

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

U.S. EEOC
Plaintiff,
and

CIVIL ACTION NO. 6:04-cv-01423-JA-KRS

TERRI WALLACE
Intervenor-Plaintiff,

v.

PATTERSON COMPANIES, INC.
f/k/a Patterson Dental Company, and
PATTERSON DENTAL SUPPLY, INC.
Defendants.

AMENDED VERIFIED COMPLAINT
and DEMAND FOR JURY TRIAL

Intervenor-Plaintiff, TERRI WALLACE (hereinafter, "Ms. Wallace,") by and through her undersigned counsel, hereby sues Defendants, PATTERSON COMPANIES, INC., f/k/a Patterson Dental Company, and PATTERSON DENTAL SUPPLY, INC (hereinafter collectively referred to as, "PATTERSON"), and alleges the following:

INTRODUCTION

1. This action involves claims sexual harassment and retaliation pursuant to Title VII of the Civil Rights Act of 1964, 42 U.S.C. §2000e, et seq., as amended by the Civil Rights Act of 1991, and pursuant to the Florida Civil Rights Act of 1992, *Florida Statutes* § 760.01, et seq., and is brought by Intervenor-Plaintiff, Ms. Wallace.

JURISDICTION, VENUE AND PARTIES

2. This action arises, in part, under Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000, *et seq.*, as amended by the Civil Rights Act of 1991. This Court has original jurisdiction to grant relief pursuant to 28 U.S.C. §§ 1331, 1332(a)(1) and 1343 (3) and (4). This Court is vested with jurisdiction to order an injunction, front pay, back pay or any other equitable relief as may be proper, and compensatory and punitive damages, attorneys' fees and costs pursuant to 42 U.S.C. §§1981a and 2000e-5(g). This action also arises, in part, under the Florida Civil Rights Act of 1992, *Florida Statutes* § 760.01, *et seq.* (the "FCRA"). This Court has jurisdiction over all state law claims pursuant to 28 U.S.C. §1331 and §1367. The state claims herein are for damages in excess of \$75,000.00 and are therefore within the jurisdiction of this Honorable Court.

3. Venue is proper in the Orlando Division of the Middle District of Florida pursuant to 28 U.S.C. § 1391(a) and (c) because Defendant, a Minnesota corporation, has continuously been doing business in the state of Florida and the Cities of Orlando and Lake Mary at all times material to this action, and because the unlawful employment practices giving rise to this action were committed within this judicial district.

4. Plaintiff, UNITED STATES EQUAL EMPLOYMENT OPPORTUNITY COMMISSION (hereinafter, "EEOC"), made a finding of sexual harassment and retaliation against PATTERSON, and filed suit in its own right on behalf of Ms. Wallace, giving her the right to intervene as a Plaintiff. Accordingly, Ms. Wallace respectfully brings her claims herein as an intervening plaintiff. A copy of the EEOC's Letter of Determination is attached to this Complaint as **Intervenor's EXHIBIT "A."**

5. Intervenor-Plaintiff, Ms. Wallace, is an individual who resided in Lake County, Florida, during the time of her employment with PATTERSON. Ms. Wallace began her employment at or around February 5, 2001 as a Customer Service Representative working at PATTERSON'S Tampa, Florida, branch office. Thereafter, Ms. Wallace was transferred to PATTERSON'S Orlando, Florida, branch office (located in Lake Mary, Florida) in August of 2001. She is female and is therefore protected from discrimination in employment under the FCRA and Title VII.

6. Defendant, PATTERSON, is a Minnesota corporation continuously doing business in Florida and in the Cities of Orlando and Lake Mary at all times material to this action. PATTERSON is an "employer" as defined by 42 U.S.C. § 2000e(b) and §760.02(7), *Florida Statutes* because it employs fifteen or more employees for each working day in each of twenty or more calendar weeks in the current or preceding calendar year. At all relevant times to this action, PATTERSON has continuously been an employer engaged in an industry affecting commerce within the meaning of Title VII and the FCRA.

COMPLIANCE WITH PROCEDURAL REQUIREMENTS

8. Ms. Wallace timely dual-filed a charge of discrimination with the U.S. Equal Employment Opportunity Commission and the Florida Commission on Human Relations, alleging harassment on the basis of sex and retaliation in violation of Title VII and the FCRA. Ms. Wallace has satisfied any and all administrative requirements precedent to the filing of this action under Title VII and pursuant to §760.11, *Florida Statutes*.

GENERAL ALLEGATIONS APPLICABLE TO ALL COUNTS

9. Ms. Wallace began her employment with PATTERSON on February 5, 2001, as a Customer Service Representative in the company's Tampa branch office. Thereafter, Ms. Wallace

was transferred to the Orlando branch office in August 2001 as an Equipment Coordinator. Unfortunately, Mrs. Wallace was forced to endure a sexually hostile and demeaning work environment, as well as different terms and conditions of her employment, because of her gender. Ms. Wallace was also retaliated against after she complained about the sexual harassment, and this retaliation culminated in her constructive discharge on February 28, 2002.

10. After Ms. Wallace was transferred to PATTERSON'S Orlando branch office, she was invited to lunch by a co-worker, Allen Mosby, in August 2001. In an effort to become acquainted with office personnel, Ms. Wallace attended the lunch. Nothing untoward occurred at this lunch, and Mr. Mosby invited Ms. Wallace to lunch again on the following day.

11. Ms. Wallace was alarmed upon arriving at the restaurant to find that Mr. Mosby had a bottle of champagne waiting at the table, even though it was in the middle of a workday. Mr. Mosby offered Mrs. Wallace a glass of champagne, to which she replied, "No, I am working." Mr. Mosby proceeded to drink the whole bottle of champagne by himself. He also made it clear during the course of lunch that he had romantic feelings for Ms. Wallace. Ms. Wallace politely but unequivocally told Mr. Mosby that she had no such interest in him as she was a happily married woman.

12. Mr. Mosby approached Ms. Wallace a couple of weeks later and asked if he could take her to lunch to apologize for his behavior. As Mr. Mosby appeared to be sincere, Ms. Wallace reluctantly agreed to go to lunch with him. Ms. Wallace did not wish to have any lingering discomfort in the workplace regarding the prior incident. Disturbingly, during the lunch, Mr. Mosby handed Ms. Wallace a card in which he had handwritten a very explicit proposition to Ms. Wallace. Horrified, Ms. Wallace strongly reminded Mr. Mosby that she was happily married, and she clearly

rejected his unwelcome sexual advances.

13. Ms. Wallace was unsure about what to do regarding Mr. Mosby's continued unwelcome and inappropriate advances, as she was still new in her position and she did not want to be labeled as a "trouble-maker" by her coworkers and managers. As a result, Ms. Wallace confided in a co-worker, Scott Smith, about Mr. Mosby's inappropriate and unwelcome conduct, and solicited Mr. Smith's opinion about how best to address the situation. Disturbingly, Mr. Smith's advice was that Ms. Wallace should *"just let it go."*

14. Though quite shaken from Mr. Mosby's advances, Mrs. Wallace initially was concerned about pursuing any action for fear of losing her job, and she simply hoped that Mr. Mosby would stop his sexually harassing behavior. However, Ms. Wallace received another sexually graphic card from Mr. Mosby in October of 2001 in which he expressed his desire to have a sexual relationship with her. Ms. Wallace was very distraught and showed the card to her husband, Richard Wallace, who also became extremely upset and angry due to the offensive contents of the card.

15. Thereafter, Mr. Wallace went to meet with Ms. Wallace's manager, Ed Woodland, and shared the contents of the explicit card that his wife had received from Mr. Mosby. Mr. Wallace also advised Mr. Woodland of the other incidents of sexual harassment that his wife had experienced. Moreover, Mr. Wallace told Mr. Woodland that he expected him to take action to ensure that Mr. Mosby's sexual harassment of Ms. Wallace ceased immediately. Mr. Woodland told Mr. Wallace that he would look into the matter, but no investigation was ever undertaken by Mr. Woodland. Moreover, Mr. Woodland took no meaningful action to prevent further sexual harassment of Ms. Wallace by Mr. Mosby.

16. In the aftermath of Mr. Wallace's reporting concerns of sexual harassment to

PATTERSON'S manager, Mr. Woodland, Mr. Mosby's highly unwelcome and offensive sexual advances continued to escalate. In December of 2001, Mr. Mosby gave Ms. Wallace a five (5) page pornographic handwritten letter from Mr. Mosby in which he described in graphic sexual detail his "fantasy" of having sexual relations with Ms. Wallace.

17. This letter was both shocking in its offensive and graphic nature, and it was absolutely inappropriate by any reasonable standard of workplace decency. Mr. Mosby's unwelcome sexual "fantasies," depicted in his letter, included, but were by no means limited to, the following passage:

"Now I move my hands from your breasts and I place them under your lingeries¹ top, lifting it so I can place kisses on your abdomen. As my hands move to your panties, a smile is on my face when I feel you lift your hips to me as I remove your lace panties. As I slowly pull them off your sexy legs, I start kissing your feet, your ankles, your curves and your inner thighs. Now my mouth is between your legs, my hands are on your hips and I can feel you as you roll your pelvis to meet my probing tongue, I can feel your clitoris stiffen and your vulva swell. The more you roll your hips the more I probe, lick and stimulate you, until I feel you shudder and then release, orgasm #1!"

18. Ms. Wallace was discouraged and extremely concerned that Mr. Woodland had taken no action to end Mr. Mosby's increasingly insistent sexual advances, and that as a result a sexually hostile work environment continued to escalate. Accordingly, Ms. Wallace made a decision to provide Mr. Mosby's disturbing letter to PATTERSON'S upper management.

19. In early January of 2002, Ms. Wallace met with Mr. Doug Jones, PATTERSON'S Operations Manager, regarding the sexual harassment she continued to endure from Mr. Mosby. Ms. Wallace related all of the sexual harassing behavior that Mr. Mosby had subjected her to, and she also showed Mr. Jones all of the pornographic writings that she had received from Mr. Mosby.

¹ *Spelling in the original.*

20. Ms. Wallace further advised Mr. Jones that her husband had previously informed Mr. Woodland about the matter as early as October, 2001, and that Mr. Woodland had assured Mr. Wallace that he would conduct an investigation. However, Ms. Wallace further advised Mr. Jones that Mr. Mosby's highly upsetting and unwelcome sexual advances had continued unabated, and that Mr. Woodland had taken no meaningful remedial action.

21. Mr. Jones met with Ms. Wallace again in mid-January of 2002 and advised that he had met with Mr. Woodland regarding "the sexual harassment issue with Mr. Mosby." However, Mr. Jones related that Mr. Woodland was of the opinion that Ms. Wallace had some fault in the matter, and had concluded that she must have "led Mr. Mosby on." Mr. Woodland also had stated that he "could not believe" that Mr. Mosby would pursue Ms. Wallace after she had told him that she was not interested in a sexual relationship.

22. Disturbingly, rather than meaningfully addressing Ms. Wallace's concerns, PATTERSON'S upper management team engaged in a rigorous practice of "blaming the victim," and falsely accused Ms. Wallace of somehow "encouraging" Mr. Mosby's increasingly aggressive and highly unwelcome sexual advances.

23. Rather than immediately conducting the *long overdue* investigation into Ms. Wallace's allegations, PATTERSON'S upper management required her to continue working in the same area with Mr. Mosby for approximately the next month and a half. During this time, Mr. Mosby continued his blatant sexual harassment and advances toward Ms. Wallace.

24. Some continuing examples of Mr. Mosby's continuous harassing behavior included, but was not limited to, following her in his vehicle while Ms. Wallace was on her lunch break; leaning on the entrance to Ms. Wallace's cubicle at work and staring at her in spite of the fact

that Ms. Wallace was clearly uncomfortable and frightened by this behavior; and showing Ms. Wallace handwritten signs with sexually explicit messages.

25. Ms. Wallace reported all of these continuing incidents to Mr. Jones as they occurred. However, Mr. Jones took no action to either separate Ms. Wallace from Mr. Mosby or to stop Mr. Mosby's increasingly abusive and disturbing behavior. Instead, Mr. Jones' typical reaction to Ms. Wallace's complaints was to simply state: *"I am sorry you are having to go through this."*

26. Following her complaints of sexual harassment against Mr. Mosby, Ms. Wallace was subjected to unlawful retaliation by PATTERSON'S management and employees. More specifically, Ms. Wallace was isolated and ostracized in the workplace, and this vindictive behavior was condoned by management. Her direct supervisor, Mr. Woodland, actively encouraged employees not to interact with Ms. Wallace. Mr. Woodland also instructed employees to avoid Ms. Wallace in obtaining purchase orders for equipment. Due to the fact that Ms. Wallace's main job function related to the purchasing of equipment and processing purchase orders, these retaliatory actions essentially prevented Ms. Wallace from being able to perform her job duties.

27. Mr. Mosby's disturbing harassment of Ms. Wallace had continued unabated despite Ms. Wallace's complaints to PATTERSON'S management. For example, at or around February 13, 2002, Mr. Mosby entered Ms. Wallace's office area with a hand written sign which read, *"You're really hot."* Mr. Mosby then turned the sign around, and the other side read, *"I think I'll keep this one"* -- making a blatant reference to the numerous sexually explicit cards and letters that Mr. Mosby had previously given to Ms. Wallace, and which she in turn had shown to PATTERSON'S management team in making her complaints of sexual harassment. Mr. Mosby then tore the sign up in front of Ms. Wallace.

28. At or around February 15, 2002, Mr. Mosby came into Ms. Wallace's office area and began to stare at all of her pictures (of her husband, children, etc.). Ms. Wallace politely but firmly insisted that he please leave her work area. In response, Mr. Mosby snickered and stated: "*I love it when you're in control, it turns me on!*" Despite the fact that Ms. Wallace was visibly upset by Mr. Mosby's comments, he then smirked and called Ms. Wallace "*a dominatrix!*" Once again, Mr. Mosby's actions were highly offensive and unwelcome, and they served to further humiliate Ms. Wallace in PATTERSON'S workplace.

29. At or around February 19, 2002, Ms. Wallace was at a drive-through window of a fast food restaurant during her lunch hour when Mr. Mosby drove up next to her vehicle on the passenger side, stopped his car, and stared at Ms. Wallace. Mr. Mosby then drove off and circled the parking lot a couple of times before finally driving off. Mr. Mosby's conduct toward Ms. Wallace on this occasion (and others) was tantamount to stalking, and it severely disturbed and unreasonably interfered with the terms and conditions of Ms. Wallace's employment at PATTERSON.

30. Mr. Mosby's actions in this regard were a clear indication that he had no intention of ceasing his increasingly aggressive sexual advances. Upon information and belief, it clearly appears that Mr. Mosby had developed some kind of twisted sexual obsession with Ms. Wallace - through absolutely no fault of her own. Further evidence of Mr. Mosby's 'fixation' can be gleaned through examination of some additional cards and letters that Mr. Mosby gave to Ms. Wallace. In another handwritten (5) page letter that Mr. Mosby wrote and gave to Ms. Wallace, he repeatedly refers to her as being "*My Sweet Obsession.*" Significantly, on page (4) of this letter, Mr. Mosby, himself, expressly recognized that Mrs. Wallace *had previously requested that he stop engaging in these disturbing and highly unwelcome behaviors.*

31. At or around February 20, 2002, a meeting was scheduled with Ms. Wallace and members of PATTERSON'S management team. At this meeting, Ms. Wallace was abruptly informed that the company "did not have enough evidence or enough information to make a determination or judgment" regarding her complaints of sexual harassment against Mr. Mosby.

32. A subsequent meeting was held on the morning of February 21, 2002, wherein Ms. Wallace was given the unmistakable impression that the company was angry with the situation that they were being 'forced' to address due to her complaints of sexual harassment against Mr. Mosby. Mr. Harry Harran, PATTERSON'S Regional Manager, demanded at one point during this meeting, *"If [Mr. Mosby's] actions hurt you so badly, why didn't you just tell him to stop."* Ms. Wallace responded that she clearly told Mr. Mosby to stop on numerous occasions, but that this had absolutely no effect.

33. Incredibly, Mr. Harran then demanded that Ms. Wallace try to explain *"why"* it was that Mr. Mosby had *"kept persisting"* in his advances. The clear implication of Mr. Harran's accusatory questioning, and the clear tenor of this meeting, was that PATTERSON'S management was disingenuously accusing Ms. Wallace, and not Mr. Mosby, as being the 'cause' of the problem. In essence, rather than conducting a meaningful investigation into the disturbing stalking behavior and highly unwelcome sexual advances repeatedly perpetrated by Mr. Mosby, PATTERSON'S management team instead chose to "blame the victim."

34. At a meeting held on February 26, 2002, attended by Mrs. Wallace and Mr. Harran, for the first time in her employment with PATTERSON, issues were raised about Ms. Wallace's job performance. Ms. Wallace was given what was titled an "action plan," which basically consisted of a checklist of Ms. Wallace's job duties. She was also told that she was going to be

required to meet with Mr. Woodland on a weekly basis to go over the checklist to ensure that all of her job duties had been performed correctly. Significantly, no other employee of the branch where Ms. Wallace worked was required to attend weekly meetings of this nature. Moreover, Ms. Wallace had never been warned or counseled previously with regard to any alleged 'concerns' about her work performance. Accordingly, the increased scrutiny of Mrs. Wallace's performance by PATTERSON'S management team was clearly pretextual and retaliatory in nature.

35. By this point in time, Ms. Wallace had begun to experience both physical and emotional difficulties as a result of the continuing hostility in the workplace - not only from Mr. Mosby, but also from his coworkers and from members of PATTERSON'S management team. Moreover, she had been repeatedly stalked by Mr. Mosby for a period of several months (wherein he followed her to gas stations, fast food restaurants, and other such places) with absolutely no protection from PATTERSON's management team.

36. Mr. Mosby's disgusting sexually-charged letters, coupled with his disturbing stalking behavior, placed Ms. Wallace in fear for her physical safety, and her emotional and physical health quickly deteriorated. Finally, after having repeatedly complained in good faith about what she reasonably believed to be reoccurring sexual harassment in the workplace, PATTERSON'S management team made a concerted effort to accuse Ms. Wallace of having somehow 'invited' this treatment from Mr. Mosby, and PATTERSON then began to criticize Ms. Wallace's job performance in retaliation for her complaints. Accordingly, and as a direct result of the ongoing retaliation and hostility in the workplace, Ms. Wallace sincerely and reasonably believed that her working conditions had become intolerable, and that she had no alternative other than to constructively terminate her position on February 28, 2002.

37. Disturbingly, PATTERSON'S vindictive campaign of retaliation appears to have extended *even beyond* the termination of Ms. Wallace's employment relationship -- much to Ms. Wallace's severe detriment in terms of her good faith efforts to mitigate her damages. More specifically, subsequent to her termination, Ms. Wallace was informed that an individual had contacted PATTERSON, ostensibly as a potential employer seeking to obtain a reference regarding Ms. Wallace.

38. This individual seeking the reference had specifically requested to speak with PATTERSON'S Operations Manager, Mr. Doug Jones, in order to obtain a reference regarding Ms. Wallace. Ultimately, this individual was informed by a male employee, who was clearly speaking on behalf of PATTERSON, that Ms. Wallace "*had performed in an unsatisfactory manner at Patterson,*" that she "*had filed a false report of sexual harassment against another employee,*" and that as a result, she had been "*fired.*"

39. All conditions precedent to filing this action have been performed, have occurred or have been waived.

40. Ms. Wallace has engaged the services of legal counsel, and is obligated to pay legal counsel their fees and costs incurred in the prosecution of her claims.

COUNT I
VIOLATION OF TITLE VII OF THE CIVIL RIGHTS ACT
OF 1964, AS AMENDED – SEXUAL HARASSMENT

41. Ms. Wallace respectfully repeats and realleges the allegations in paragraphs one through forty of this Complaint, herein.

42. Ms. Wallace had all the necessary qualifications and did, in fact, adequately and effectively perform all of the duties of her position.

43. The harassment to which Ms. Wallace was subjected was based upon her gender, female.

44. PATTERSON, by and through its employees, agents, supervisors, managers and/or corporate executives, violated 42 U.S.C. § 2000e-2(a)(1) by perpetrating, tolerating and/or condoning sexual harassment in the workplace and creating a hostile work environment sufficiently severe and/or pervasive that it unreasonably interfered with and subjected Ms. Wallace to inferior terms and conditions of employment and negatively affected Ms. Wallace's physical and psychological well-being.

45. Additionally, Ms. Wallace suffered an adverse employment action when PATTERSON retaliated against her due to her protected complaints of sexual harassment, and this retaliation culminated in Ms. Wallace's constructive discharge.

46. The conduct of PATTERSON, by and through its agents, employees, managers, supervisors and/or corporate executives, and PATTERSON'S failure to investigate and/or to take prompt remedial action to prevent continued discrimination and harassment of Ms. Wallace, deprived Ms. Wallace of her statutory rights under 42 U.S.C. § 2000, *et seq.*

47. A legitimate non-discriminatory reason does not exist to justify PATTERSON'S intentional disparate treatment of Ms. Wallace. Moreover, PATTERSON failed to meaningfully investigate Ms. Wallace's complaints in a timely manner (having first made PATTERSON's management aware of the growing problem as early as October of 2001), and further, PATTERSON failed to take reasonable care to prevent and correct the reported sexual harassment.

48. The actions of PATTERSON and/or its agents, employees, managers, supervisors and/or corporate executives, were willful, wanton, intentional and were undertaken with malice and/or with a reckless indifference to Ms. Wallace's federally protected rights, thus entitling Ms. Wallace to damages in the form of compensatory and punitive damages pursuant to 2000(e)-5(g) to punish PATTERSON for these actions, and to deter PATTERSON, and others, from such actions in the future.

49. The actions of PATTERSON as described within this Complaint, herein, make reinstatement ineffective as a make whole remedy, thus entitling Ms. Wallace to front pay in lieu of reinstatement.

50. As a direct, proximate and foreseeable result of the actions of PATTERSON, Ms. Wallace has suffered past and future pecuniary losses, emotional pain, suffering, inconvenience and mental anguish, loss of enjoyment of life, loss of dignity, emotional distress, and humiliation as well as other non-pecuniary losses and intangible injuries.

DEMAND FOR RELIEF

WHEREFORE, Intervenor-Plaintiff, TERRI WALLACE, respectfully demands judgment against Defendant, PATTERSON COMPANIES, INC., for back pay, front pay in lieu of reinstatement, compensatory damages, punitive damages, prejudgment interest, attorneys' fees, costs of this action and any such other relief as this Court deems just and proper.

COUNT II
VIOLATION OF TITLE VII OF THE CIVIL RIGHTS ACT
OF 1964, AS AMENDED - RETALIATION

51. Ms. Wallace respectfully repeats and realleges the allegations in paragraphs

one through forty of this Complaint, herein.

52. PATTERSON violated Title VII of the Civil Rights Act of 1964, as amended, by retaliating Ms. Wallace for complaining about what she reasonably and in good faith believed to be sexual harassment to which she was subjected, which is considered an unlawful employment practice under Title VII. Ultimately, this retaliation culminated in Ms. Wallace's constructive discharge in the face of intolerable working conditions, and in the face of a work environment that had severely impacted Ms. Wallace's emotional health and wellbeing as well as one which made her fear for her physical safety.

53. Upon information and belief, PATTERSON'S vindictive campaign of retaliation appears to have extended *even beyond* the termination of Ms. Wallace's employment relationship -- much to Ms. Wallace's severe detriment in terms of her good faith efforts to mitigate her damages. More specifically, subsequent to her termination, Ms. Wallace was informed that an individual had contacted PATTERSON, ostensibly as a potential employer seeking to obtain a reference regarding Ms. Wallace.

54. This individual seeking the reference had specifically requested to speak with PATTERSON'S Operations Manager, Mr. Doug Jones, in order to obtain a reference regarding Ms. Wallace. Ultimately, this individual was informed by a male employee, who was clearly speaking on behalf of PATTERSON, that Ms. Wallace "*had performed in an unsatisfactory manner at Patterson,*" that she "*had filed a false report of sexual harassment against another employee,*" and that as a result, she had been "*fired.*"

55. The actions of PATTERSON and/or its agents, employees, managers, supervisors and/or corporate executives were willful, wanton, intentional and were undertaken with malice

and/or with a reckless indifference to Ms. Wallace's federally protected rights, thus entitling Ms. Wallace damages in the form of compensatory and punitive damages pursuant to 2000(e)-5(g) to punish PATTERSON for these actions and to deter PATTERSON, and others, from such actions in the future. Additionally, a legitimate and non-retaliatory/non-pretextual reason does not exist to justify PATTERSON'S retaliatory treatment of Ms. Wallace, as has been more fully described in this Complaint, herein.

56. The actions of PATTERSON make reinstatement ineffective as a make whole remedy, thus entitling Ms. Wallace to front pay in lieu of reinstatement.

57. As a direct, proximate and foreseeable result of PATTERSON'S actions, Ms. Wallace has suffered past and will suffer future pecuniary losses, emotional pain and suffering, inconvenience and mental anguish, loss of enjoyment of life, loss of dignity, emotional distress, and humiliation as well as other non-pecuniary losses and intangible injuries.

DEMAND FOR RELIEF

WHEREFORE, Intervenor-Plaintiff, TERRI WALLACE, respectfully demands judgment against Defendant, PATTERSON COMPANIES, INC., for back pay, front pay in lieu of reinstatement, compensatory damages, punitive damages, prejudgment interest, attorneys' fees, costs of this action and any such other relief as this Court deems just and proper.

COUNT III **VIOLATION OF THE FLORIDA CIVIL RIGHTS ACT OF 1992** **SEXUAL HARASSMENT**

58. Ms. Wallace respectfully repeats and realleges the allegations in paragraphs one through forty of this Complaint.

59. The discrimination and harassment to which Ms. Wallace was subjected was based upon her sex/gender, female.

60. PATTERSON violated *Florida Statutes* §760, *et seq.*, by intentionally discriminating against Ms. Wallace and subjecting her to different terms and conditions of employment on the basis of her sex as more specifically alleged in the General Allegations section of this Complaint.

61. The highly offensive, threatening, intimidating and humiliating verbal, written and unwelcome physical conduct and sexual advances of PATTERSON'S agents, employees, managers, supervisors and/or corporate executives was sufficiently severe and/or pervasive that it created a hostile and offensive work environment and negatively affected Ms. Wallace's physical and psychological well being. Additionally, this abusive hostile work environment unreasonably interfered with the terms and conditions of Ms. Wallace's employment.

62. The conduct of PATTERSON, by and through its agents, employees, managers, supervisors and/or corporate executives, and PATTERSON'S failure to take prompt remedial action to prevent continued sexual harassment of Ms. Wallace deprived Ms. Wallace of her statutory rights under the FCRA.

63. There was no legitimate non-discriminatory reason to justify PATTERSON'S intentional disparate treatment of Ms. Wallace, and male employees at PATTERSON were not subjected to the same sexual harassment and sexually offensive and humiliating verbal, written and physical conduct. Moreover, PATTERSON failed to meaningfully investigate Ms. Wallace's complaints in a timely manner (having first made PATTERSON's management aware of the growing

problem as early as October of 2001), and further, PATTERSON failed to take reasonable care to prevent and correct the reported sexual harassment.

64. The actions of PATTERSON and/or its agents, employees managers, supervisors and/or corporate executives were willful, wanton, intentional and were performed with malice and/or with a reckless indifference to Ms. Wallace's legally protected rights, entitling Ms. Wallace to damages in the form of compensatory and punitive damages pursuant to Florida Statutes §760.11(5) to punish PATTERSON for its actions and to deter it, and others, from taking such actions in the future.

65. The actions of PATTERSON make reinstatement ineffective as a make whole remedy, thus entitling Ms. Wallace to front pay in lieu of reinstatement.

66. As a direct, proximate and foreseeable result of PATTERSON'S actions, has Ms. Wallace has suffered past and will suffer future pecuniary losses, emotional pain, suffering, inconvenience and mental anguish, loss of enjoyment of life, loss of dignity, emotional distress, and humiliation as well as other non-pecuniary losses and intangible injuries.

DEMAND FOR RELIEF

WHEREFORE, Intervenor-Plaintiff, TERRI WALLACE, respectfully demands judgment against Defendant, PATTERSON COMPANIES, INC., for back pay, front pay in lieu of reinstatement, compensatory damages, punitive damages, prejudgment interest, attorneys' fees, costs of this action and such other relief as this Court deems just and proper.

COUNT IV
VIOLATION OF THE FLORIDA CIVIL RIGHTS ACT OF 1992
RETALIATION

67. Ms. Wallace respectfully repeats and realleges the allegations in paragraphs one through forty of this Complaint..

68. PATTERSON violated *Florida Statutes* §760.10(7) by retaliating against Ms. Wallace for complaining about what she reasonably and in good faith believed to be sexual harassment to which she was subjected, said discrimination being considered an unlawful employment practice under *Florida Statutes* §760.10(1). Ultimately, this retaliation culminated in Ms. Wallace's constructive discharge in the face of intolerable working conditions, and in the face of a work environment that had severely impacted Ms. Wallace's emotional health and wellbeing as well as one which made her fear for her physical safety.

69. Upon information and belief, PATTERSON'S vindictive campaign of retaliation appears to have extended *even beyond* the termination of Ms. Wallace's employment relationship -- much to Ms. Wallace's severe detriment in terms of her good faith efforts to mitigate her damages. More specifically, subsequent to her termination, Ms. Wallace was informed that an individual had contacted PATTERSON, ostensibly as a potential employer seeking to obtain a reference regarding Ms. Wallace.

70. This individual seeking the reference had specifically requested to speak with PATTERSON'S Operations Manager, Mr. Doug Jones, in order to obtain a reference regarding Ms. Wallace. Ultimately, this individual was informed by a male employee, who was clearly speaking on behalf of PATTERSON, that Ms. Wallace "*had performed in an unsatisfactory manner at Patterson,*" that she "*had filed a false report of sexual harassment against another employee,*" and

that as a result, she had been "*fired.*"

71. The actions of PATTERSON and/or its agents, employees, managers, supervisors and/or corporate executives were willful, wanton, intentional and undertaken with malice and/or with a reckless indifference to Ms. Wallace's protected rights, entitling Ms. Wallace to damages in the form of compensatory and punitive damages pursuant to *Florida Statutes* §760.11 to punish PATTERSON for these actions and to deter PATTERSON, and others, from such actions in the future.

72. The actions of PATTERSON make reinstatement ineffective as a make whole remedy, thus entitling Ms. Wallace to front pay in lieu of reinstatement. Additionally, a legitimate and non-retaliatory/non-pretextual reason does not exist to justify PATTERSON'S retaliatory treatment of Ms. Wallace, as has been more fully described in this Complaint, herein.

73. As a direct, proximate and foreseeable result of PATTERSON'S actions, Ms. Wallace has suffered past and future pecuniary losses, emotional pain and suffering, inconvenience and mental anguish, loss of enjoyment of life, loss of dignity, emotional distress, and humiliation as well as other non-pecuniary losses and intangible injuries.

DEMAND FOR RELIEF

WHEREFORE, Intervenor-Plaintiff, TERRI WALLACE, demands judgment against Defendant, PATTERSON COMPANIES, INC. for back pay, front pay in lieu of reinstatement, compensatory damages, punitive damages, prejudgment interest, attorneys' fees, costs of this action and any such other relief as this Court deems just and proper.

DEMAND FOR JURY TRIAL

Intervenor-Plaintiff, TERRI WALLACE, respectfully demands a trial by jury on all issues so triable in each count of the Complaint.

DATED this 29th day of November, 2004.

Respectfully submitted,

/s/ Andrew G. Wedmore, Esquire

Jill S. Schwartz, Esquire

Florida Bar No.: 523021

Andrew G. Wedmore, Esquire

Florida Bar No.: 0141143

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VERIFICATION

Personally appeared before the undersigned, TERRI WALLACE who, being first duly sworn, deposes and says that the allegations of this Verified Intervenor-Complaint and Demand for Jury Trial, consisting of paragraphs numbered one through seventy-three, inclusive, are true and correct to the best of her knowledge, information and belief.

TERRI WALLACE
TERRI WALLACE

**STATE OF FLORIDA
COUNTY OF ORANGE**

The foregoing instrument was acknowledged before me this 1 day of Dec 2004, by TERRI WALLACE, who is personally known to me, or who produced _____ as identification.

L. Aldridge
NOTARY PUBLIC, STATE OF FLORIDA

L. ALDRIDGE
Print Name



CERTIFICATE OF CM/ECF ELECTRONIC FILING

I HEREBY CERTIFY, that the following original document with the identified attachments was **electronically filed** via the District Court's CM/ECF electronic filing system on this 29th day of November, 2004, and that an **electronic copy of same will be distributed** to the following: Michael J. Farrell, Esquire and Jennifer N. Brown, Esquire, U.S. Equal Employment Opportunity Commission, Miami District Office, One Biscayne Tower, 2 South Biscayne Blvd., Suite 2700, Miami, Florida, 33131, and that an electronic copy and/or a hard copy will immediately be sent by U.S. Mail to Defendant's counsel as soon as Defendant's counsel makes an appearance in connection with this matter.

/s/ Andrew G. Wedmore, Esquire
Andrew G. Wedmore



**U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Miami District Office**

One Biscayne Tower
2 South Biscayne Blvd, Suite 2700
Miami, FL 33131
(305) 536-4491
TTY (305) 536-5721
FAX (305) 536-4011

EEOC Charge No.: 150 A2 2819

Ms. Terri Wallace
23400 C.R. 561
Astatula, Florida 34705

Charging Party

Patterson Dental Company
c/o Carol Halley, Associate General Counsel
1031 Mendota Heights Road
St. Paul, Minnesota 55129

JUL 28 2006

LETTER OF DETERMINATION

I issue the following determination on the merits of this charge.

Respondent is an employer within the meaning of Title VII of the Civil Rights Act of 1964, as amended, (Title VII), and timeliness, deferral and all other requirements for coverage have been met.

Charging Party alleged that she was discriminated against in violation of Title VII of the Civil Rights Act of 1964, as amended, due to her gender, Female, in that she was sexually harassed and subjected to a sexually hostile work environment.

Examination of the evidence indicates that the Charging Party has been discriminated against because of her gender. She was treated differently than male employees by being subjected to a sexually offensive and hostile work environment. This harassment was ongoing and Respondent failed to take proper remedial action resulting in Charging Party's constructive discharge. The evidence further substantiates that Respondent retaliated against Charging Party by subjecting her to heightened scrutiny on the job and placing her on a performance plan prior to her constructive discharge.

I have determined that the evidence obtained during the investigation establishes that there is reasonable cause to believe that violations of the statute have occurred.

Upon finding that there is reason to believe that violations have occurred, the Commission attempts to eliminate the alleged unlawful practices by informal methods of conciliation. Therefore, the Commission now invites the parties to join with it in reaching a just resolution of this matter. The confidentiality provisions of Sections 706 and 709 of Title VII and the Commission Regulations apply to information obtained during conciliation.

— **EXHIBIT "A"** —


LETTER OF DETERMINATION
EEOC CHARGE NO.: 150-A2-02819
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Please complete the enclosed Invitation to Conciliate and return it to the Commission at the above address no later than August 6, 2003. You may fax your response directly to (305) 536-4011 to the attention of Monica Smith, Federal Investigator. Failure to reply by August 6, 2003, will indicate that you are not interested in conciliating this matter and the Commission will determine that efforts to conciliate this charge as required by Title VII of the Civil Rights Act of 1964, as amended, have been unsuccessful.

If the Respondent declines to discuss settlement or when, for any other reason, a settlement acceptable to the office Director is not obtained, the Director will inform the parties and advise them of the court enforcement alternatives available to the aggrieved persons and the Commission.

On Behalf of the Commission:

8/23/03
Date


Federico Costales
District Director

Enclosure: Invitation to Conciliate
Information Sheet For Filing
Suit in Federal District Court

cc: Charging Party Representative
Ms. Jill S. Schwartz & Associates, P.A.
180 North Park Avenue, Suite 200
Winter Park, Florida 32789-7411