

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN

EQUAL EMPLOYMENT OPPORTUNITY )  
COMMISSION, )  
 ) Civil Action No.  
Plaintiff, )  
 )  
v. ) **FIRST AMENDED COMPLAINT**  
 )  
MANAGEMENT HOSPITALITY OF ) **Jury Trial Demand**  
RACINE, INC., d/b/a INERNATIONAL )  
HOUSE OF PANCAKES, )  
FLIPMEASTACK, INC., and )  
SALAUDDIN JANMOHAMMED, )  
 )  
Defendants. )  
\_\_\_\_\_ )

NATURE OF THE ACTION

This is an action under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e et seq. (“Title VII”), and Title I of the Civil Rights Act of 1991, 42 U.S.C. § 1981a to correct unlawful employment practices on the basis of sex and retaliation, and to provide appropriate relief to Katrina Shaw and a class of similarly situated female employees of defendant Management Hospitality of Racine, Inc., d/b/a International House of Pancakes (“IHOP”) and defendant Flipmeastack, Inc. (“Flip”) who were adversely affected by such practices. Ms. Shaw and a class of similarly situated female employees were adversely affected by such practices when an assistant manager at defendants’ IHOP restaurant in Racine, Wisconsin subjected them to a sexually hostile working environment based on their gender. In addition, Ms. Shaw was discharged because of her refusal to submit to the harassment and her opposition to such unlawful employment practices.

## 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 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 unlawful employment practices alleged were committed within the jurisdiction of the United States District Court for the Eastern District of Wisconsin.

## PARTIES

3. The plaintiff, the Equal Employment Opportunity Commission ("EEOC"), is the agency of the United States of America charged with administering, interpreting, and enforcing 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, the defendant, Management Hospitality of Racine, Inc. ("IHOP"), was an Illinois corporation doing business in the City of Racine, Wisconsin, and had continuously had at least 15 employees.

5. At all relevant times, IHOP had continuously been an employer engaged in an industry affecting commerce within the meaning of Sections 701(b), (g), and (h) of Title VII, 42 U.S.C. §§ 2000e(b), (g), and (h).

6. At all relevant times, the defendant, Flipmeastack, Inc. ("Flip"), was an Illinois corporation doing business in Illinois and Wisconsin.

7. At all relevant times, IHOP and Flip have been a single employer continuously engaged in an industry affecting commerce within the meaning of Sections 701(b), (g), and (h) of Title VII, 42 U.S.C. §§ 2000e(b), (g), and (h).

8. At all relevant times, IHOP and Flip employed Katrina Shaw and a class of similarly situated female employees as a single employer.

9. At all relevant times, Salauddin Janmohammed was the President of IHOP, and caused its dissolution on or about October 19, 2005. On information and belief, Janmohammed received assets, either actually or constructively, as a result of that dissolution. He is therefore potentially liable for any relief that may be awarded plaintiff pursuant to 805 ILCS 5/12.80, Wis. Stats. § 180.1408, and other applicable law, and is properly joined in this action as a relief defendant.

#### STATEMENT OF CLAIMS

10. More than 30 days prior to the institution of this lawsuit, Shaw, a former IHOP employee, filed charges with the EEOC alleging violations of Title VII by IHOP. All conditions precedent to the institution of this lawsuit have been fulfilled.

11. During Shaw's employment, defendants IHOP and Flip engaged in unlawful employment practices at the IHOP restaurant at 5800 Durand Ave., Racine, WI 53406 in violation of Sections 703(a) and 704(a) of Title VII, 42 U.S.C. §§ 2000e-2 and 2000e-3. Among other things, an assistant manager subjected Shaw to sexual harassment (including, but not limited to, unwelcome physical touching, propositions for sex, and sexual comments), which further created a sexually hostile and offensive work environment. IHOP and Flip, despite actual or constructive notice of the situation, failed and refused to take prompt and appropriate action to

correct the harassment and the resulting hostile environment. This situation continued until the assistant manager discharged Shaw, for her refusal to submit to the harassment and her opposition to such discriminatory practices.

12. Other similarly situated female employees of IHOP and Flip were also subjected to sexual harassment and a sexually hostile and offensive work environment while working at the IHOP restaurant at 5800 Durand Ave., Racine WI 53406, including among other things, unwelcome physical touching, propositions for sex, and sexual comments from the assistant manager. IHOP and Flip, despite actual or constructive notice of the situation, failed and refused to take prompt and appropriate action to correct the harassment and the resulting hostile environment.

13. The effect of the practices complained of in Paragraphs 11 and 12 above has been to deprive Shaw and a class of similarly situated female employees of equal employment opportunities, and to otherwise adversely affect their status as employees, because of sex; and in Shaw's case, in retaliation for her opposition to discriminatory practices.

14. The unlawful employment practices complained of in Paragraphs 11 and 12 above were intentional.

15. The unlawful employment practices complained of in Paragraphs 11 and 12 above were done with malice or with reckless indifference to the federally protected rights of Shaw and the class of similarly situated female employees.

PRAYER FOR RELIEF

WHEREFORE, EEOC respectfully requests that this Court:

A. Grant a permanent injunction enjoining IHOP and Flip and their officers, successors, and assigns, and all persons in active concert or participation with them, from engaging in sexual harassment, any other employment practice which discriminates on the basis of sex, and retaliation for opposition to such practices.

B. Order IHOP and Flip to institute and carry out policies, practices, and programs which provide equal employment opportunities for women, and which eradicate the effects of their past and present unlawful employment practices.

C. Order IHOP, Flip, and Janmohammed to make Shaw and the class of similarly situated female employees whole by providing appropriate backpay and benefits, with pre-judgment interest, in amounts to be determined at trial, and other affirmative relief necessary to eradicate the effects of their unlawful employment practices, including frontpay.

D. Order IHOP, Flip, and Janmohammed to make Shaw and the class of similarly situated female employees whole by providing compensation for past and future nonpecuniary losses resulting from the unlawful practices described in Paragraphs 11 and 12 above, including (but not limited to) emotional pain, suffering, and humiliation, in amounts to be determined at trial.

E. Order IHOP, Flip, and Janmohammed to pay Shaw and the class of similarly situated female employees punitive damages for IHOP and Flip's malicious and reckless conduct described in Paragraphs 11 and 12 above, in amounts to be determined at trial.

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

G. Award EEOC its costs of this action.

JURY TRIAL DEMAND

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

Date: July 2, 2007.

Deputy

James L. Lee  
General Counsel

Gwendolyn Young Reams  
Associate General Counsel

EQUAL

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Dated: \_\_\_\_\_, 2007

s/John Hendrickson  
John Hendrickson  
Regional Attorney

Dated: \_\_\_\_\_, 2007

s/Brian C. Tyndall  
Brian C. Tyndall  
Senior Trial Attorney

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N:complaint-amended.2.07-02-07

CERTIFICATE OF SERVICE

I, Marie Chartier, hereby certify that on July 2, 2007, I caused the foregoing document to be served by email and first class mail upon:

Robert M. Mihelich  
Law Offices of Robert M. Mihelich  
2665 S. Moorland Road, Ste. 200  
New Berlin, WI 53151

Paraleg

s/Marie Chartier  
Marie Chartier  
al Specialist