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15 **UNITED STATES DISTRICT COURT**

16 **DISTRICT OF NEVADA**

17 U.S. EQUAL EMPLOYMENT)
18 OPPORTUNITY COMMISSION,)

19 Plaintiff,)

20 v.)

21 GOLD RIVER OPERATING)
22 CORPORATION, d/b/a RIVER)
23 PALMS RESORT and CASINO,)
24 COLUMBIA SUSSEX)
25 CORPORATION d/b/a RIVER)
26 PALMS RESORT and CASINO, and)
27 DOES 1-10, Inclusive,)

28 Defendants.)

CASE NO. 2:04 cv-01349-LRL

**SECOND AMENDED COMPLAINT
-CIVIL RIGHTS**

Age Discrimination in Employment Act of
1967, as amended, 29 U.S.C. § 621 *et seq.*
and
Title VII of the Civil Rights Act of 1964,
as amended 42 U.S.C. § 2000e, *et seq.*

DEMAND FOR JURY TRIAL

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: (a) Section
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) ("Title VII") and Section 102 of the Civil Rights Act of 1991, 42
U.S.C. § 1981a; and (b) Section 7(b) of the Age Discrimination in Employment Act of
1967, as amended, 29 U.S.C. § 626(b) (the "ADEA"), which incorporates by reference

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1 Sections 16(c) and 17 of the Fair Labor Standards Act of 1938 (the "FLSA"), as amended,
2 29 U.S.C. §§ 216(c) and 217.

3 2. The employment practices alleged to be unlawful were and are now being
4 committed within the jurisdiction of the United States District Court for the District of
5 Nevada, Southern Division.

6 **NATURE OF THE ACTION**

7 3. This is an action under Title VII and the ADEA to correct unlawful
8 employment practices on the basis of sex (female) and/or age (over 40), to provide
9 appropriate relief to Barbara Bowers-Hughes ("Bowers-Hughes") and other similarly
10 situated employees (collectively "claimants") who were adversely affected by such
11 practices. As alleged with more particularity in paragraphs 8-11 below, the claimants were
12 subjected to harassment and/or discrimination based on sex and/or age. The harassment
13 and/or discrimination altered the terms and conditions of employment for the claimants
14 with Defendants Gold River Operating Corporation, dba River Palms Resort and Casino,
15 Columbia Sussex Corporation, dba River Palms Resort and Casino, and Does 1-10
16 (collectively "Defendants".) When the claimants engaged in a protected activity by
17 complaining about the harassment, Defendants subjected them to retaliation.

18 **PARTIES**

19 4. Plaintiff, the Equal Employment Opportunity Commission (the
20 "Commission"), is the agency of the United States of America charged with the
21 administration, interpretation and enforcement of Title VII and the ADEA, and is
22 expressly authorized to bring this action by Section 706(f)(1) and (3) of Title VII, 42
23 U.S.C. § 2000e-5(f)(1) and (3) and by Section 7(b) of the ADEA, 29 U.S.C. § 626(b), as
24 amended by Section 2 of Reorganization Plan No. 1 of 1978, 92 Stat. 3781, and by Public
25 Law 98-532 (1984), 98 Stat. 2705.

26 5. Plaintiff alleges that, at all relevant times, Defendants have continuously
27 been doing business in the State of Nevada, County of Clark, and the City of Laughlin, and
28 have continuously had at least 20 employees.

1 to unwanted and repeated derogatory comments based on age (forty and over). Despite
2 that the claimants repeatedly complained of the harassment and/or discrimination to
3 Defendants' management, including their supervisors and human resources, their
4 complaints were rebuffed or ignored, and the harassment and/or discrimination continued.
5 Defendants failed to take immediate and appropriate corrective action to eliminate the
6 harassment.

7 10 With respect to the sex and/or age harassment perpetrated by the claimants'
8 coworkers, Defendants knew or should have known of the harassment and failed to take
9 immediate and appropriate corrective action to eliminate the harassment.

10 11. Defendant also subjected the claimants to retaliation for engaging in
11 activities protected under Title VII and the ADEA, including but not limited to
12 complaining about and opposing harassment and/or discrimination based on sex and/or
13 age. The adverse retaliatory actions included, but were not limited to, unwarranted
14 discipline, constructive discharge, and termination.

15 12. The effect of the practices complained of above has been to deprive the
16 claimants of equal employment opportunities and otherwise adversely affect their status as
17 employees, because of sex (female) and/or age (forty and over).

18 **DAMAGES**

19 13. The unlawful employment practices complained of above were intentional
20 within the meaning of Title VII.

21 14. The unlawful employment practices complained of above were done with
22 malice or with reckless indifference to the federally protected rights of the claimants
23 within the meaning of Title VII.

24 15. The unlawful employment practices complained of above were willful
25 within the meaning of Section 7(b) of the ADEA, 29 U.S.C. § 626(b).

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PRAYER FOR RELIEF

Wherefore, the Commission respectfully requests that this Court:

A. Grant a permanent injunction enjoining Defendants, their officers, successors, assigns, and all persons in active concert or participation with it, from engaging in sex and/or age discrimination, sexual, sex-based and/or age-based harassment, and any other employment practice which discriminates on the basis of sex and/or age.

B. Order Defendants to institute and carry out policies, practices, and programs which provide equal employment opportunities for women and for all individuals over 40 years of age, and which eradicate the effects of its past and present unlawful employment practices.

C. Grant a permanent injunction enjoining Defendants, their officers, successors, assigns, and all persons in active concert or participation with it, from engaging in any employment practice which results in retaliation for engaging in protected activity under Title VII and the ADEA.

D. Order Defendants to make whole the claimants by ordering other affirmative relief necessary to eradicate the effects of Defendants' unlawful employment practices.

E. Order Defendants to make whole the claimants by providing compensation for past and future pecuniary losses resulting from the unlawful employment practices described above in amounts to be determined at trial.

F. Order Defendants to make whole the claimants by providing compensation for past and future nonpecuniary losses resulting from the unlawful practices complained of above, including pain and suffering, inconvenience, loss of enjoyment of life, and humiliation, in amounts to be determined at trial.

G. Order Defendants to pay to the claimants punitive damages for their malicious and reckless conduct described above, in amounts to be determined at trial.

H. Order Defendants to make whole the claimants by providing appropriate relief available under the ADEA, 29 U.S.C. § 621 *et seq.*, as necessitated by the unlawful practices complained of above in amounts to be determined at trial.

