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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA
SACRAMENTO DIVISION

EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION,

Plaintiff,

v.

PARAGARY'S MANAGEMENT GROUP
d/b/a Paragary's Bar and Oven, Blue Clue,
Cafe Bernardo, Centro Cocina, Esquire
Grill, KBar, Monkey Bar, Spataro;
PARAMOOR, INC. d/b/a Paragary's
Management Group, Paragary's Bar and
Oven, Blue Clue, Cafe Bernardo, Centro
Cocina, Esquire Grill, KBar, Monkey Bar,
Paragary's Bar and Oven, Spataro; PDK
PARTNERSHIP; and PK PARTNERSHIP.

Defendants.

CIVIL ACTION NO. 2:05-CV-01983-LKK-DAD

FIRST AMENDED COMPLAINT
- CIVIL RIGHTS EMPLOYMENT
DISCRIMINATION
(42 U.S.C. §§ 2000e, et seq.)

JURY TRIAL DEMAND

As no pleading has been filed responding to the complaint initiating this lawsuit, the EEOC hereby files its First Amended Complaint as permitted by Fed. R. Civ. P. 15 (a).

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 to provide appropriate relief to Charging Party Leticia Fernandez and other similarly situated individuals (the claimants) who were adversely affected by such practices. As alleged below, defendants PARAGARY'S MANAGEMENT GROUP, PARAMOOR, INC., PDK PARTNERSHIP and PK PARTNERSHIP subjected the claimants to a hostile work environment based on their sex, female

1 and disparate treatment based on their sex and national origin, Mexican female.

2 JURISDICTION AND VENUE

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

7 2. The employment practices alleged to be unlawful were and are now being committed
8 in Sacramento County, California, within the jurisdiction of the United States District Court for the
9 Eastern District of California's Sacramento Division.

10 PARTIES

11 3. Plaintiff, the Equal Employment Opportunity Commission (EEOC), is the agency of
12 the United States of America charged with the administration, interpretation, and enforcement of
13 Title VII and is expressly authorized to bring this action by §706(f) (1) and (3) of Title VII, 42
14 U.S.C. §2000e-5(f) (1) and (3).

15 4. At all relevant times, Defendants are and were corporations doing business in the
16 State of California, and have continuously had at least 15 employees.

17 5. At all relevant times, Defendants have continuously been employers engaged in an
18 industry affecting commerce, within the meaning of §701(b), (g), and (h) of Title VII, 42 U.S.C. §
19 2000e (b), (g), and (h).

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

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1 **STATEMENT OF CLAIMS**

2 7. More than thirty days prior to the institution of this lawsuit, Leticia Fernandez filed a
3 charge of discrimination with the EEOC alleging violations of Title VII by Defendants. All
4 conditions precedent to the institution of this lawsuit have been fulfilled.

5 8. Since at least May of 2001, Defendants have engaged in unlawful practices at their
6 Sacramento County business in violation of §703 (a) (1) of Title VII, 42 U.S.C. §2000e-2 (a) (1).
7 These practices, which continued on a regular basis, included subjecting the claimants to harassment
8 on the basis of their sex, female, which created an offensive, abusive, intimidating, and hostile work
9 environment. The harassment included both verbal and physical acts. The claimants were also
10 subjected to sex and national origin discrimination based on their sex, female, and national origin,
11 Mexican. The discrimination included but was not limited providing different terms and conditions
12 of employment to Mexican females such as requiring them to do the work of non-Mexican female
13 employees, and denying Mexican females breaks and requested leave.

14 9. The effect of the practices complained of in paragraph 8 above has been to deprive
15 the claimants of equal employment opportunities and to otherwise adversely affect them because of
16 their sex, female or their national origin, Mexican.

17 10. The unlawful employment practices complained of in paragraph 8 above were and are
18 intentional.

19 11. The unlawful employment practices complained of in paragraph 8 above were done
20 with malice and/or reckless disregard for the federally protected rights of the claimants.

21 **PRAYER FOR RELIEF**

22 WHEREFORE, the Commission respectfully requests that this Court:

23 A. Grant a permanent injunction enjoining Defendants, their officers, successors,
24 assigns, and all persons in active concert or participation with them, from engaging in harassment
25 based on sex and any other employment practice which discriminates on the basis of sex.

26 B. Order Defendants to institute and carry out policies, practices, and programs which
27 provide equal employment opportunities for their employees and which eradicate the effects of their
28 past and present unlawful employment practices.

1 C. Order Defendants to make whole the claimants by providing appropriate backpay
2 with prejudgment interest, in amounts to be determined at trial, and other affirmative relief necessary
3 to eradicate the effects of its unlawful employment practices, including but not limited to front pay.

4 D. Order Defendant to make whole the claimants by providing for past and future
5 pecuniary losses resulting from the unlawful employment practices described above, with interest, in
6 amounts to be determined at trial.

7 E. Order Defendants to make whole the claimants by providing compensation for past
8 and future nonpecuniary losses caused by the above unlawful conduct, including pain and suffering,
9 emotional distress, indignity, loss of enjoyment of life, loss of self-esteem, and humiliation, in
10 amounts to be determined at trial.

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1 F. Order Defendants to pay the claimants punitive damages for their malicious and
2 reckless conduct described above, in amounts to be determined at trial.

3 G. Grant such further relief as the Court deems proper.

4 H. Award the EEOC its costs in this action.

5 **JURY TRIAL DEMAND**

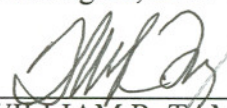
6 The EEOC requests a jury trial on all questions of fact raised by its complaint.

7 Respectfully submitted,

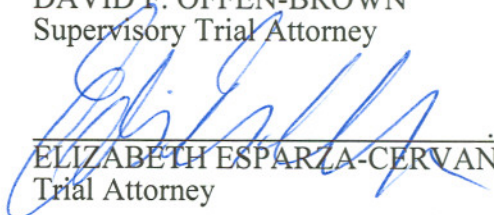
8 JAMES LEE
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12 November 17, 2005

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