. EQUAL EMPLOYMENT
8 OPPORTUNITY COMMISSION

9 UNITED STATES DISTRICT COURT
10 SOUTHERN DISTRICT OF CALIFORNIA

11 U.S. EQUAL EMPLOYMENT
12 OPPORTUNITY COMMISSION,

13 Plaintiff,

14 v.

15
16 HOMETOWN BUFFET, INC. and
17 DOES 1 -10, inclusive,

18 Defendants.

CASE NO. **'06 CV 2150 JM**

JMA

**COMPLAINT - CIVIL RIGHTS /
EMPLOYMENT
DISCRIMINATION
Sexual Harassment**

(42 U.S.C. §§ 2000e, *et seq.*)

JURY TRIAL DEMAND

19
20 **NATURE OF THE ACTION**

21 This is an action under Title VII of the Civil Rights Act of 1964 and Title I of
22 the Civil Rights Act of 1991 to correct unlawful employment practices. Plaintiff
23 United States Equal Employment Opportunity Commission ("Plaintiff" or
24 "Commission") alleges that Defendants HomeTown Buffet, Inc. and Does 1 - 10
25 ("Defendants") subjected Charging Parties Yesica Owen, Eliza Navarette, and other
26 similarly situated individuals to sexual harassment / hostile work environment on the
27 basis of sex, female.

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1 alleged herein and Plaintiff will amend the complaint to allege such responsibility
2 when Plaintiff has ascertained the identity of the Doe Defendants.

3 8. All of the acts and failures to act alleged in this complaint were duly
4 performed by and attributable to all Defendants, each acting as successor, agent,
5 employee, or under the direction and control of the others, except as otherwise
6 specifically alleged. The alleged acts and failures to act were within the scope of such
7 agency and/or employment, and each Defendant participated in, approved and/or
8 ratified the other Defendants' unlawful acts and omissions alleged in this complaint.
9 Whenever and wherever reference is made in this Complaint to any act by a Defendant
10 or Defendants, such allegations and reference shall also be deemed to mean the acts
11 and failures to act of each Defendant acting individually, jointly, and/or severally.

12 **STATEMENT OF CLAIMS**

13 9. More than thirty days prior to the filing of this lawsuit, Yesica Owen and
14 Eliza Navarette filed charges with the Commission alleging that Defendants violated
15 Title VII. The Commission investigated and issued a Letter of Determination for each
16 of the charge. The Commission found that Defendants subjected Yesica Owen, Eliza
17 Navarette, and other similarly situated employees to sexual harassment / hostile work
18 environment on the basis of sex, female. All conditions precedent to the filing of this
19 lawsuit have been fulfilled.

20 10. Since at least October 2002, Defendants have engaged in unlawful
21 employment practices in violation of Section 703(a) of Title VII, 42 U.S.C. § 2000e-
22 2(a)(1) at one of HomeTown Buffet's restaurants located in El Cajon, California.
23 Defendants subjected Yesica Owen, Eliza Navarette, and other similarly situated
24 employees to sexual harassment / hostile work environment on the basis of sex,
25 female. The sexual harassment included, but not limited to, unwanted physical
26 touching and/or sexually charged and/or suggestive speech and/or conduct.

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1 11. Even after receiving complaints of sexual harassment, Defendants failed
2 to take immediate and effective corrective action to prevent or to correct the sexual
3 harassment.

4 12. The effect of the practices complained as described in paragraphs 10 and
5 11 has been to deprive Yesica Owen, Eliza Navarette, and other similarly situated
6 employees of equal employment opportunities and otherwise adversely affect their
7 status as employees, because of their sex, female.

8 13. The unlawful employment practices described above were intentional.

9 14. The unlawful employment practices described above were done with
10 malice or with reckless indifference to the federally protected rights of Yesica Owen,
11 Eliza Navarette, and the similarly situated employees.

12 15. As a direct and proximate result of the acts of Defendants as described
13 above, Yesica Owen, Eliza Navarette, and the similarly situated employees have
14 suffered pain and suffering, inconvenience, loss of enjoyment of life, humiliation and
15 damages, all to be proven at trial.

16 16. As a direct and proximate result of Defendants' acts as described above,
17 Yesica Owen, Eliza Navarette, and the similarly situated employees suffered a loss of
18 earnings in an amount to be proven at trial.

19 **PRAYER FOR RELIEF**

20 Wherefore, the Commission respectfully requests that this Court:

21 A. Grant a permanent injunction enjoining Defendants, their respective
22 officers, successors, assigns, agents, and all persons in active concert or participation
23 with them, from engaging in any employment practice which discriminates or creates a
24 hostile environment on the basis of sex;

25 B. Order Defendants to institute and carry out policies, practices, and
26 programs which provide equal employment opportunities, and which eradicate the
27 effects of its past and present unlawful employment practices;

28 ///

1 C. Order Defendants to make whole Yesica Owen, Eliza Navarette, and the
2 similarly situated employees by providing the appropriate back pay with prejudgment
3 interest, and front pay in amounts to be determined at trial, and/or other affirmative
4 relief necessary to eradicate the effects of Defendants' unlawful employment
5 practices;

6 D. Order Defendants to make whole Yesica Owen, Eliza Navarette, and the
7 similarly situated employees by providing compensation for past and future non-
8 pecuniary losses resulting from the unlawful practices complained as described above,
9 including, but not limited to pain and suffering, inconvenience, loss of enjoyment of
10 life, and humiliation, in amounts to be determined at trial;

11 E. Order Defendants to pay Yesica Owen, Eliza Navarette, and the similarly
12 situated employees punitive damages for its malicious and /or reckless conduct as
13 described above, in amounts to be determined at trial.

14 F. Grant such further relief as the Court deems necessary and proper in the
15 public interest; and

16 G. Award the Commission its costs of this action.

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JURY TRIAL DEMAND

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

Dated: September 29, 2006

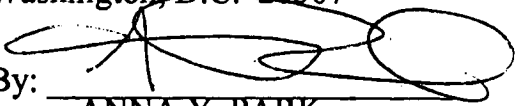
Respectfully Submitted

RONALD COOPER,
General Counsel

JAMES LEE,
Deputy General Counsel

GWENDOLYN YOUNG REAMS,
Associate General Counsel

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

By: 

ANNA Y. PARK
Regional Attorney

Via PDF file

U.S. EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION

CIVIL COVER SHEET

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<p>I(a) PLAINTIFFS U.S. Equal Employment Opportunity Commission</p>	<p>DEFENDANTS Hometown Buffet, Inc., and Does 1-10 inclusive</p>
<p>(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF <u>Los Angeles</u> (EXCEPT IN U.S. PLAINTIFF CASES)</p>	<p>COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT <u>San Diego</u> (IN U.S. PLAINTIFF CASES ONLY)</p>
<p>(c) ATTORNEYS (FIRM NAME, ADDRESS AND TELEPHONE NUMBER) Anna Y. Park U.S. Equal Employment Opportunity Commission 255 East Temple Street, 4th Floor Los Angeles, CA 90012 213-894-1080</p>	<p>ATTORNEYS (IF KNOWN) <u>Ro</u> DEPUTY</p> <p style="font-size: 2em; text-align: center;">'06 CV 2150 JM JMA</p>

<p>II. BASIS OF JURISDICTION (PLACE AN x IN ONE BOX ONLY)</p> <p><input checked="" type="checkbox"/> 1 U.S. Government Plaintiff <input type="checkbox"/> 2 U.S. Government Defendant</p> <p><input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party) <input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)</p>	<p>III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN x IN ONE BOX FOR PLAINTIFF AND ONE FOR DEFENDANT) (For Diversity Cases Only)</p> <table style="width:100%;"> <tr> <td style="text-align: center;">PTF</td> <td style="text-align: center;">DEF</td> <td style="text-align: center;">PTF</td> <td style="text-align: center;">DEF</td> </tr> <tr> <td>Citizen of This State</td> <td><input type="checkbox"/> 1 <input type="checkbox"/> 1</td> <td>Incorporated or Principal Place of Business In This State</td> <td><input type="checkbox"/> 4 <input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td><input type="checkbox"/> 2 <input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business In Another State</td> <td><input type="checkbox"/> 5 <input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td><input type="checkbox"/> 3 <input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td><input type="checkbox"/> 6 <input type="checkbox"/> 6</td> </tr> </table>	PTF	DEF	PTF	DEF	Citizen of This State	<input type="checkbox"/> 1 <input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4 <input type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2 <input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5 <input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3 <input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6 <input type="checkbox"/> 6
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Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3 <input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6 <input type="checkbox"/> 6														

IV. ORIGIN (PLACE AN x IN ONE BOX ONLY)

1 Original Proceeding 2 Removed from State Court 3 Remanded from Appellate Court 4 Reinstated or Reopened 5 Transferred from another district (specify) 6 Multi-district Litigation 7 Appeal to District Judge from Magistrate Judgment

V. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 DEMAND 5 Check YES only if demanded in complaint: **JURY DEMAND:** YES NO

VI. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY.)

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.

VII. NATURE OF SUIT (PLACE AN x IN ONE BOX ONLY)

<p>OTHER STATUTES</p> <p><input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Act <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions</p>	<p>CONTRACT</p> <p><input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability</p> <p>REAL PROPERTY</p> <p><input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property</p>	<p>PERSONAL INJURY</p> <p><input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Fed. Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury</p> <p>CIVIL RIGHTS</p> <p><input type="checkbox"/> 441 Voting <input checked="" type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights</p>	<p>TORTS</p> <p>PERSONAL INJURY</p> <p><input type="checkbox"/> 362 Personal Injury-Med Malpractice <input type="checkbox"/> 365 Personal Injury-Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability</p> <p>PERSONAL PROPERTY</p> <p><input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability</p> <p>PRISONER PETITIONS</p> <p><input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus/ Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition</p>	<p>FORFEITURE / PENALTY</p> <p><input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety /Health <input type="checkbox"/> 690 Other</p> <p>LABOR</p> <p><input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act</p>	<p>BANKRUPTCY</p> <p><input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157</p> <p>PROPERTY RIGHTS</p> <p><input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark</p> <p>SOCIAL SECURITY</p> <p><input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))</p> <p>FEDERAL TAX SUITS</p> <p><input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS-Third Party 26 USC 7609</p>
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VIII(a). IDENTICAL CASES: Has this action been previously filed and dismissed, remanded or closed? YES NO

If yes, list case number(s): _____

CIVIL COVER SHEET
(Reverse Side)

AFTER COMPLETING THE FRONT SIDE OF FORM JS-44C, COMPLETE THE INFORMATION REQUESTED BELOW.

VIII(b). RELATED CASES: Have any cases been previously filed that are related to the present case? YES NO

If yes, list case number(s): _____

CIVIL CASES ARE DEEMED RELATED IF A PREVIOUSLY FILED CASE AND THE PRESENT CASE:

- (CHECK ALL BOXES THAT APPLY) A. Appear to arise from the same or substantially identical transactions, happenings, or events;
 B. Involve the same or substantially the same parties or property;
 C. Involve the same patent, trademark or copyright;
 D. Call for determination of the same or substantially identical questions of law; or
 E. Likely for other reasons may entail unnecessary duplication of labor if heard by different judges.

IX. VENUE: List the California County, or State if other than California, in which **EACH** named plaintiff resides (Use an additional sheet if necessary)
 CHECK HERE IF THE US GOVERNMENT, ITS AGENCIES OR EMPLOYEES IS A NAMED PLAINTIFF.

List the California County, or State if other than California, in which **EACH** named defendant resides. (Use an additional sheet if necessary).
 CHECK HERE IF THE US GOVERNMENT, ITS AGENCIES OR EMPLOYEES IS A NAMED DEFENDANT.

San Diego

List the California County, or State if other than California, in which **EACH** claim arose. (Use an additional sheet if necessary)
NOTE: In land condemnation cases, use the location of the tract of land involved.

San Diego

X. SIGNATURE OF ATTORNEY (OR PRO PER):  _____

Date 9/29/06 *via pdf file*

NOTICE TO COUNSEL/PARTIES: The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet.)

Key to Statistical codes relating to Social Security Cases:

<u>NATURE OF SUIT CODE</u>	<u>ABBREVIATION</u>	<u>SUBSTANTIVE STATEMENT OF CAUSE OF ACTION</u>
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405(g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405(g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. (g))