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U.S. DISTRICT COURT  
DISTRICT OF NEW MEXICO

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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

CIV-01 861

**LORENZO E. GARCIA**

EQUAL EMPLOYMENT OPPORTUNITY )  
COMMISSION, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
ANTIGUA, INC., d/b/a MIKI'S COFFEE SHOP )  
and d/b/a THE BUTCHER SHOP, )  
 )  
Defendant. )  
\_\_\_\_\_ )

CV

*Karen B. Molzen*

COMPLAINT  
JURY TRIAL DEMANDED

NATURE OF THE ACTION

This is an action under Title VII of the Civil Rights Act of 1964 and Title I of the Civil Rights Act of 1991 by the Equal Employment Opportunity Commission (the "Commission") to correct unlawful employment practices on the basis of sex, and to provide appropriate relief to Michelle Jaramillo who was adversely affected by such practices. The Commission alleges that defendant subjected Michelle Jaramillo to unwelcome physical and verbal conduct of a sexual nature, which created an intimidating, hostile, and abusive working environment. The Commission also alleges that Defendant's discriminatory treatment of Michelle Jaramillo caused her to be discharged.

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## JURISDICTION AND VENUE

1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 451, 1331, 1337, 1343 and 1345. This action is authorized and instituted pursuant to Section 706(f)(1) and (3) of Title VII of the Civil Rights Act of 1964, as amended 42 U.S.C. § 2000e, *et seq.* ("Title VII") and Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981a.

2. The employment practices alleged to be unlawful were committed within the jurisdiction of the United States District Court for the District of New Mexico.

## PARTIES

3. The Plaintiff, the Commission, is an agency of the United States of America charged with the administration, interpretation and enforcement of Title VII and is expressly authorized to bring this action by Section 706(f)(1) and (3) of Title VII, 42 U.S.C. § 2000e-5(f)(1) and (3).

4. At all relevant times to this action, the Defendant, Antigua, Inc., d/b/a Miki's Coffee Shop and d/b/a The Butcher Shop (the "Defendant" or "employer"), has continuously been doing business in the State of New Mexico and the City of Gallup and has continuously had at least fifteen employees.

5. At all relevant times, the Defendant has continuously been and is now an employer engaged in an industry affecting commerce within the meaning of Section 701(b), (g) and (h) of Title VII, 42 U.S.C. § 2000e-(b)(g) and (h).

## STATEMENT OF CLAIMS

6. More than thirty days prior to the institution of this lawsuit, Michelle Jaramillo filed a charge with the Commission alleging violations of Title VII by Antigua, Inc., d/b/a Miki's Coffee Shop and d/b/a The Butcher Shop. All conditions precedent to the institution of

this lawsuit have been fulfilled.

7. Since at least April 1999, Defendant has engaged in unlawful employment practices at its Gallup, New Mexico, coffee shop/restaurant in violation of Section 703(a) of Title VII, 42 U.S.C. §§ 2000e-2(a). These practices include the sexual harassment of Michelle Jaramillo, who worked as a waitress at Miki's Coffee Shop. The Commission alleges that Defendant's management official subjected Michelle Jaramillo, who was fifteen years of age at the time, to severe and/or pervasive sexual harassment, which included the sexual assault of Ms. Jaramillo. The Commission further alleges that Michelle Jaramillo felt compelled to resign from her employment with Defendant because of the sexual harassment.

8. The effect of the practices complained of above has been to deprive Michelle Jaramillo of equal employment opportunities and otherwise adversely affect her status as an employee because of her sex.

9. The unlawful employment practices complained of in paragraphs 7-8 were intentional.

10. The unlawful employment practices complained of in paragraphs 7-8 were done with malice and/or reckless indifference to the federally protected rights of Michelle Jaramillo.

#### **PRAYER FOR RELIEF**

Wherefore, the Commission respectfully requests that this Court:

A. Grant a permanent injunction enjoining Defendant Antigua, Inc., d/b/a Miki's Coffee Shop and d/b/a The Butcher Shop, its officers, successors, assigns and all persons in active concert or participation with it, from engaging in any employment practice which discriminates on the basis of sex, including sexual harassment.

B. Order Defendant to institute and carry out policies, practices and programs which provide equal employment opportunities for individuals who are female and which eradicate the effects of its past and present unlawful employment practices.

C. Grant a judgment requiring defendant to pay appropriate back wages in an amount to be proved at trial, and prejudgment interest to Michelle Jaramillo, who was adversely affected by the unlawful practices described above.

D. Order Defendant to make whole Michelle Jaramillo, who was adversely affected by the unlawful practices described above, by providing the affirmative relief necessary to eradicate the effects of its unlawful practices, including but not limited to rightful place reinstatement and/or front pay, and providing compensation for past and future pecuniary losses, including any costs incurred for obtaining medical treatment or counseling, in amounts to be proved at trial.

E. Order Defendant to make whole Michelle Jaramillo who was adversely affected by the unlawful employment practices described above, by providing compensation for non-pecuniary losses, including emotional pain, suffering, loss of enjoyment of life, and humiliation in amounts to be determined at trial.

F. Order Defendant to pay Michelle Jaramillo, who was adversely affected by the unlawful employment practices described above, punitive damages for its malicious and/or reckless conduct, in amounts to be determined at trial.

G. Grant such further relief as the Court deems necessary and proper in the public interest.

H. Award the Commission its costs in this action.

**JURY TRIAL DEMANDED**

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


DATED this 26<sup>th</sup> day of July, 2001.

Respectfully submitted,

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Associate General Counsel

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