

1 C. EMANUEL SMITH
MARY JO O'NEILL ARIZONA STATE BAR #005924
2 MICHELLE G. MARSHALL ARIZONA STATE BAR #017358
RALPH E. CHAMNESS, UTAH STATE BAR #6511
3 **EQUAL EMPLOYMENT OPPORTUNITY COMMISSION**
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DISTRICT OF UTAH
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6 Attorneys for Plaintiff

7 IN THE UNITED STATES DISTRICT COURT
8 FOR THE DISTRICT OF UTAH, CENTRAL DIVISION
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11 Equal Employment Opportunity
Commission,
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Plaintiff,
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v.
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LBW Investments, L.L.C., d/b/a JB's
15 Family Restaurants; Summit Family
Restaurants, Inc., a Delaware
16 corporation, d/b/a JB's Family
Restaurants; Santa Barbara Restaurant
17 Group, Inc., a Delaware corporation,
d/b/a JB's Family Restaurants; CKE
18 Restaurants, Inc., a Delaware
corporation, d/b/a JB's Family
19 Restaurants,
20
21 Defendants.

CIV **2:01CV00439C**
COMPLAINT
Jury Trial Demanded

22 **NATURE OF THE ACTION**

23 This is an action under Title VII of the Civil Rights Act of 1964 and Title I of the
24 Civil Rights Act of 1991 to correct unlawful employment practices on the basis of sex
25 and retaliation, and to provide appropriate relief to charging party Carla Hart and a class
26 of females who were adversely affected by such practices. Defendants LBW
27 Investments, L.L.C., d/b/a JB's Family Restaurants; Summit Family Restaurants, Inc.,
28 d/b/a JB's Family Restaurants; Santa Barbara Restaurant Group, Inc., d/b/a JB's Family
Restaurants; and CKE Restaurants, Inc., d/b/a JB's Family Restaurants (collectively



1 "defendants") subjected Ms. Hart and a class of women to repeated, pervasive and
2 egregious sexual harassment and retaliated against a class of women for opposing the
3 harassment. Defendants engaged in discrimination which adversely affected the
4 employment status of Ms. Hart and a class of females because of their sex.

5 As alleged with greater particularity below, the sexual harassment was committed
6 by defendants' managers and employees and included the forcible sexual assault of a
7 female employee by a manager. As a result of this unlawful conduct, the conditions of
8 employment were made so intolerable that Ms. Hart and a class of females were forced to
9 resign their employment.

10 JURISDICTION AND VENUE

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

16 2. The employment practices alleged to be unlawful were, and are now being
17 committed within the jurisdiction of the United States District Court for the District of
18 Utah, Central Division.

19 PARTIES

20 3. Plaintiff, the Equal Employment Opportunity Commission (the
21 "Commission"), is the agency of the United States of America charged with the
22 administration, interpretation and enforcement of Title VII, and is expressly authorized to
23 bring this action by Sections 706(f)(1) and (3) and 707 of Title VII, 42 U.S.C. §§ 2000e-
24 5(f)(1) and (3) and 2000e-6.

25 4. At all relevant times, defendant LBW Investments, L.L.C., d/b/a JB's
26 Family Restaurants ("LBW"), has continuously been an Arizona limited liability
27 company doing business in the State of Utah and has continuously had at least 15
28 employees.

1 employees and subjecting them to sexual harassment; failing to take appropriate action to
2 prevent and correct the harassment; and forcing them to resign because of the sexual
3 harassment. The sexual harassment includes but is not limited to:

- 4 a. The forcible sexual assault of a female employee by defendants' manager
5 on defendants' premises;
 - 6 1. The female employee filed a report with the police in which she
7 alleged defendants' manager forcibly sexually assaulted her in
8 defendants' restaurant.
 - 9 2. Prior to this female employee's allegation that defendants' manager
10 forcibly sexually assaulted her, defendants had notice that this
11 manager had sexually harassed at least one other female employee.
 - 12 3. Despite defendants' knowledge of the prior sexual harassment by
13 their manager, defendants failed to take appropriate action to
14 prevent further sexual harassment and sexual assault by him.
- 15 b. Various managers and employees of defendants grabbed female
16 employees' breasts, buttocks and crotches, kissed them although they did
17 not want to be kissed and engaged in other unwelcome touching;
- 18 c. Various managers and employees of defendants made unwelcome sexual
19 advances toward female employees;
- 20 d. Various managers and employees of defendants made vulgar sexual
21 comments to and about female employees, including making such
22 comments about the women's bodies and specifically about their genitalia;
- 23 e. Defendants constructively discharged Ms. Hart and a class of women
24 because of the pervasive, egregious sexual harassment at defendants'
25 restaurants.
- 26 14. Although defendants were aware of the sexual harassment, they failed to
27 take appropriate remedial action to prevent or correct the unlawful conduct.
- 28 15. Since at least February 2, 1996, defendants have engaged in unlawful

1 present unlawful employment practices.

2 C. Order defendants to make whole Ms. Hart and a class of females by
3 providing appropriate backpay with prejudgment interest, in amounts to be determined at
4 trial, and other affirmative relief necessary to eradicate the effects of their unlawful
5 employment practices including, but not limited to, their rightful place reinstatement.

6 D. Order defendants to make whole Ms. Hart and a class of females, by
7 providing compensation for past and future pecuniary losses resulting from the unlawful
8 employment practices described in Paragraph Twelve (§12), through and including
9 Paragraph Seventeen (§17) above, including but not limited to costs incurred for
10 obtaining treatment and subsequent employment, in amounts to be determined at trial.

11 E. Order defendants to make whole Ms. Hart and a class of females by
12 providing compensation for past and future non-pecuniary losses resulting from the
13 unlawful practices complained of in Paragraph Twelve (§12), through and including
14 Paragraph Seventeen (§17) above, including emotional pain, suffering, inconvenience,
15 loss of enjoyment of life and humiliation, in amounts to be determined at trial.

16 F. Order defendants to pay Ms. Hart and a class of females punitive damages
17 for their malicious and/or reckless conduct, described in Paragraph Twelve (§12),
18 through and including Paragraph Seventeen (§17) above, in amounts to be determined at
19 trial.

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

22 H. Award the Commission its costs of this action.

23 **JURY TRIAL DEMAND**

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

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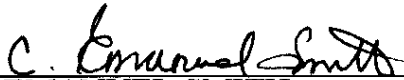
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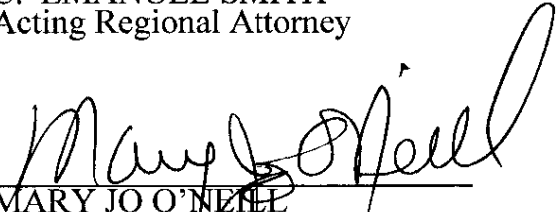
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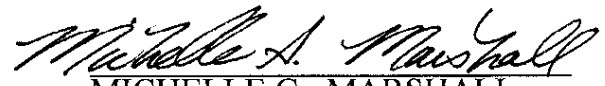
1 DATED this 14th day of June 2001.

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Respectfully submitted,
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