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**Apr 10 2006**  
CLARENCE MADDOX  
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S. D. OF FLA. - MIAMI

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF FLORIDA  
FT. LAUDERDALE DIVISION**

CASE NO: 05-CV-61580-ALTONGA/TURNOFF

UNITED STATES EQUAL EMPLOYMENT	)
OPPORTUNITY COMMISSION,	)
	)
Plaintiff,	)
	)
v.	)
	)
PH FITNESS, INC. d/b/a FITNESS FIRST and	)
PBH FITNESS, LLC d/b/a FITNESS FIRST	)
	)
Defendants,	)
	)
	)
DAWN GRUNGO,	)
	)
Intervening Plaintiff,	)
	)
v.	)
	)
PH FITNESS, INC., d/b/a FITNESS FIRST	)
and PBH FITNESS, LLC, d/b/a FITNESS FIRST	)
	)
Defendants-in-Intervention,	)
	)
	)
_____	/

**INTERVENER'S AMENDED COMPLAINT**

Plaintiff, DAWN GRUNGO, files her Intervener's Complaint against Defendants, PH FITNESS, INC. d/b/a FITNESS FIRST and PBH FITNESS, LLC d/b/a FITNESS FIRST (collectively "FITNESS FIRST"), pursuant to Title VII of the Civil Rights Act of 1964 (42 U.S.C. § 2000e), and Title I of the Civil Rights Act of 1991 (42 U.S.C. § 1981). In support of her claims, Ms. Grungo asserts as follows:

**JURISDICTION, VENUE AND PARTIES**

1) The jurisdiction of this Court is properly invoked pursuant to 28 U.S.C. § 1331, 28 U.S.C. § 1343 and 28 U.S.C. § 1367 based upon the claims asserted by Ms. Grungo.

2) The employment practices giving rise to these causes of action occurred in Broward County, Florida, within the jurisdiction of the Southern District of Florida, Ft. Lauderdale Division.

3) At the time the complained of employment practices occurred, Ms. Grungo was working in Broward County, Florida for the Defendants.

4) At all relevant times, both Fitness First Defendants were foreign corporations doing business in the State of Florida and the cities of Deerfield Beach and Plantation, and have continuously employed fifteen (15) or more employees.

**STATEMENT OF FACTS**

5) From June 2002 through June 2004, Ms. Grungo was employed by Fitness First.

6) In or around December 2003, Defendants announced that Ms. Grungo would be promoted to manager of a new Fitness First facility to be built in Plantation, Florida.

7) In or around the Spring of 2004, Ms. Grungo was informed that she would start in the new Fitness First facility in Plantation in or about August 2004.

8) In or around July 13, 2004, informed her supervisor that she was pregnant.

9) On or about July 15, 2004, Ms. Grungo was terminated from her employment with Fitness First.

10) Ms. Grungo has satisfied all conditions precedent to filing this lawsuit, including filing a complaint with the EEOC and FCHR in compliance with Fla. Stat. §760.11, Title I and

Title VII.

11) The effect of the unlawful employment practices described above has been to deprive Ms. Grungo of equal employment opportunities, and otherwise adversely effect her as an employee because of her gender and pregnancy status.

**COUNT I**  
**TITLE VII CLAIM – SEX AND PREGNANCY DISCRIMINATION**

12) Ms. Grungo reasserts paragraphs 1 through 11 as if fully set forth herein.

13) At all relevant times, Ms. Grungo was a member of a protected class based upon her sex and the fact that she had become pregnant.

14) Ms. Grungo suffered an adverse employment action (specifically, her termination).

15) Ms. Grungo's membership in this protected class was the direct basis for the adverse employment action.

16) Fitness First's unlawful employment practices have caused Ms. Grungo to suffer damages.

17) Fitness First's unlawful employment practices were intentional.

18) Fitness First's unlawful employment practices were done with malice or with reckless indifference to Ms. Grungo's federally protected rights.

WHEREFORE, Ms. Grungo requests this Court award her back pay with prejudgment interest, reinstatement and rightful-place hiring, front pay, plus damages for her emotional pain, suffering, inconvenience, loss of enjoyment of life, and humiliation, in amounts to be determined by a jury. Ms. Grungo also requests reimbursement of medical expenses, out of pocket expenses, job search expenses, moving expenses, punitive damages, attorney's fees, costs,

prejudgment interest and all such further relief as this Court deems just and proper under the circumstances.

**COUNT II**

**42 U.S.C. §1981 CLAIM – SEX AND PREGNANCY DISCRIMINATION**

19) Ms. Grungo reasserts paragraphs 1 through 11 as if fully set forth herein.

20) At all relevant times, Ms. Grungo was a member of a protected class based upon her sex and the fact that she had become pregnant.

21) Ms. Grungo suffered an adverse employment action (specifically, her termination).

22) Ms. Grungo's membership in this protected class was the direct basis for the adverse employment action.

23) Fitness First's unlawful employment practices have caused Ms. Grungo to suffer damages.

24) Fitness First's unlawful employment practices were intentional.

25) Fitness First's unlawful employment practices were done with malice or with reckless indifference to Ms. Grungo's federally protected rights.

WHEREFORE, Ms. Grungo requests this Court award her back pay with prejudgment interest, reinstatement and rightful-place hiring, front pay, plus damages for her emotional pain, suffering, inconvenience, loss of enjoyment of life, and humiliation, in amounts to be determined by a jury. Ms. Grungo also requests reimbursement of medical expenses, out of pocket expenses, job search expenses, moving expenses, punitive damages, attorney's fees, costs, prejudgment interest and all such further relief as this Court deems just and proper under the circumstances.

**DEMAND FOR JURY TRIAL**

Plaintiff, Dawn Grungo demands a trial by jury on all issues so triable.

Dated: April 10, 2006

\_\_\_\_\_/s/ William H. Pincus\_\_\_\_\_

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