



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-5(f)(1) and (3) ("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 and are being committed within the jurisdiction of the United States District Court for the Western District of Texas, Austin Division.

### **PARTIES**

3. Plaintiff, the Commission, is the 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, Defendant Los Comales has continuously been a Texas corporation, doing business in the State of Texas and the City of Austin and has continuously had at least fifteen employees.

5. At all relevant times, Defendant Los Comales has continuously been 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, Patricia Suarez filed a charge with the Commission alleging violations of Title VII by Defendant Los Comales. All conditions precedent to the institution of this lawsuit have been fulfilled.

7. Since at least March 2002, Defendant Los Comales has engaged in unlawful employment practices at its Austin, Texas restaurant, in violation of Section 703(a)(1) of Title VII,

42 U.S.C. §2000e-2(a)(1), including the following: (a) Defendant's President and CEO, Merced Benitez, harassed Patricia Suarez and a class of similarly situated females because of their sex, female, by subjecting them to repeated unwelcome touching, attempted kisses on the mouth, sexually graphic remarks and persistent requests for dates and sexual favors; and (b) As a result of the severe sexual harassment, the working conditions for Patricia Suarez and a class of similarly situated females became so intolerable that they felt compelled to quit.

8. The effect of the practices complained of in paragraph seven above has been to deprive Patricia Suarez and a class of similarly situated females of equal employment opportunities and to otherwise affect their status as employees because of their sex.

9. The unlawful employment practices complained of in paragraph seven above were and are intentional.

10. The unlawful employment practices complained of in paragraph seven above were and are being done with malice or reckless indifference to the federally protected rights of Patricia Suarez and a class of similarly situated females.

#### **PRAYER FOR RELIEF**

Wherefore, the Commission respectfully requests that this Court:

A. Grant a permanent injunction enjoining Defendant Los Comales, its officers, successors, assigns, and all persons in active concert or participation with it, from engaging in a hostile work environment and any other employment practice which discriminates on the basis of sex, female;

B. Order Defendant Los Comales to institute and carry out policies, practices, and programs which provide equal employment opportunities for females, and which eradicate the effects

of its past and present unlawful employment practices;

C. Order Defendant Los Comales to make whole Patricia Suarez, and a class of similarly situated females, by providing appropriate back pay with prejudgment interest, in amounts to be determined at trial, and other affirmative relief necessary to eradicate the effects of its unlawful employment practices, including but not limited to reinstatement and/or front pay for Patricia Suarez and a class of similarly situated females;

D. Order Defendant Los Comales to make whole Patricia Suarez, and a class of similarly situated females, by providing compensation for past and future pecuniary losses resulting from the unlawful employment practices described in paragraph seven above, including, but not limited to, job search expenses and medical expenses, in amounts to be determined at trial;

E. Order Defendant Los Comales to make whole Patricia Suarez, and a class of similarly situated females, by providing compensation for past and future non-pecuniary losses resulting from the unlawful employment practices complained of in paragraph seven above, including, but not limited to, emotional pain, suffering, loss of enjoyment of life, and humiliation, in amounts to be determined at trial;

F. Order Defendant Los Comales to pay Patricia Suarez, and a class of similarly situated females, punitive damages for its malicious and reckless conduct described in paragraph seven above, in amounts to be determined at trial;

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

H. Award the Commission its costs in this action.

**JURY TRIAL DEMAND**

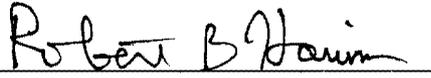
The Commission requests a jury trial on all questions of fact raised by its complaint.

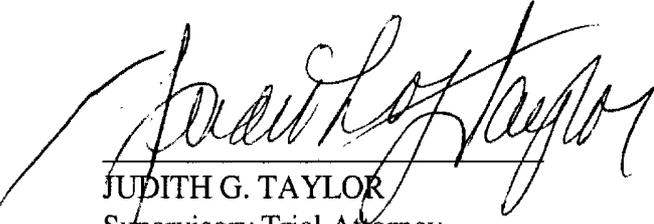
Respectfully submitted,

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