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10 U.S. EQUAL EMPLOYMENT  
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12 **UNITED STATES DISTRICT COURT**  
13 **DISTRICT OF NEVADA**

14 CV-N-04-0229-LRH-RAM

15 U.S. EQUAL EMPLOYMENT  
16 OPPORTUNITY COMMISSION,

17 Plaintiff,

18 v.

19 SCOLARI WAREHOUSE  
20 MARKETS, INCORPORATED, A  
21 NEVADA CORPORATION, D/B/A  
22 SCOLARI'S FOOD AND DRUG;  
23 AND DOES 1-10 INCLUSIVE,

24 Defendants.

25 **COMPLAINT-CIVIL RIGHTS**  
26 ■ **SEX HARASSMENT**  
27 ■ **RETALIATION**

28 (42 U.S.C. §§ 2000e, et seq.; )

**DEMAND FOR JURY TRIAL**

**NATURE OF THE ACTION**

This is a sexual harassment and retaliation action brought by the United States Equal Employment Opportunity Commission, ("the Commission") under Title VII of the Civil Rights Act of 1964, as amended, to correct unlawful employment practices on the basis of sex and to provide appropriate relief to the Charging Party, Jennifer Gould (" Ms. Gould") and a class of similarly situated individuals who were adversely affected by such practices. The Commission alleges Ms. Gould and other similarly situated individuals were sexually harassed

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1 or subjected to sex based harassment or subjected to during their employment  
2 with Defendant, Scolari Warehouse Markets, Inc., A Nevada Corporation and  
3 d/b/a Scolari Food & Drug Company ("Defendant Employers"). Charging Party,  
4 Ms. Gould, and other similarly situated individuals were subjected to a hostile  
5 work environment perpetuated by Defendant supervisor(s).

6 The Commission also alleges Ms. Gould and other similarly situated  
7 individuals who had complained of the harassment by supervisors were subjected  
8 to retaliation in the form of demotion, loss of wages, further harassment,  
9 discipline or discharge.

#### 10 JURISDICTION AND VENUE

11 1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. sections  
12 451, 1331, 1337, 1343 and 1345. This action is authorized and instituted  
13 pursuant to section §§706(f)(1)and (3) of Title VII of the Civil Rights Act of  
14 1964, as amended, 42 U.S.C. §2000e-5(f)(1) and (3) and pursuant to § 102 of the  
15 Civil Rights Act of 1991, 42 U.S.C. §§1981A.

16 2. The employment practices alleged herein to be unlawful were  
17 committed within the jurisdiction of the United States District Court for the State  
18 of Nevada.

19 3. Prior to institution of this lawsuit, the Commission's representatives  
20 attempted to eliminate the unlawful employment practices alleged below and to  
21 effect voluntary compliance with Title VII through informal methods of  
22 conciliation, conference and persuasion within the meaning of section  
23 §§706(f)(1) and (3) of Title VII, 42 U.S. C., §§2000e-5(f)(1) and (3). All  
24 conditions precedent to the institution of this lawsuit have been fulfilled.

#### 25 PARTIES

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

4 5. At all relevant times, "Defendant Employers," have continuously been  
5 and are now doing business in the State of Nevada, County of Washoe, and City  
6 of Reno, Nevada.

7 6. Plaintiff is ignorant of the true names and capacities of "Defendant  
8 Employers," sued as DOES 1 through 10, inclusively, and therefore Plaintiff sue  
9 said "Defendant Employers" by such fictitious names. Plaintiff reserves the right  
10 to amend the complaint to name the DOE "Defendant Employers" individually or  
11 corporately as they become known. Plaintiff alleges that each of the "Defendant  
12 Employers" named as DOES was in some manner responsible for the acts and  
13 omissions alleged herein and Plaintiff will amend the complaint to allege such  
14 responsibility when same shall have been ascertained by Plaintiff.

15 7. It is further alleged on information and belief that the named and  
16 unnamed defendants in the complaint are mere alter egos of the "Defendant  
17 Employer". The remaining defendants are properly named in the complaint.

18 8. All of the acts and failures to act alleged herein were duly performed by  
19 and attributable to "Defendant Employer", each acting as a successor, agent,  
20 employee or under the direction and control of the others, except as specifically  
21 alleged otherwise. Said acts and failures to act were within the scope of such  
22 agency and/or employment, and each "Defendant Employer" participated in,  
23 approved and/or ratified the unlawful acts and omissions by other "Defendant  
24 Employer" complained of herein. Whenever and wherever reference to any act in  
25 this Complaint to any act by a defendant employer or "Defendant Employer",  
26 such allegations and reference shall also be deemed to mean the acts and failures  
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1 to act of each "Defendant Employers" acting individually, jointly and/or  
2 severally.

3 9. At all relevant times, "Defendant Employers" has continuously been  
4 an employer engaged in an industry affecting commerce within the meaning of §§  
5 701 (b), (g) and (h) of Title VII, 42 U.S.C., §§ 2000e-1(b), (g) and (h) and §§  
6 11(b), (g), and (h).

7 STATEMENT OF CLAIMS

8 10. Since on or about October 2002, "Defendant Employers" has  
9 engaged in unlawful employment practices at its facility in Reno, Nevada in  
10 violation of §§706(f)(1) and (3) of Title VII, 42 U.S. C., §§2000e-5(f)(1) and (3).  
11 The unlawful sexual harassment and sex based harassment in the form of verbal  
12 harassment directed at Ms. Gould and other similarly situated individual women  
13 impacted the terms and conditions of their employment and created a hostile  
14 working environment at "Defendant Employers." These practices also included  
15 the retaliation against and termination of Ms. Gould and other similarly situated  
16 individuals for having complained about the work environment.

17 11. The impact of the aforementioned conduct deprived Ms. Gould and  
18 other similarly situated individuals of equal employment opportunities and to  
19 otherwise adversely impacted their employment status because of their sex and  
20 also in retaliation for opposing discriminatory practices or engaging in a protected  
21 activity that resulted in adverse employment action.

22 12. The unlawful employment practices complained of above were and  
23 are willful within the meaning of §§706(f)(1) and (3) of Title VII, 42 U.S. C.,  
24 §§2000e-5(f)(1) and (3).

25 13. The unlawful employment practices complained of above were  
26 intentional and caused Ms. Gould and other similarly situated individuals to  
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1 suffer emotional distress.

2 14. "Defendant Employers" has acted with malice or reckless indifference  
3 to the federally protected rights of Ms. Gould and other similarly situated  
4 individuals by subjecting them to harassment consisting of sexually charged  
5 conduct, derogatory statements, obscene and vulgar language. Women were  
6 openly asked by supervisor(s) to "show [them] their tits," and to "suck some  
7 cock" as well as subjected to other derogatory and obscene statements. When  
8 Charging party complained to "Defendant Employer" about the harassment she  
9 and other similar situated individuals were being subjected to, she was  
10 terminated. The Charging party and other similarly situated individuals were also  
11 subject to retaliation for opposing discrimination or engaging in a protected  
12 activity resulting in an adverse employment action that harmed them.

13 PRAYER FOR RELIEF

14 Wherefore, the Commission respectfully requests that this Court:

15 A. Grant a permanent injunction enjoining "Defendant Employer," its  
16 officers, successors, assigns and all persons in active concert or participation with  
17 them, from engaging in any employment practices that discriminate on the basis  
18 of sex or from engaging in unlawful retaliation;

19 B. Grant a permanent injunction enjoining "Defendant Employer," their  
20 officers, successors, assigns and all persons in active concert or participation with  
21 them, from engaging in any employment practice which discriminates on the  
22 basis of sex;

23 C. Order "Defendant Employer" to institute and carry out policies,  
24 practices and programs which provide equal employment opportunities for  
25 females which eradicate the effects of their past and present unlawful  
26 employment practices;

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1 D. Grant a judgment requiring “Defendant Employer” to pay Ms. Gould  
2 and other similarly situated individuals appropriate back pay, front pay,  
3 compensatory damages and benefits in an amount to be determined at trial  
4 including prejudgment interest;

5 E. Order “Defendant Employer” to make Ms. Gould and other similarly  
6 situated individuals whole by providing affirmative relief necessary to eradicate  
7 the effects of its unlawful practices including, but not limited to, payment of  
8 compensatory damages to Ms. Gould and other similarly situated individuals  
9 and/or rightful place employment;

10 F. Order “Defendant Employer” to pay Ms. Gould and other similarly  
11 situated individuals punitive damages in an amount to be determined at trial;

12 G. Award the Commission its costs in this action; and

13 H. Grant such further relief as the Court deems necessary and proper in  
14 the public interest.

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JURY DEMAND

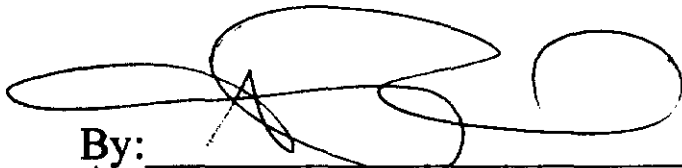
The Commission requests a jury trial on all questions of fact raised by its Complaint.

Respectfully Submitted By:

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May 5, 2004



By:  
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Gregory L. McClinton, Trial Attorney

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