

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI
SOUTHERN DIVISION**

CYNTHIA HUFFMAN, et al.)	
)	
Plaintiff/Plaintiff-Intervenors,)	
)	
vs.)	Case No. 01-3144-CV-S-3-ECF
)	
NEW PRIME, INC., et al.)	JURY TRIAL DEMANDED
)	
Defendants.)	

PLAINTIFF-INTERVENOR CYNTHIA HUFFMAN'S SECOND AMENDED COMPLAINT

COMES NOW the Plaintiff-Intervenor, by and through her undersigned attorneys, and for her cause of action against the Defendants state as follows:

PARTIES

1. Plaintiff-Intervenor Cynthia Huffman is a resident of the State of Mississippi, residing in Petal, Forrest County, Mississippi. She has the capacity to sue.

2. Plaintiff Equal Employment Opportunity Commission ("EEOC"), the federal agency charged with the administration, interpretation and enforcement of Title VII, brought the instant action pursuant to § 706(f)(1) and (3) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e-5(f)(1) and (3). It has the capacity to sue.

3. Defendant New Prime, Inc. is a corporation of the State of Nebraska, with its principal place of business located at 2740 North Mayfair, Springfield, Missouri 65808. Defendant Prime is also registered with the State of Missouri under the name Prime, Inc. and conducts business in the State of Missouri under that name. It has the capacity to be sued.

4. Defendant Abel Joseph Lormand (hereafter "Lormand") is a resident of the State

of Louisiana. Defendant Lormond at all times relevant herein had numerous contacts and did business within the State of Missouri. Specifically, Defendant Lormond, at all relevant times, was an over-the-road truck driver. The main, if not exclusive contracts or employment, were for hauling various goods as directed by the Defendant Prime, and in those contracts entered into by Defendant Lormond with Defendant Prime, they were all situated in the State of Missouri and in some instances, litigation involving such contracts was stipulated to be in this Court or at least in the Courts of Greene County. Some of the tortious acts complained of herein, committed by Defendant Lormond, took place in the State of Missouri. Defendant Lormond has the capacity to be sued with venue and jurisdiction in this Court.

JURISDICTION AND VENUE

5. Plaintiff-Intervenor brings her cause of action against Defendant Prime under the Equal Pay Act, 29 U.S.C. § 216 and Section 706(f)(1) of Title VII of the Civil Rights Act of 1964, as amended 42 U.S.C. § 2000e-5(f)(1) and (3) (“Title VII”), and Section 102 (d) of the Civil rights Act of 1991, 42 U.S.C. §1981a. This Court therefore has jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1343. Plaintiff-Intervenor’s claims arising under State law are so related to the claims over which this Court has original jurisdiction that they form part of the same case or controversy, and this Court therefore has supplemental jurisdiction over those claims pursuant to 28 U.S.C. § 1367.

6. Defendant Prime is an employer pursuant to the Equal Pay Act, 29 U.S.C. § 216 and Section 706(f)(1) of Title VII of the Civil Rights Act of 1964, as amended 42 U.S.C. § 2000e-5(f)(1) and (3) (“Title VII”), and Section 102 (d) of the Civil rights Act of 1991, 42 U.S.C. §1981a and the Missouri Human Rights Act, Chapter 213 R.S. Mo. (MHRA)

7. Plaintiff-Intervenor filed her Complaint of Discrimination jointly with the Equal Employment Opportunity Commission and the Missouri Commission on Human Rights on June 16, 2000.

8. Plaintiff-Intervenor received her Right to Sue Letter from the Missouri Commission on Human Rights on January 9, 2001. The Equal Employment Opportunity Commission filed their cause under Title VII of the Civil Rights Act of 1964 and Title I of the Civil Rights Act of 1991. Plaintiff-Intervenor was given leave to intervene.

9. Plaintiff-Intervenor was employed in the State of Missouri by Defendant Prime.

10. Venue is proper in this Court pursuant to 42 U.S.C. § 2000e-5 and 28 U.S.C. § 1391(b) in that Defendant Prime maintains its principal office in this judicial district, and in that a substantial part of the events or omissions giving rise to Plaintiff-Intervenor Huffman's claims occurred in this judicial district. Certain acts by Defendant Lormand took place in Missouri. Certain acts more specifically described below were of an ongoing, harassing, intimidating nature, wherein such acts began in the State of Missouri and continued on, as more specifically stated below, in and through other states, all of which caused Plaintiff-Intervenor Huffman great mental and emotional distress. Such acts of Defendant Lormand are more specifically stated below.

11. §500.506 *et. seq.* RSMo. (Missouri Long Arm Statute) confers jurisdiction of this Court over Defendant Lormand due to his minimum contacts with the State of Missouri. Such contacts are more specifically alleged below. This Court is bound by the State of Missouri Supreme Court on its interpretation of State Statutes. Institutional Food Marketing Associates, Ltd. v. Golden State Strawberries, Inc. 747 F.2d 448 (8th Cir.1984). The reach of State Long Arm Statute is a question of State law and the Federal Court is bound by the State Supreme

Courts interpretation of that Long Arm Statute.

12. Defendant Lormand has engaged in the following acts in the State of Missouri, upon which the Missouri Long Arm Statute gives this Court jurisdiction:

- a. Transacted business within the State of Missouri;
- b. Made contracts within the State of Missouri; and
- c. Committed tortious acts within the State of Missouri.

13. Due to the acts of Defendant Lormand, Plaintiff-Intervenor Huffman has sustained actionable consequences in Missouri, specifically the loss of her job, embarrassment and great emotional distress.

STATEMENT OF RELEVANT FACTS

14. Plaintiff-Intervenor Huffman incorporates and re-alleges Paragraphs 1 through 13 of this Complaint as is fully set forth herein.

15. Defendant Prime, at all relevant times, operated Prime, Inc. in Springfield, Greene County, Missouri, and employed Plaintiff-Intervenor Huffman as a truck driver-trainee.

16. Stan Woodall (hereafter “Woodall”) was, at all times relevant to this action, employed by Defendant Prime as a dispatcher and was, at all times relevant to this action, the direct supervisor of Defendant Abel Joseph Lormand.

17. Defendant Lormand has had numerous contacts with the State of Missouri at all relevant times. Specifically:

- a. Defendant Lormand entered into various contracts with Defendant Prime, including:
 - (1.) Leased equipment from Defendant Prime (Ex. A). Such contract dated 2/09/00 provided for its situs to be the State of Missouri and

venue in this Court and District for causes of action from operation of such equipment. (Many of Defendant Lormand's acts were conducted in the equipment that is subject of this contract, Ex. A.)

(2.) An "Independent Contractor Operator Agreement" (Ex. B) dated 2/02/00 was executed between Defendant Lormand and Defendant Prime. Such contract provided in part:

(a) "... all actions or proceedings arising in connection with this agreement shall be tried and litigated only in the Court of the State of Missouri of the United States for the Western District of Missouri, Southern Division";

(b) The situs of the contract is Greene County, Missouri; and

(c) Such contract was a 1 year contract automatically renewable year-to-year.

(3.) "The Personal Service Agreement" dated 2/09/00 (Ex. C). By the agreement, Defendant Prime provided to Defendant Lormand drivers, such as Plaintiff-Intervenor Huffman, which placed Defendant Lormand in a supervisory role over drivers like Plaintiff-Intervenor Huffman, including whether or not she is discharged. Such control also specified Missouri Law was the choice of law. By signing such an agreement Defendant Lormand agreed "...that all actions and proceeds arising in connection with this agreement shall be tried and litigated in the Courts of Missouri in the United States for the Western District of Missouri, Southern Division.

Defendant Lormand accepted this Court as proper venue and jurisdiction.

- (4.) A accessory lease agreement with Defendant Prime (Ex. D) dated 2/09/00 leased certain equipment by Defendant Prime to Defendant Lormand. By such lease, Defendant Lormand chose Missouri law to construe the contract.

18. At all times relevant herein, Defendant Lormand acted on behalf of Defendant Prime as Plaintiff-Intervenor Huffman's supervisor. Plaintiff-Intervenor Huffman's employment with Prime originated and was located in Missouri at Defendant Prime's principal locations. Defendant Lormand's supervisory position originated from and was performed for Defendant Prime. Lormand's principal place of business is in Missouri. Defendant Lormand, in effect, became Plaintiff-Intervenor's supervisor by his performance of the "Personnel Service Agreement" (Ex. C). In such agreement, Defendant Lormand executed such contract in Missouri and stipulated to the venue of both State and Federal Courts found in Greene County, Missouri.

19. Beginning on February 23, 2000, Defendant Prime, through its agents, Lormand, and employees, began engaging in acts of sexual harassment and retaliation aimed at the Plaintiff-Intervenor by committing numerous acts of intentional and negligent infliction of mental distress, including the following:

- a. While on the trip that lasted from February 23, 2000 to March 6, 2000, Lormand subjected Huffman to numerous sexually oriented comments and physical touchings that were unwelcome and offensive and which a reasonable person would find unwelcome and offensive.

- b. On or about February 23, 2000, Plaintiff-Intervenor Huffman was driving with Defendant Lormand when he informs Huffman that “[he] will sleep nude or in [his] underwear on the truck, and sometimes I might come out in my underwear while you are driving to smoke a cigarette.” Such acts and statements by Defendant Lormand were made in Springfield, Missouri.
- c. Upon Plaintiff-Intervenor’s statement about contacting Defendant Prime if Lormand was in his underwear or nude, Defendant Lormand portrayed to Plaintiff-Intervenor Huffman, that while she was on his truck that “...you can forget any of Prime’s rules or company policies...I make the rules.” Such actions and statements began immediately upon leaving Springfield, and while still in the State of Missouri and continued on throughout the trip. Such statements caused Huffman great mental anguish and distress which continues today.

20. Plaintiff-Intervenor Huffman was sexually assaulted and held against her will at the hands of Defendant Prime’s trainer, Lormand while on his truck.

21. Plaintiff-Intervenor Huffman requested that Prime’s dispatcher, Stan Woodall, remove her from Defendant Lormand’s truck due to the offensive comments, touchings and fearing for her safety.

22. Defendant Lormand made comments to Plaintiff-Intervenor that she should lie in bed with him while he had no clothes on at least ten to twenty times. Such comments made Huffman uncomfortable and she expressed to him her disapproval of such comments.

23. Defendant Lormand climbed up on the driver’s side of the cab, while Plaintiff

Intervenor Huffman was behind the wheel, placed his arm around her shoulder and squeezed her right breast.

24. Lormand told Plaintiff-Intervenor Huffman that he had orgy movies and that she would lie in bed with him, while he was naked, and watch them with him. He proceeded to tell her that once the orgy movie was done, that he had the Playboy channel hooked up. Huffman was forced to sit up all night in a diner so that she would not be subjected to such activity.

25. Defendant Lormand, on or about March 2nd, 2000, took Plaintiff-Intervenor against her will to his home in Louisiana, an area that she was not familiar. Huffman was held against her will for two days, as well as, Lormand tried to physically force Plaintiff-Intervenor into his home and into his bed.

26. All the acts of Defendant Lormand as alleged above were performed without Plaintiff-Intervenor's permission or consent, and over her repeated objections.

27. Defendant Lormand was instructed by Defendant Prime to push Plaintiff-Intervenor during the training trip of February 23, 2000 to March 6, 2000 because she was a female.

28. Plaintiff-Intervenor contacted Defendant Prime, through dispatcher Woodall, for assistance by Qual-Comm and Cellular phone to tell them that she was fearful of her life and wanted to be removed from Defendant Lormand's truck.

29. Prior to February 23, 2000, dispatchers employed by Defendant Prime had refused to work with Defendant Lormand due to Defendant Lormand's erratic behavior.

30. Plaintiff-Intervenor Huffman asked that dispatcher Woodall not say anything to Lormand with regard to her fears, until she was away from the truck and Defendant Lormand. Woodall immediately contacted Lormand with regard to Huffman requesting to be removed.

31. Defendant Prime, through its authorized agent and employee Stan Woodall, was aware of many of the actions of Defendant Lormand as described above, yet failed to take action against Defendant Lormand and failed to take action to assist Plaintiff-Intervenor. These incidents include, but are not limited to the following:

- a. After Plaintiff-Intervenor informed Woodall of her fears and concerns with Defendant Lormand, Woodall took no corrective action against Defendant Lormand and took no action to have Plaintiff-Intervenor removed from Defendant Lormand's truck.
- b. Woodall was sent an urgent message on the Qual-Com computer system on or about March 2nd, 2000 by Plaintiff-Intervenor, indicating that she was scared and feared for her life because Defendant Lormand was holding her against her will at his home and would not take her to a safe hotel. Defendant Prime and/or Woodall did not respond.
- c. Woodall was contacted at home, by phone, on March 3rd, 2000 by Plaintiff-Intervenor with regards to her urgent message of March 2nd, 2000. Woodall told Plaintiff-Intervenor that "you will be leaving for Texas in a few hours; can't you hold on until you get to your next stop."

32. Plaintiff-Intervenor Huffman was then subjected Lormand's anger and his comments that "...[she] was not getting off the truck and [she] was going back to Louisiana with [him]..."

33. Plaintiff-Intervenor also attempted on two occasions to contact the president of Defendant Prime, Robert E. Low, to inform him of her problems with Defendant Lormand as alleged above. Plaintiff-Intervenor on one occasion left a message with Mr. Low's secretary and

on another occasion left a message on Mr. Low's voice mail. Plaintiff-Intervenor never received any response to these messages from Mr. Low.

34. Plaintiff-Intervenor removed herself from the truck at the next stop for fear for her life. Plaintiff-Intervenor was scared, alone and without any means to get back to Springfield Defendant Lormand's actions after being held hostage caused Plaintiff-Intervenor great mental anguish and distress.

35. Defendant Prime, through its authorized agent and employee Woodall began a series of retaliatory actions against Plaintiff-Intervenor after she discussed Defendant Lormand's actions with Woodall. These retaliatory actions include, but are not limited to the following:

- a. Ignoring Plaintiff-Intervenor's requests for another trainer.
- b. Ignoring Huffman's urgent messages to come get her because she was in fear for her safety.
- c. Not taking Plaintiff-Intervenor's complaints seriously.
- d. Refusing to send someone to pick her up and refusing to find a bus station in the area.
- e. Not assisting Plaintiff-Intervenor with correcting her pay.
- f. After Huffman returned to Prime headquarters, Woodall gave a card containing a picture of a nude woman to her and made humiliating remarks about Huffman "being fun on the road." Plaintiff-Intervenor was subjected to additional mental distress by Defendant Prime's dispatcher, Woodall, upon being subjected to sexual harassment upon returning to Springfield.

36. As a result of the actions alleged above, Plaintiff-Intervenor Huffman has suffered

and will continue to suffer diagnosable emotional distress, loss of enjoyment of life, loss of reputation, humiliation, prolonged incapacity to work, and inconvenience, lost wages to date, lost wages in the future, loss of sleep, nightmares and loss of appetite.

37. As a result of the actions alleged above, Plaintiff-Intervenor Huffman has incurred and continues to incur counseling and medical expenses.

38. Defendant Lormand had substantial and ongoing contacts with the State of Missouri at all times relevant to the facts and causes of this case. Specifically:

- a. Lormand had numerous business contacts and stipulated to the venue and situs of Missouri with regard to those contracts and the conduct of his business;
- b. He Performed his work under such contracts throughout the State of Missouri in that he would drive his truck wherever Defendant Prime sent him, including the State of Missouri and his terminal was located in the State of Missouri;
- c. Defendant Lormand committed tortious acts in Missouri and committed tortious acts in other states that either began in Missouri, continued on from acts in Missouri and certainly had consequences in Missouri;
- d. Missouri and this Court have an interest in providing a forum for this cause; and
- e. The convenience for all parties considered is served by this cause being venued in this jurisdiction and this Court.
- f. Plaintiff-Intervenor attaches logs of the Defendant Lorman showing his continued business in Missouri as a truck driver for Defendant Prime (Ex.

E).

39. Defendant Prime promised Plaintiff-Intervenor that she would be paid four-hundred dollars (\$400) a week during the first 30 days of her training period and five-hundred dollars (\$500) a week for the remainder of her training period. Defendant Prime paid Plaintiff-Intervenor much less than the amounts promised.

COUNT I
TITLE VII AND MHRA - SEXUAL HARASSMENT
DEFENDANT PRIME

40. Plaintiff-Intervenor Huffman incorporates and re-alleges Paragraphs 1 through 39 of this Complaint as if fully set forth herein.

41. By the unlawful acts alleged above, Defendant Prime has violated Title VII.

42. As a direct and proximate result of Defendant Prime's unlawful acts, Plaintiff-Intervenor Huffman has sustained and is reasonably likely to sustain in the future irreparable harm in the form of both pecuniary and nonpecuniary losses, including but not limited to, lost wages and benefits, emotional pain, suffering, inconvenience, humiliation, loss of enjoyment of life, loss of reputation, medical and counseling expenses, and attorneys' fees and expenses all due to being subjected to numerous sexually oriented comments and jokes, held against her will, and subjected to physical touching at the hands of her supervisors and co-workers.

43. The sexually oriented comments and jokes and physical touchings as alleged above were unwelcome and offensive and a reasonable person would find them unwelcome and offensive.

44. The sexually oriented comments and jokes and physical touchings as alleged above were based on Plaintiff-Intervenor's sex.

45. The sexually oriented comments and jokes and physical touchings as alleged above were sufficiently severe or pervasive that a reasonable person in the Plaintiff-Intervenor's position would find Plaintiff-Intervenor's work environment to be hostile or abusive.

46. At the time the sexually oriented comments and jokes and physical touchings alleged above occurred and as a result of such conduct, Plaintiff-Intervenor believed her work environment to be hostile or abusive.

47. Defendant knew or should have known of the sexually oriented comments and jokes and physical touchings alleged above.

48. Defendant failed to take prompt and appropriate corrective action to end the harassment.

49. As a direct and proximate result of the Defendants' actions and inactions alleged herein, Plaintiff-Intervenor has sustained and are reasonably certain to sustain in the future, irreparable harm in numerous respects, including, but not limited to, the following:

- a. Pecuniary and nonpecuniary losses, including, but not limited to, lost wages and benefits, offensive touching, emotional pain, suffering, inconvenience, personal humiliation, loss of enjoyment of life, medical and counseling expenses and potential loss of reputation;
- b. Significant mental anguish, loss of sleep, nightmares, loss of appetite, nervousness and suffering;
- c. Embarrassment and loss of prestige among her co-workers; and
- d. Attorneys' fees and expenses in pursuing redress for the wrongs she has suffered at the hands of the Defendant.

50. Defendant acted with malice or with reckless indifference to Plaintiff-Intervenor's

right not to be sexually harassed, thus making appropriate an award of punitive damages to punish the Defendant and to deter the Defendant and others from like conduct.

WHEREFORE, Plaintiff-Intervenor prays that this Court enter judgment pursuant to the Missouri Human Rights Act and Title VII in her favor and against Defendant Prime and enter an order:

- a. Declaring all acts in violation of the Missouri Human Rights Act and Title VII;
- b. Enjoining and permanently restraining Defendant from continued violations of the Missouri Human Rights Act and Title VII;
- c. Directing Defendant Prime to take such affirmative action as is necessary to ensure that the effects of these unlawful practices are eliminated and do not continue to affect Plaintiff-Intervenor's employment opportunities;
- d. Defendant be required to compensate, reimburse, and make whole Plaintiff-Intervenor for the full value of all pecuniary and nonpecuniary damages Plaintiff-Intervenor has sustained in the past, and is reasonably certain to sustain in the future, including, but not limited to, any and all back pay and benefits, medical and counseling expenses, offensive touching, embarrassment, humiliation, loss enjoyment of life, potential loss of reputation, and all consequent damages;
- e. Awarding Plaintiff-Intervenor punitive damages in such sum as will punish Defendant and deter the Defendant and others from like conduct;
- f. Awarding Plaintiff-Intervenor the costs of this action, prejudgment interest and reasonable attorney's fees; and

- g. That Plaintiff-Intervenor be granted a letter of apology from Defendant Prime and for such further and other relief as the Court deems just and proper.

COUNT II
TITLE VII AND MHRA – SEX DISCRIMINATION
DEFENDANT PRIME

51. Plaintiff-Intervenor incorporates and realleges Paragraphs 1 through 50 of this Petition into this Count II as though fully set forth herein.

52. On information and belief, Plaintiff-Intervenor was treated less favorably than similarly situated male employees with respect to her compensation, terms, conditions or privileges of employment.

53. Plaintiff-Intervenor's sex is a motivating factor in Defendant Prime's decision to treat her less favorably than similarly situated male employees with respect to her compensation, terms, conditions or privileges of employment.

54. As a direct and proximate result of the Defendants' actions and inactions alleged herein, Plaintiff-Intervenor has sustained and is reasonably certain to sustain in the future, irreparable harm in numerous respects, including, but not limited to, the following:

- a. Pecuniary and nonpecuniary losses, including, but not limited to, lost wages and benefits, offensive touching, emotional pain, suffering, inconvenience, personal humiliation, loss of enjoyment of life, medical and counseling expenses and potential loss of reputation;
- b. Significant mental anguish, loss of sleep, nightmares, loss of appetite, nervousness and suffering;
- c. Embarrassment and loss of prestige among her co-workers; and

- d. Attorneys' fees and expenses in pursuing redress for the wrongs she has suffered at the hands of the Defendant.

55. Defendant acted with malice or with reckless indifference to Plaintiff-Intervenor's right not to be discriminated against, thus making appropriate an award of punitive damages to punish the Defendant and to deter the Defendant and others from like conduct. Such malice or reckless indifference is part of a pattern of conduct engaged in by Defendant on prior, similar occasions.

WHEREFORE, Plaintiff-Intervenor prays that this Court enter judgment pursuant to the Missouri Human Rights Act and Title VII in her favor and against Defendant Prime and enter an order:

- a. Declaring all acts in violation of the Missouri Human Rights Act and Title VII;
- b. Enjoining and permanently restraining Defendant from continued violations of the Missouri Human Rights Act and Title VII;
- c. Directing Defendant Prime to take such affirmative action as is necessary to ensure that the effects of these unlawful practices are eliminated and do not continue to affect Plaintiff-Intervenor's employment opportunities;
- d. Defendant be required to compensate, reimburse, and make whole Plaintiff-Intervenor for the full value of all pecuniary and nonpecuniary damages Plaintiff-Intervenor has sustained in the past, and is reasonably certain to sustain in the future, including, but not limited to, any and all back pay and benefits, medical and counseling expenses, offensive touching, embarrassment, humiliation, loss enjoyment of life, potential

- loss of reputation, and all consequent damages;
- e. Awarding Plaintiff-Intervenor punitive damages in such amount as will punish the Defendant and deter the Defendant and others from like conduct;
 - f. Awarding Plaintiff-Intervenor the costs of this action, prejudgment interest and reasonable attorney's fees; and
 - g. That Plaintiff-Intervenor be granted a letter of apology from Defendant Prime and for such further and other relief as the Court deems just and proper.

**COUNT III
EQUAL PAY ACT
DEFENDANT PRIME**

56. Plaintiff-Intervenor incorporates and realleges Paragraphs 1 through 55 of this Petition into this Count III as though fully set forth herein.

57. On information and belief, Plaintiff-Intervenor has been paid less than male employees in the same establishment for equal work on jobs the performance of which requires equal skill, effort, and responsibility, and which are performed under similar working conditions.

58. The acts of Defendant Prime in denying equal treatment and equal pay to the Plaintiff-Intervenor was done knowingly, willingly and intentionally with the action taken by Defendant Prime to deny rights known to be secured to the Plaintiff-Intervenor and for the pecuniary benefit of Defendant Prime, even though such acts are in violation of the law. Such actions taken by Defendant Prime warrant such enhanced recovery as provided under the law.

WHEREFORE, Plaintiff-Intervenor prays this Court enter judgment under the Equal Pay Act in her favor against Defendant Prime and that the Court enter the following order:

- a. Declaring all acts in violation of the Equal Pay Act;
- b. Enjoining and permanently restraining Defendant from continued violations of the Equal Pay Act;
- c. Directing Defendant Prime to take such affirmative action as is necessary to ensure that the effects of these unlawful practices are eliminated and do not continue to affect Plaintiff-Intervenor's employment opportunities;
- d. Awarding Plaintiff-Intervenor all back pay differential between what the Plaintiff-Intervenor have received and what similarly situated male employees have received for same and similar work over the same period of time;
- e. Awarding Plaintiff-Intervenor compensatory damages as allowed for under the EPA;
- f. Awarding Plaintiff-Intervenor the costs of this action, prejudgment interest and reasonable attorney's fees; and
- g. That Plaintiff-Intervenor be granted a letter of apology from Defendant Prime and for such further and other relief as the Court deems just and proper.

COUNT IV
FRAUDULENT MISREPRESENTATION
DEFENDANT PRIME

59. Plaintiff-Intervenor incorporates and realleges Paragraphs 1 through 58 of this Petition into this Count IV as though fully set forth herein.

60. Defendant Prime represented to Plaintiff-Intervenor that she would be paid four-

hundred dollars (\$400) a week during the first week of her training and five-hundred dollars (\$500) a week for the remainder of her training, intending that Plaintiff-Intervenor rely on such representation in hiring on with the Defendant as a CDL truck driver trainee.

61. Defendant Prime's representation was false.

62. Defendant Prime knew the representation was false at the time it was made.

63. The representation was material to Plaintiff-Intervenor's decision to hire on with Defendant Prime as a CDL truck driver trainee.

64. Plaintiff-Intervenor relied on the representation in hiring on with Defendant Prime as a CDL truck driver trainee and in so relying Plaintiff-Intervenor used that degree of care that would have been reasonable in Plaintiff-Intervenor's situation.

65. Defendant Prime's false representation directly caused or directly contributed to cause damage to the Plaintiff-Intervenor, including but not limited to underpayment of wages and financial hardship due to being on the road without sufficient income to cover expenses.

66. The conduct of Defendant Prime as alleged herein was outrageous because of its evil motive or reckless indifference to the rights of others, making it subject to an award of punitive damages to punish the Defendant and to deter the Defendant and others from like conduct.

WHEREFORE, Plaintiff-Intervenor prays that this Court enter a judgment in her favor and against Defendant Prime and enter an order:

- a. Awarding Plaintiff-Intervenor compensatory damages in such amount as to fairly and reasonably compensate for the damages she has suffered as a result of the conduct of the Defendant as alleged herein;

- b. Awarding Plaintiff-Intervenor punitive damages in such sum as is appropriate to punish the Defendant and to deter Defendant and others from like conduct in the future;
- c. Awarding Plaintiff-Intervenor the costs of this action, prejudgment interest and reasonable attorney's fees; and
- d. Such further and other relief as the Court deems just and proper.

COUNT V
ASSAULT AND BATTERY
DEFENDANT LORMAND

67. Plaintiff-Intervenor incorporates and realleges Paragraphs 1 through 66 of this Petition into this Count V as though fully set forth herein.

68. Defendant Lormand intentionally touched and fondled Plaintiff-Intervenor without her permission or consent.

69. Defendant Lormand thereby caused a contact with Plaintiff-Intervenor that was offensive to Plaintiff-Intervenor.

70. Such contact as alleged herein would be offensive to a reasonable person.

71. Defendant Lormand made numerous suggestive comments to Plaintiff-Intervenor indicating that he desired to have a sexual relationship with her, and he forced Plaintiff-Intervenor to remain against her will at his home, suggesting on several occasions that they sleep in the same bed.

72. Defendant Lormand thereby caused Plaintiff-Intervenor to be in apprehension of an offensive contact or bodily harm.

73. Such contact as alleged herein would be offensive to a reasonable person.

74. As a result of the actions of Defendant Lormand as alleged herein, Plaintiff-Intervenor has suffered, and will continue to suffer in the future, indignity, disgrace, humiliation and mortification.

75. The conduct of Defendant Lormand as alleged herein was outrageous because of his evil motive or reckless indifference to the rights of others, making him subject to an award of punitive damages to punish the Defendant and to deter the Defendant and others from like conduct.

WHEREFORE, Plaintiff-Intervenor prays that this Court enter a judgment in her favor and against Defendant Lormand and enter an order:

- a. Awarding Plaintiff-Intervenor compensatory damages in such amount as to fairly and reasonably compensate for the damages she has suffered as a result of the conduct of the Defendant as alleged herein;
- b. Awarding Plaintiff-Intervenor punitive damages in such sum as is appropriate to punish the Defendant and to deter the Defendant and others from like conduct in the future;
- c. Awarding Plaintiff-Intervenor the costs of this action, prejudgment interest and reasonable attorney's fees; and
- d. Such further and other relief as the Court deems just and proper.

COUNT VI
FALSE IMPRISONMENT
DEFENDANT LORMAND

76. Plaintiff-Intervenor incorporates and realleges Paragraphs 1 through 75 of this Petition into this Count VI as though fully set forth herein.

77. Defendant Lormand unlawfully restrained Plaintiff-Intervenor against her will by taking Plaintiff-Intervenor to his home, where he forced her to remain for two days.

78. As a result of the actions of Defendant Lormand as alleged herein, Plaintiff-Intervenor Huffman has suffered, and will continue to suffer in the future, embarrassment, disgrace, humiliation, injury to her feelings and reputation and mental suffering.

79. The conduct of Defendant Lormand as alleged herein was outrageous because of his evil motive or reckless indifference to the rights of others, making him subject to an award of punitive damages to punish the Defendant and to deter the Defendant and others from like conduct.

WHEREFORE, Plaintiff-Intervenor prays that this Court enter a judgment in her favor and against Defendant Lormand and enter an order:

- a. Awarding Plaintiff-Intervenor compensatory damages in such amount as to fairly and reasonably compensate her for the damages she has suffered as a result of the conduct of the Defendant as alleged herein;
- b. Awarding Plaintiff-Intervenor punitive damages in such sum as is appropriate to punish the Defendant and to deter Defendant and others from like conduct in the future;
- c. Awarding Plaintiff-Intervenor the costs of this action, prejudgment interest and reasonable attorney's fees; and
- d. Such further and other relief as the Court deems just and proper.

COUNT VII
INTENTIONAL OR NEGLIGENT INFLICTION OF MENTAL DISTRESS
DEFENDANT PRIME

80. Plaintiff-Intervenor Huffman restates paragraph 1 through 79 above as if fully restated herein and incorporates them by reference.

81. Defendant Prime was repeatedly contacted by Plaintiff-Intervenor with regard to the acts of Defendant Lormand including his comments, general harassment both sexual and otherwise indicating a need for Plaintiff-Intervenor to be removed from the truck and returned home by Defendant Prime away from this specific trucker. Plaintiff-Intervenor further requested Defendant Prime, through its dispatchers, to specifically not say anything to Defendant Lormand until she was safely removed from his truck. At all times, Defendant Prime denied such requests.

82. Defendant Prime knew or should have known that Defendant Lormand had a propensity to sexually harass female trainees including Plaintiff-Intervenor Huffman. With such knowledge Defendant Prime negligently assigned Plaintiff-Intervenor Huffman to ride and be trained by Defendant Lormand.

83. Being given notice by the Plaintiff-Intervenor of Lormand's conduct during the trip, necessitated immediate action by Defendant Prime to not only remove her from the truck but also to make arrangements for her safety. Defendant Prime knew or should have known that Plaintiff-Intervenor Huffman would be subjected to emotional damages by the conduct of Defendant Lormand and by the circumstances that would likely occur and that immediate attention necessitated the return of Plaintiff-Intervenor Huffman to her home or to Springfield and the actions taken by Defendant Lormand properly addressed. To require her to remain in an unknown location, by herself in Louisiana where she had no means to return home or to provide

for herself, exacerbated and increased the emotional damages and trauma caused by Lormand's acts.

84. Defendant Prime knew or should have known that to assign Plaintiff-Intervenor Huffman to Defendant Lormand would subject her to severe emotional distress.

85. Defendant Prime knew or should have known that to leave Plaintiff-Intervenor Huffman in the truck and assign as a trainer, Defendant Lormand, to the Plaintiff-Intervenor would subject her to a high likelihood of sexual harassment, sexual assaults, threats and potentially rape. Such acts by the Defendant Prime are negligent and Defendant Prime knew or should have known that both the assignment to Defendant Lormand as Plaintiff-Intervenor Huffman's trainer and leaving her with Defendant Lormand for any extended period of time would result in and likely cause emotional harm and trauma to the Plaintiff-Intervenor.

86. Plaintiff-Intervenor Huffman had to removed herself from Defendant Lormand's truck at a truck stop and then once again, called Defendant Prime and informed them that she needed to return back to Springfield.

87. Defendant Prime took little or no action, and in fact, Huffman had to ultimately find her own transportation back to Springfield. Defendant Prime was negligent in inflicting emotional distress to the Plaintiff-Intervenor after Defendant Lormand's false imprisonment of her in the following fashion:

- a. Failed to immediately remove her from Lormand's truck and get her back home safely to either Springfield or to her own home after she informed Defendant Prime of his conduct;
- b. Defendant Prime failed to address Huffman's concerns for her safety;

- d. Defendant Prime placed Huffman in locations where she had no means to support herself, provide for herself or return home. All contributing to Plaintiff-Intervenor's emotional state of mind after being held hostage.

88. After Defendant Prime learned of Plaintiff-Intervenor Huffman being held against her will by Defendant Lormand, then later subjected to the sexual harassment as described above by Defendant Prime's dispatcher, Woodall, and after Defendant Prime knew of Plaintiff-Intervenor Huffman situation, Defendant Prime chose a further course of conduct which was intentional and made with the intent to scare, harm and cause emotional injury damages to Plaintiff-Intervenor Huffman. Such acts of Defendant Prime taken against Plaintiff-Intervenor Huffman were:

- a. Demanding that Huffman complete her one year contract with Prime without providing to her a safe environment to work. Defendant Prime then failed to pay the \$5,000 for the 6 weeks of MTC "training" Huffman received, and her medical bills she sustained due to being held against her will and sexual assault of Defendant Lormand. Plaintiff-Intervenor Huffman was turned over to a collection agency by MTC and has had her credit ruined by being on her credit report.
- b. Instituting legal actions, service of process and ultimately attempting to garnish Plaintiff-Intervenor Huffman's wages for certain of the above described costs and reimbursement of such cost.

89. Such acts by Defendant Prime were taken to intimidate, scare, frighten and to cause such harm to Plaintiff-Intervenor that she would not pursue any causes of action against

Defendant Prime for the acts of trucker Lormand and dispatcher Woodall and more specifically for the cause of action of sexual harassment.

90. The Defendant Prime knew or should have known that the above actions as described in this Count by Defendant Prime against Plaintiff-Intervenor would cause her severe emotional harm and injury and such actions were in fact taken by Defendant Prime with the intention to cause such harm.

91. Such acts warrant an award of punitive damages.

WHEREFORE Plaintiff-Intervenor prays judgment in her favor and against the Defendant Prime on her claim of intentional or negligent infliction of mental distress and for an award of damages which will properly value the damages, injuries and losses that she has sustained by the acts of Defendant Prime, for an award of punitive damages and for an award for any and all other damages, losses or injuries that she is entitled to under the law and as supported by the facts.

COUNT VIII
INTENTIONAL OR NEGLIGENT INFLICTION OF MENTAL DISTRESS
DEFENDANT LORMAND

92. Plaintiff-Intervenor Huffman restates paragraph 1 through 91 above as if fully restated herein and incorporates them by reference.

93. Defendant Lormand told Plaintiff-Intervenor Huffman that she was not going to get off the truck and get away from him, that he was going to take her back to the place he had held her captive against her will. Such acts caused further mental and emotional distress.

94. Such acts by Defendant Lormand were taken to intimidate, scare, frighten and to cause such harm to Plaintiff-Intervenor that she would not pursue any causes of actions against

Defendant Lormand and more specifically for the causes of action of sexual harassment and sexual assault.

95. Defendant Lormand knew or should have known that the above actions as described in this count by Defendant Lormand against Plaintiff-Intervenor would cause her severe emotional harm and injury and in fact such actions were in fact taken by Defendant Lormand with the intention to cause such harm.

96. Such acts warrant an award of punitive damages.

WHEREFORE Plaintiff-Intervenor prays judgment in her favor and against the Defendant Lormand on her claim of intentional or negligent infliction of mental distress and for an award of damages which will properly value the damages, injuries and losses that she has sustained by the acts of Defendant Lormand, for an award of punitive damages and for an award for any and all other damages, losses or injuries that she is entitled to under the law and as supported by the facts.

Respectfully Submitted,

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By /s/Roger G. Brown

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing was sent electronically and mailed, postage prepaid, this 3rd day of July, 2002, to: James C. Sullivan, Shughart Thomson & Kilroy, P.C., Twelve Wyandotte Plaza, 120 W.12th Street, Kansas City, Missouri 64105, Ms. JoAnne Spears Jackson, Yates, Mauck, Bohrer, Elliff, Croessmann & Wieland, P.C., Southwest Bancshares Financial Center, 3333 East Battlefield, Suite 1000, Springfield, Missouri 65804, Ms. Rebecca S. Stith, U.S. Equal Employment Opportunity Commission, Robert A. Young Building, 1222 Spruce Street, Room 8.100, St. Louis, Missouri 63103, Tina G. Fowler, Lathrop & Gage L.C., P.O. Box 4288, Springfield, Missouri 65808-4288 and Doug Montague, P.O. Drawer 1975, Hattiesburg, Mississippi 39403-1975.

/s/Roger G. Brown