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Attorneys for Plaintiff

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

Equal Employment Opportunity
Commission,

Plaintiff,

vs.

LBW Investments, L.L.C., d/b/a JB's
Family Restaurants; Summit Family
Restaurants, Inc., a Delaware
corporation, d/b/a JB's Family
Restaurants; Santa Barbara Restaurant
Group, Inc., a Delaware corporation,
d/b/a JB's Family Restaurants; CKE
Restaurants, Inc., a Delaware
corporation, d/b/a JB's Family
Restaurants,

Defendants.

CIV

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AMENDED COMPLAINT

Jury Trial Demanded

NATURE OF THE ACTION

This is an action under Title VII of the Civil Rights Act of 1964 and Title I of the Civil Rights Act of 1991 to correct unlawful employment practices on the basis of sex and retaliation, and to provide appropriate relief to charging party Carla Hart and a class of females who were adversely affected by such practices. Defendants LBW Investments, L.L.C., d/b/a JB's Family Restaurants; Summit Family Restaurants, Inc., 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 "defendants") subjected Ms. Hart and a class of women to repeated, pervasive and

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1 egregious sexual harassment and retaliated against a class of women for opposing the
2 harassment. Defendants engaged in discrimination which adversely affected the
3 employment status of Ms. Hart and a class of females because of their sex.

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

9 JURISDICTION AND VENUE

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

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

18 PARTIES

19 3. 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 is expressly authorized
22 to bring this action by Sections 706(f)(1) and (3) and 707 of Title VII, 42 U.S.C.
23 §§ 2000e-5(f)(1) and (3) and 2000e-6.

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

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

4 6. At all relevant times, defendant Summit Family Restaurants, Inc., d/b/a
5 JB's Family Restaurants ("Summit"), has continuously been a Delaware corporation
6 doing business in the State of Utah and has continuously had at least 15 employees.

7 7. At all relevant times, defendant Summit has continuously been an
8 employer engaged in an industry affecting commerce within the meaning of Sections
9 701(b), (g) and (h) of Title VII, 42 U.S.C. §§ 2000e(b), (g) and (h).

10 8. At all relevant times, defendant Santa Barbara Restaurant Group, Inc.,
11 d/b/a JB's Family Restaurants ("Santa Barbara") has continuously been a Delaware
12 corporation doing business in the State of Utah and has continuously had at least 15
13 employees.

14 9. At all relevant times, defendant Santa Barbara has continuously been an
15 employer engaged in an industry affecting commerce within the meaning of Sections
16 701(b), (g) and (h) of Title VII, 42 U.S.C. §§ 2000e(b), (g) and (h).

17 10. At all relevant times, defendant CKE Restaurants, Inc., d/b/a JB's Family
18 Restaurants ("CKE") has continuously been a Delaware corporation doing business in
19 the State of Utah and has continuously had at least 15 employees.

20 11. At all relevant times, defendant CKE has continuously been an employer
21 engaged in an industry affecting commerce within the meaning of Sections 701(b), (g)
22 and (h) of Title VII, 42 U.S.C. §§ 2000e(b), (g) and (h).

23 **STATEMENT OF CLAIMS**

24 12. More than thirty days prior to the institution of this lawsuit, Carla Hart
25 filed a charge with the Commission alleging violations of Title VII by defendants. All
26 conditions precedent to the institution of this lawsuit have been fulfilled.

27 13. Since at least February 2, 1996, defendants have engaged in unlawful
28 employment practices at their Utah restaurants, in violation of Section 703(a) of Title

1 VII, 42 U.S.C. § 2000e-2(a), by sexually harassing Ms. Hart and a class of female
2 employees and subjecting them to sexual harassment; failing to take appropriate action
3 to prevent and correct the harassment; and forcing them to resign because of the sexual
4 harassment. The sexual harassment includes but is not limited to:

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

1 take appropriate remedial action to prevent or correct the unlawful conduct.

2 15. Since at least February 2, 1996, defendants have engaged in unlawful
3 retaliatory practices in violation of Section 704(a) of Title VII, 42 U.S.C. § 2000e-3(a).
4 Defendants retaliated against a class of women by changing the terms and conditions of
5 their employment because they opposed conduct made unlawful under Title VII.
6 Defendants' retaliatory conduct included but was not limited to firing at least one class
7 member because she complained that a manager was sexually harassing her by touching
8 her breasts.

9 16. Defendants have engaged in continuing sex discrimination which
10 constitutes a continuing violation of Title VII.

11 17. The effect of the practices complained of in Paragraph Twelve (§12),
12 through and including Paragraph Sixteen (§16) above has been to deprive Ms. Hart and
13 a class of females of equal employment opportunities and otherwise adversely affect
14 their status as employees because of their sex and in retaliation for opposing practices
15 made unlawful by Title VII.

16 18. The unlawful employment practices complained of in Paragraph Twelve
17 (§12), through and including Paragraph Seventeen (§17) above were and are
18 intentional.

19 19. The unlawful employment practices complained of in Paragraph Twelve
20 (§12), through and including Paragraph Seventeen (§17) above were done with malice
21 or with reckless indifference to the federally protected rights of Ms. Hart and a class of
22 females.

23 **PRAYER FOR RELIEF**

24 WHEREFORE, the Commission respectfully requests that this Court:

25 A. Grant a permanent injunction enjoining defendants, their officers,
26 successors, assigns, and all persons in active concert or participation with them from
27 engaging in sexual harassment, retaliation and any other employment practice which
28 discriminates on the basis of sex or retaliation.

1 B. Order defendants to institute and carry out policies, practices, and
2 programs which provide equal employment opportunities for women and those who
3 oppose unlawful employment discrimination, and which eradicate the effects of their
4 past and present unlawful employment practices.

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

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

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

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

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

26 H. Award the Commission its costs of this action.
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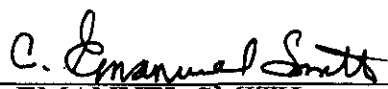
1 **JURY TRIAL DEMAND**

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

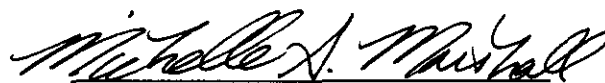
4 DATED this 15th day of June 2001.

5 Respectfully submitted,
6 GWENDOLYN YOUNG REAMS
7 Acting Deputy General Counsel

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