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U.S. DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION

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

**COLLEEN A. FALKOWSKI,**

**Plaintiff,**

v.

**CASE NO.: 8:02-CV-1770-T-30TBM**

**RARE HOSPITALITY INTERNATIONAL,  
INC. d/b/a LONGHORN STEAK HOUSE,**

**Defendant.**

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**COMPLAINT OF INTERVENTION AND DEMAND FOR JURY TRIAL**

COMES NOW, Plaintiff COLLEEN A. FALKOWSKI (hereinafter "FALKOWSKI" or "Plaintiff") by and through her undersigned counsel, and sues Defendant RARE HOSPITALITY INTERNATIONAL, INC. d/b/a LONGHORN STEAK HOUSE (hereinafter "RHI") alleging unlawful employment practices, and demands a trial by jury of all issues so triable. In support of her claim for relief, Plaintiff alleges as follows:

**JURISDICTION AND VENUE**

1. This is an action for damages brought pursuant to Title VII of the Civil Rights Act of 1964, as amended by the Civil Rights Act of 1991, 42 U.S.C. §2000e, *et seq.* (hereinafter "Title VII"), the Florida Civil Rights Act, Fla. Stat. §760.01, *et seq.* (hereinafter "FCRA") and the Florida Whistleblower Act, Fla. Stat. §448.102, *et seq.* (hereinafter "Whistleblower Act").

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2. Plaintiff invokes the federal question and civil rights jurisdiction of this Court under 28 U.S.C. §§1331 and 1343(a)(4). Plaintiff also invokes this Court's supplemental and pendent jurisdiction over her state law claims against Defendant RHI, which arise out of the same nucleus of operative facts as the federal claims alleged herein.
3. Venue for this action lies in the Middle District of Florida pursuant to 42 U.S.C. §2000e, *et seq.*, and 28 U.S.C. §1391.

#### **THE PARTIES**

4. The Equal Employment Opportunity Commission ("EEOC") as the agency of the United States of America charged with the administration, interpretation and enforcement of Title VII has filed suit against Defendant RHI under Title VII.
5. Plaintiff FALKOWSKI is a female resident of Hillsborough County, Florida.
6. Defendant RHI is a foreign corporation doing business in the State of Florida and the Middle District of Florida.
7. Defendant RHI is engaged in an industry affecting commerce.
8. Defendant RHI has in excess of fifteen (15) employees and is an employer within the meaning of Title VII, the FCRA, and the Whistleblower Act.

#### **PROCEDURAL BACKGROUND**

9. Plaintiff FALKOWSKI filed a Charge with the EEOC and the Florida Commission on Human Relations ("FCHR") on or about February 9, 2001.
10. The EEOC investigated Plaintiff's FALKOWSKI's Charge of Discrimination and found reasonable cause to believe that violations of Title VII occurred.

11. The EEOC filed a Complaint in the United States District Court for the Middle District of Florida, Tampa Division, on or about September 30, 2002 alleging violations of Title VII.
12. Plaintiff FALKOWSKI has complied with all administrative prerequisites and conditions precedent prior to the institution of this lawsuit.

**FACTS**

13. In or about January of 2000, Defendant RHI hired Plaintiff FALKOWSKI as a hostess.
14. During Plaintiff FALKOWSKI's employment with Defendant RHI, Assistant Manager, Dan Ross, subjected Plaintiff FALKOWSKI to unwelcome verbal and physical conduct of a sexual nature, which was sufficiently severe and pervasive to constitute an intimidating, hostile and offensive work environment.
15. Defendant RHI retaliated against Plaintiff FALKOWSKI for complaining of the unlawful sexual harassment by subjecting her to adverse terms and conditions of employment, including unfavorable job assignments, and subsequently discharging her.

**COUNT I: TITLE VII (HARASSMENT & RETALIATION)**

16. Plaintiff repeats, realleges and incorporates by reference paragraphs 1-15 of the Complaint.
17. Plaintiff repeats, realleges, and incorporates by reference the Complaint filed by the EEOC.
18. Defendant's managerial employee, Dan Ross, engaged in ongoing, unwelcome and offensive sexual conduct against Plaintiff because of Plaintiff's gender.

19. Ross' conduct was severe and pervasive, and created a sexually hostile and abusive work environment that unreasonably interfered with the terms, conditions, and privileges of Plaintiff's employment.
20. Defendant knew or should have known that Ross engaged in ongoing, unwelcome and offensive sexual conduct against Plaintiff and failed to take prompt remedial action.
21. Defendant condoned, ratified, authorized and perpetuated Ross' ongoing, unwelcome and offensive sexual conduct against Plaintiff by failing to take prompt remedial action.
22. Defendant engaged in unlawful employment practices prohibited by the Title VII by creating, condoning and perpetuating a sexually hostile and abusive work environment for Plaintiff.
23. Defendant engaged in unlawful employment practices prohibited by Title VII by intentionally and willfully engaging in adverse employment action up to and including discharging Plaintiff in retaliation for her complaints of sexual harassment.
24. Defendant acted intentionally with malice and reckless disregard for Plaintiff's rights under Title VII.
25. As a result of Defendant's unlawful employment practices, Plaintiff has suffered damage, including, the loss of a career with Defendant; the loss of wages, benefits, and other compensation; harm to her personal and business reputations; mental anguish and emotional distress; and other pecuniary and non-pecuniary losses.

**WHEREFORE**, Plaintiff respectfully requests that this Honorable Court declare that Defendant violated the rights of Plaintiff as protected by the laws of the United States; award Plaintiff back pay and the value of lost employment benefits; award Plaintiff front pay or reinstatement; award Plaintiff compensatory and punitive damages for mental anguish, emotional distress, humiliation, and loss of reputation; award attorney's fees and costs; and grant other and further relief as this Court deems just and proper.

**COUNT II: FCRA (HARASSMENT & RETALIATION)**

26. Plaintiff repeats, realleges and incorporates by reference paragraphs 1-15, 18-21, and 25 of the Complaint.
27. Defendant engaged in unlawful employment practices prohibited by the FCRA by creating, condoning and perpetuating a sexually hostile and abusive work environment for Plaintiff.
28. Defendant engaged in unlawful employment practices prohibited by the FCRA by intentionally and willfully engaging in adverse employment action up to and including discharging Plaintiff in retaliation for her complaints of sexual harassment.
29. Defendant acted intentionally with malice and reckless disregard for Plaintiff's rights under the FCRA.

**WHEREFORE**, Plaintiff respectfully requests that this Honorable Court declare that Defendant violated the rights of Plaintiff as protected by the laws of the State of Florida; award Plaintiff back pay and the value of lost employment benefits from the time of her termination; award Plaintiff front pay or reinstatement; award Plaintiff

compensatory and punitive damages for mental anguish, emotional distress, humiliation, and loss of reputation; award attorney's fees and costs; and grant other and further relief as this Court deems just and proper.

**COUNT III: WHISTLEBLOWER ACT**

30. Plaintiff repeats, realleges and incorporates by reference paragraphs 1-15, 23, 25 and 28 of the Complaint.
31. Defendant violated the Whistleblower's Act by taking retaliatory personnel action against Plaintiff up to and including discharging Plaintiff because of Plaintiff's objections and/or refusal to participate in a Defendant's unlawful employment practices.

**WHEREFORE**, Plaintiff respectfully requests that this Honorable Court declare that Defendant violated the rights of Plaintiff as protected by the Whistleblower's Act and award Plaintiff front pay or reinstatement to the same or an equivalent position and full fringe benefits and seniority rights; compensation for lost wages, benefits, and other remuneration; other compensatory damages allowable at law; attorney's fees, court costs, and expenses; and grant other and further relief as this Court deems just and proper.

**DEMAND FOR TRIAL BY JURY**

Plaintiff respectfully demands a trial by jury for all issues so triable.

Dated: October 16, 2002

Respectfully submitted,



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**Randall V. Shanafelt, Trial Counsel**  
**Florida Bar No.: 0052426**  
**Sharon A. Wey, Esquire**  
**Florida Bar No.: 0048010**  
**THE SHANAFELT LAW FIRM, P.A.**  
**4610 Central Avenue, Suite C**  
**St. Petersburg, Florida 33711**  
**Telephone: (727) 323-3739**  
**Facsimile: (727) 328-2477**  
**Attorneys for Plaintiff**