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1 ANNA Y. PARK
SUE J. NOH
2 U.S. EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION
3 255 East Temple Street, 4th Floor
Los Angeles, CA 90012
4 Telephone: (213) 894-1082
Facsimile: (213) 894-1301

CV-N-02-0498-ECR-RAM

5 Attorneys for Plaintiff
6 UNITED STATES EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION
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8 **UNITED STATES DISTRICT COURT**
9 **DISTRICT OF NEVADA**

10 U.S. EQUAL EMPLOYMENT)
OPPORTUNITY COMMISSION,)
11)
12 Plaintiff,)
13 v.)
14 CLUB CAL NEVA, SIERRA)
DEVELOPMENT COMPANY d.b.a.)
15 CLUB CAL NEVA, AND DOES 1-10)
Inclusive,)
16 Defendants.)
17

CASE NO.:
**COMPLAINT- CIVIL RIGHTS
EMPLOYMENT DISCRIMINATION**
JURY TRIAL DEMAND

RECEIVED
SEP 26 2002
U.S. DISTRICT COURT
DISTRICT OF NEVADA
CLERK

18 **NATURE OF THE ACTION**

19 This is an action under the Equal Pay Act of 1963, Title VII of the Civil Rights
20 Act of 1964, as amended, and Title I of the Civil Rights Act of 1991 to restrain the
21 unlawful payment of wages to employees of one sex at rates less than the rates paid to
22 employees of the opposite sex, and to provide appropriate relief due to employees as a
23 result of such unlawful practices. The Commission alleges that Defendants Club Cal
24 Neva and Sierra Development Company d.b.a. Club Cal Neva (herein after jointly
25 referred to as "Defendant Employers") have paid female a "Parts Runner" at wage rates
26 which are less than the rates paid to its male employee performing substantially equal
27 work on a job, the performance of which requires equal skill, effort and responsibility
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2.

1 and which job is performed under similar working conditions, and otherwise
2 discriminated against those the female Parts Runner because of her sex (female).

3 **JURISDICTION AND VENUE**

4 1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 451, 1331,
5 1337, 1343 and 1345. This action is authorized and instituted pursuant to §§ 16(c) and 17
6 of the Fair Labor Standards Act of 1938 (the "FLSA"), as amended, 29 U.S.C. §§ 216(c)
7 and 217, to enforce the requirements of the Equal Pay Act of 1963, codified as Section
8 6(d) of the FLSA, 29 U.S.C. § 206(d), and pursuant to §§ Section 706(f)(1) and (3) of
9 Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e-5(f)(1) and (3)
10 ("Title VII"). This action is also authorized and instituted pursuant to Section 102 of Title
11 I of the Civil Rights Act of 1991, 42 U.S.C. § 1981a.

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

14 **PARTIES**

15 3. Plaintiff, the Equal Employment Opportunity Commission (the
16 "Commission"), is the agency of the United States of America charged with the
17 administration, interpretation and enforcement of the Equal Pay Act and Title VII, and is
18 expressly authorized to bring this action by §§ 16(c) and 17 of the FLSA, 29 U.S.C.
19 §§ 216(c) and 217, as amended by Section 1 of Reorganization Plan No. 1 of 1978, 92
20 Stat. 3781, and Public Law 98-532 (1984), 98 Stat. 2705; and by § 706(f)(1) and (3) of
21 Title VII, 42 U.S.C. § 2000e-5(f)(1)and (3).

22 4. At all relevant times, Defendant Club Cal Neva, a Nevada Corporation, has
23 continuously been doing business in the State of Nevada and the City of Reno, and has
24 continuously had at least 15 employees.

25 5. At all relevant times, Defendant Club Cal Neva has continuously been an
26 employer engaged in an industry affecting commerce within the meaning of §§ 701(b),
27 (g) and (h) of Title VII, 42 U.S.C. §§ 2000e(b), (g) and (h).

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1 6. At all relevant times, Defendant Club Cal Neva has acted directly or
2 indirectly as an employer in relation to employees and has continuously been an employer
3 within the meaning of Section 3(d) of the FLSA, 29 U.S.C. § 203(d).

4 7. At all relevant times, Defendant Club Cal Neva has continuously employed
5 employees engaged in commerce or in the production of goods for commerce within the
6 meaning of Sections 3(b), (i) and (j) of the FLSA, 29 U.S.C. §§ 203(b), (i) and (j) has
7 continuously been an enterprise engaged in commerce or in the production of goods for
8 commerce within the meaning of Sections 3(r) and (s) of the FLSA, 29 U.S.C. §§ 203(r)
9 and (s), in that said enterprise has continuously been an enterprise whose annual gross
10 volume of sales made or business done is not less than \$500,000.

11 8. At all relevant times, Defendant Sierra Development Company, d.b.a. Club
12 Cal Neva (“Sierra Development Company”), a Nevada Corporation, has continuously
13 been doing business in the State of Nevada and the City of Reno, and has continuously
14 had at least 15 employees.

15 9. At all relevant times, Defendant Sierra Development Company has
16 continuously been an employer engaged in an industry affecting commerce within the
17 meaning of Sections 701(b), (g) and (h) of Title VII, 42 U.S.C. §§ 2000e(b), (g) and (h).

18 10. At all relevant times, Defendant Sierra Development Company has acted
19 directly or indirectly as an employer in relation to employees and has continuously been
20 an employer within the meaning of Section 3(d) of the FLSA, 29 U.S.C. § 203(d).

21 11. At all relevant times, Defendant Sierra Development Company has
22 continuously employed employees engaged in commerce or in the production of goods
23 for commerce within the meaning of Sections 3(b), (i) and (j) of the FLSA, 29 U.S.C. §§
24 203(b), (i) and (j) has continuously been an enterprise engaged in commerce or in the
25 production of goods for commerce within the meaning of Sections 3(r) and (s) of the
26 FLSA, 29 U.S.C. §§ 203(r) and (s), in that said enterprise has continuously been an
27 enterprise whose annual gross volume of sales made or business done is not less than
28 \$500,000.

1 12. Plaintiff is ignorant of the true names and capacities of Defendants sued as
2 DOES through 10, inclusive, herein and therefore Plaintiff sues said Defendants by such
3 fictitious names. Plaintiff reserves the right to amend the complaint to name the DOE
4 defendants individually or corporately as they become known. Plaintiff alleges that each
5 of the Defendants named as DOES was in some manner responsible for the acts and
6 omissions alleged herein and Plaintiff will amend the complaint to allege such
7 responsibility when same shall have been ascertained by Plaintiff.

8 13. All of the acts and failures to act alleged herein were duly performed by
9 and attributable to all Defendants, each acting as a successor, agent, employee or under
10 the direction and control of the others, except as otherwise specifically alleged. Said acts
11 and failures to act were within the scope of such agency and/or employment, and each
12 Defendant participated in, approved and/or ratified the unlawful acts and omissions by
13 other Defendants complained of herein. Whenever and where ever reference is made in
14 this Complaint to any act by a Defendant or Defendants, such allegations and reference
15 shall also be deemed to mean the acts and failures to act of each Defendant acting
16 individually, jointly, and/or severally.

17 **STATEMENT OF TITLE VII CLAIMS**

18 14. More than thirty days prior to the institution of this lawsuit, Christine
19 Shackett filed a charge with the Commission alleging violations of Title VII by
20 Defendant Employers. All conditions precedent to the institution of this lawsuit have
21 been fulfilled.

22 15. Since at least on or about October 1999, Defendant Employers have
23 engaged in unlawful employment practices at their Reno facility, in violation of Section
24 703(a) of Title VII, 42 U.S.C. § 2000e-2(a)(1). The unlawful employment practices
25 include Defendant Employers' failure to pay Christine Shackett a wage equal to a male
26 employee because of her gender (female).

27 16. The effect of the practice(s) complained of in paragraph 15 above has been
28 to deprive Christine Shackett of equal employment opportunities and otherwise adversely

1 affect her status as an employee, because of her sex. Anticipated reasons for paying her
2 less are pretextual with no justification for the disparity.

3 17. The unlawful employment practices complained of in paragraph 15 above
4 were intentional.

5 18. The unlawful employment practices complained of in paragraph 15 above
6 were done with malice or with reckless indifference to the federally protected rights of
7 Christine Shackett.

8 **STATEMENT OF EQUAL PAY ACT CLAIM**

9 19. Since at least on or about October 1999, Defendant Employers have
10 violated Sections 6(d)(1) and 15(a)(2) of the FLSA, 29 U.S.C. §§ 206(d)(1) and
11 215(a)(2), by paying wages to its Ms. Shackett, in their Reno, Nevada facility, at rates less
12 than the rates paid to the male counterpart in the same establishment for substantially
13 equal work on jobs the performance of which requires equal skill, effort, and
14 responsibility, and which are performed under similar working conditions.

15 20. As a result of the acts complained of above, Defendant Employers
16 unlawfully withheld and are continuing to withhold the payment of wages due to Ms.
17 Shackett. Defendant Employers are unable to establish the specific defenses under the
18 EPA to justify the disparity in pay between Ms. Shackett and her male counterpart.

19 21. The unlawful practices complained of in paragraphs 19 and 20 above were
20 and are willful.

21 **PRAYER FOR RELIEF**

22 Wherefore, the Commission requests that this Court:

23 A. Grant a permanent injunction enjoining each Defendant Employer, its
24 officers, successors, assigns and all persons in active concert or participation with it, from
25 engaging in the conduct alleged in paragraphs 15, 19 and 20 in any other employment
26 practice which discriminates on the basis of sex.

27 B. Grant a permanent injunction enjoining each Defendant Employer, its
28 officers, successors, assigns and all persons in active concert or participation with it, from

1 discriminating within any of its establishments between employees on the basis of sex, by
2 paying wages to employees of one sex at rates less than the rates at which it pays wages to
3 employees of the opposite sex for substantially equal work on jobs the performance of
4 which requires equal skill, effort, and responsibility, and which are performed under
5 similar working conditions.

6 C. Order Defendant Employers to institute and carry out policies, practices and
7 programs which provide equal employment opportunities for women, and which eradicate
8 the effects of its past and present unlawful employment practices.

9 D. Order Defendant Employers to make whole Christine Shackett, by
10 providing appropriate backpay with prejudgment interest, in amounts to be proved at trial,
11 and other affirmative relief necessary to eradicate the effects of its unlawful employment
12 practices, including but not limited to pay increases of Christine Shackett.

13 E. Order Defendant Employers to make whole Christine Shackett by providing
14 compensation for past and future pecuniary losses resulting from the unlawful practices
15 described in paragraphs 15, 19, and 20 above, and other affirmative relief necessary to
16 eradicate the effects of its unlawful employment practices, in amounts to be determined at
17 trial.

18 F. Order Defendant Employers to make whole Christine Shackett by providing
19 compensation for past and future nonpecuniary losses resulting from the unlawful
20 practices complained of in paragraphs 15, 19, and 20 above, including emotional pain,
21 suffering, loss of enjoyment of life, and humiliation, in amounts to be determined at trial.

22 G. Order Defendant Employers to pay Christine Shackett punitive damages for
23 its malicious and/or reckless conduct described in paragraphs 15, 19, and 20 above, in an
24 amount to be determined at trial.

25 H. Grant a judgment requiring Defendant Employers to pay appropriate back
26 wages in amounts to be determined at trial, an equal sum as liquidated damages, and
27 prejudgment interest to employees whose wages are being unlawfully withheld as a result
28 of the acts complained of above, including but not limited to Christine Shackett.

1 I. Grant such further relief as this Court deems necessary and proper in the
2 public interest.

3 J. Award the Commission its costs of this action.
4

5 **JURY TRIAL DEMAND**

6 The Commission requests a jury trial on all questions of fact raised by its
7 complaint.
8

9 Dated: September 25, 2002

Respectfully Submitted,

10 U.S. EQUAL EMPLOYMENT
11 OPPORTUNITY COMMISSION

12 NICHOLAS INZEO,
Acting Deputy General Counsel

13 GWENDOLYN REAMS,
Associate General Counsel

14 U.S. EQUAL EMPLOYMENT
15 OPPORTUNITY COMMISSION
16 1801 "L" Street, N.W.
Washington, D.C. 20507

17
18 BY: 
19 ANNA Y. PARK
Regional Attorney

20 SUE J. NOH
21 Trial Attorney

22 U.S. EQUAL EMPLOYMENT
23 OPPORTUNITY COMMISSION
24 255 E. Temple Street, 4th Floor
25 Los Angeles, CA 90012
26
27
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