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14 **UNITED STATES DISTRICT COURT**
15 **DISTRICT OF NEVADA**
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17 U.S. EQUAL EMPLOYMENT OPPORTUNITY)
COMMISSION,)

18)
19 Plaintiff,)

20 vs.)

21 LUCINDA MANAGEMENT, LLC,)
CENTENNIAL FOOD CORPORATION dba)
22 IHOP RESTAURANT, NELLIS FOOD)
CORPORATION dba IHOP RESTAURANT,)
23 VEGAS FOOD CORPORATION dba IHOP)
RESTAURANT, CHEYENNE FOOD)
24 CORPORATION dba IHOP RESTAURANT,)
25 CRAIG FOOD CORPORATION dba IHOP)
RESTAURANT, BAYSHORE FOOD)
26 CORPORATION dba IHOP RESTAURANT,)
DiHOP CORPORATION dba IHOP)
27 RESTAURANT, COOPER STREET CLAM &)
OYSTER BAR, LLC, and Does 1-5 Inclusive,)
28

Defendant.)

Case No.:

COMPLAINT – Title VII

- Sexual Harassment
- Retaliation

(42 U.S.C. §§2000e, et seq.)

JURY TRIAL DEMAND

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NATURE OF THE ACTION

2 This is an action under Title VII of the Civil Rights Act of 1964 (“Title VII”), *as*
3 *amended* and Title I of the Civil Rights Act of 1991 to correct unlawful employment practices
4 and to provide appropriate relief to Charging Party Mercedes Garcia, Charging Party Sherri
5 Sargent, Charging Party Aubrey Brown, and a class of similarly aggrieved individuals. As set
6 forth with greater particularity in paragraphs 12 to 31 of this Complaint, Plaintiff United States
7 Equal Employment Opportunity Commission (“Plaintiff” or “Commission”) alleges that
8 Defendants Lucinda Management, LLC, Centennial Food Corporation dba IHOP Restaurant,
9 Nellis Food Corporation dba IHOP Restaurant, Vegas Food Corporation dba IHOP Restaurant,
10 Cheyenne Food Corporation dba IHOP Restaurant, Craig Food Corporation dba IHOP
11 Restaurant, Bayshore Food Corporation dba IHOP Restaurant, DiHop Corporation dba IHOP
12 Restaurant, and Cooper Street Clam & Oyster Bar, LLC (herein collectively referred to as
13 “Defendants”) unlawfully subjected the Charging Parties and class of similarly aggrieved
14 individuals to hostile work environment sexual harassment in violation of Title VII. The
15 Commission also alleges that Defendants further violation Title VII by subjecting Charging
16 Parties and class of similarly aggrieved individuals to retaliation for opposing unlawful
17 employment practices.

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JURISDICTION AND VENUE

1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 451, 1331, 1337,
1343 and 1345.

2. 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*, 43 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.

1 10. All of the acts and failures to act alleged herein were duly performed by and
2 attributable to all Defendants, each acting as a successor, agent, employee, alter ego, owner,
3 officer, member, manager, partner, indirect employer, joint employer, single employer,
4 integrated enterprise, or under the direction and control of the others, except as specifically
5 alleged otherwise. Said acts and failures to act were within the scope of such agency and/or
6 employment, and each Defendant participated in, approved and/or ratified the unlawful acts and
7 omissions by the other Defendants complained of herein. Whenever and wherever reference is
8 made in this Complain to an act by a Defendant or Defendants, such allegation and reference
9 shall also be deemed to mean the acts and failures to act of each Defendant acting individually,
10 jointly, and/or severally.
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13 11. Plaintiff is ignorant of the true names and capacities of each Defendant sued as
14 Does 1 through 5, inclusively, and therefore Plaintiff sues said defendant(s) by fictitious names.
15 Plaintiff reserves the right to amend the complaint to name each Doe defendant individually or
16 collectively as they become known. Plaintiff alleges that each Doe defendant was in some
17 manner responsible for the acts and omissions alleged herein and Plaintiff will amend the
18 complaint to allege such responsibility when the same shall have been ascertained by the
19 Plaintiff.
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21 STATEMENT OF CLAIMS

22 12. More than thirty (30) days prior to the institution of this lawsuit, Mercedes
23 Garcia, Sherri Sargent, and Aubrey Brown filed charges of discrimination with the Commission
24 alleging violations of Title VII by Defendants.
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26 13. On December 22, 2016, the Commission issued to Defendants a Letter of
27 Determination finding reasonable cause to believe that Defendants had violated Title VII and
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1 inviting Defendant to join with the Commission in informal methods of conciliation to endeavor
2 to eliminate the discriminatory practices and provide appropriate relief.

3 14. The Commission engaged in communications with Defendants to provide
4 Defendants the opportunity to remedy the discriminatory practices described in the Letter of
5 Determination.

6 15. The Commission was unable to secure through informal methods of conciliation
7 from Defendants a conciliation agreement acceptable to the Commission.

8 16. On August 30, 2017, the Commission issued to Defendant a Notice of Failure of
9 Conciliation.

10 17. All conditions precedent to the institution of this lawsuit have been fulfilled.

11 Sexual Harassment

12 18. Since at least 2005, Defendants Centennial Food Corporation dba IHOP
13 Restaurant, Nellis Food Corporation dba IHOP Restaurant, Vegas Food Corporation dba IHOP
14 Restaurant, Cheyenne Food Corporation dba IHOP Restaurant, and Craig Road Corporation dba
15 IHOP Restaurant have operated dining establishments in Las Vegas, Nevada.

16 19. Since at least 2005, Defendants DiHop Corporation dba IHOP Restaurant,
17 Bayshore Food Corporation dba IHOP, and Cooper Street Clam & Oyster Bar have operated
18 dining establishments in New York.

19 20. Since at least 2005, Defendants have also operated a management company
20 named Lucinda Management, LLC, in Las Vegas, Nevada.

21 21. Defendant Lucinda Management, LLC employs several the individuals who
22 manage and control the operations of Defendants Centennial Food Corporation dba IHOP
23 Restaurant, Nellis Food Corporation dba IHOP Restaurant, Vegas Food Corporation dba IHOP
24 Restaurant, Nellis Food Corporation dba IHOP Restaurant, Vegas Food Corporation dba IHOP
25 Restaurant, Nellis Food Corporation dba IHOP Restaurant, Vegas Food Corporation dba IHOP
26 Restaurant, Nellis Food Corporation dba IHOP Restaurant, Vegas Food Corporation dba IHOP
27 Restaurant, Nellis Food Corporation dba IHOP Restaurant, Vegas Food Corporation dba IHOP
28 Restaurant, Nellis Food Corporation dba IHOP Restaurant, Vegas Food Corporation dba IHOP

1 Restaurant, Cheyenne Food Corporation dba IHOP Restaurant, Craig Road Corporation dba
2 IHOP Restaurant, DiHop Corporation dba IHOP Restaurant, Bayshore Food Corporation dba
3 IHOP, and Cooper Street Clam & Oyster Bar, LLC.

4 22. Defendant Lucinda Management, LLC also manages and controls the Human
5 Resources, personnel matters, and payroll for Defendants Centennial Food Corporation dba
6 IHOP Restaurant, Nellis Food Corporation dba IHOP Restaurant, Vegas Food Corporation dba
7 IHOP Restaurant, Cheyenne Food Corporation dba IHOP Restaurant, Craig Road Corporation
8 dba IHOP Restaurant, DiHop Corporation dba IHOP Restaurant, Bayshore Food Corporation
9 dba IHOP, and Cooper Street Clam & Oyster Bar, LLC.

10 23. Dominick Conti is the President, Secretary, and Treasurer for Defendants
11 Centennial Food Corporation dba IHOP Restaurant, Nellis Food Corporation dba IHOP
12 Restaurant, Vegas Food Corporation dba IHOP Restaurant, Cheyenne Food Corporation dba
13 IHOP Restaurant, Craig Road Corporation dba IHOP Restaurant, DiHop Corporation dba IHOP
14 Restaurant, and Bayshore Food Corporation dba IHOP.

15 24. Dominick Conti is the Managing Member for Defendants Lucinda Management,
16 LLC and Cooper Street Clam & Oyster Bar, LLC.

17 25. Defendants share common policies, equipment, and supplies.

18 26. Since at least 2005, Defendants implemented and enforced an unlawful sexual
19 harassment policy (“Policy”) at all its locations. The policy required employees who were
20 sexually harassed by another employee to report the incident in writing within 72 hours to
21 Defendants New York office, or else waive all rights to recovery against Defendants.

22 27. Defendants’ Policy deterred sexual harassment complaints by requiring that
23 detailed written statements be mailed to New York corporate headquarters and prohibits
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1 submission of complaints to managers at locations where employees work and where the
2 harassment would have occurred. As a result, Defendants discouraged the Charging Parties
3 similarly aggrieved individuals from complaining about sexual harassment.

4 28. Defendants' Policy prevented local management from taking preventive or
5 corrective measures even if they received sexual harassment complaints. Consequently, when
6 the Charging Parties and similarly aggrieved individuals attempted to complain about sexual
7 harassment to local management, local management failed to take any preventative or corrective
8 action. Management frequently laughed off complaints, refusing to take them seriously.
9

10 29. The onerous requirements of Defendants' Policy created an atmosphere where
11 employees and managers regularly and continuously engaged in sexual harassment, including but
12 not limited to:
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14 a. Charging Party Mercedes Garcia worked as a Food Server at a Nevada
15 location under the joint management and control of Defendant Centennial Food Corporation dba
16 IHOP Restaurant and Defendant Lucinda Management, LLC. From 2006 to 2011, the General
17 Manager and several of the cooks at Centennial subjected Mercedes Garcia to regular and
18 repeated sexual harassment, including but not limited to unwanted touching of her buttocks,
19 comments about her sexual genitalia, invitations to engage in intercourse, and vulgar name
20 calling. Such conduct was unwelcome by Mercedes Garcia. When Mercedes Garcia complained
21 to the General Manager at Centennial, the General Manager failed to take corrective action. In
22 fact, the General Manager told Mercedes Garcia to have intercourse with the cooks to get better
23 treatment. Soon after Mercedes Garcia would complain, the General Manager would reduce
24 Garcia's work hours.
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26 b. Charging Party Sherri Sargent worked as a Food Server at a Nevada
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1 location under the joint management and control of Defendant Centennial Food Corporation dba
2 IHOP Restaurant and Defendant Lucinda Management, LLC. From 2004 to 2011, several of the
3 cooks at Centennial subjected Sherri Sargent to regular and repeated sexual harassment,
4 including but not limited to following her into a walk-in refrigerator, trapping her inside, and
5 groping her genitalia against her will. Such conduct was unwelcome by Sherri Sargent. When
6 Sherri Sargent complained to the General Manager at Centennial, the General Manager failed to
7 take corrective action. Shortly after Sherri Sargent would complain, the General Manager would
8 reduce Sargent's work hours or number of days worked.
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10 c. Charging Party Aubrey Brown as a Cashier/Host at a Nevada location
11 under the joint management and control of Defendant Nellis Food Corporation dba IHOP
12 Restaurant and Defendant Lucinda Management, LLC. From March 2014 to April 2015, a co-
13 worker subjected Aubrey Brown to regular and repeated harassment, including but not limited to
14 unwelcome touching, name calling, and pointing to fruits and vegetables and asking Brown
15 which one best described his genitalia. Such conduct was unwelcome by Aubrey Brown. When
16 Aubrey Brown complained to the General Manager at Nellis, the General Manager failed to take
17 corrective action.
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19 d. Claimant 1 is a female who worked as a Food Server at a Nevada location
20 under the joint management and control of Defendant Centennial Food Corporation dba IHOP
21 Restaurant and Defendant Lucinda Management, LLC. Claimant 1 worked for Defendants from
22 approximately July 2008 to April 2013. One of the cooks at Centennial subjected Claimant 1 to
23 severe sexual harassment when he cornered Claimant 1 started grabbing and touching her against
24 her will. The cook continued grabbing and touching Claimant 1, even though she physically
25 struggled with him and told him to stop. Another male stepped in the middle of the cook and
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1 Claimant 1 to get the cook to stop. Claimant 1 was so fearful she ran out to the parking lot and
2 locked herself inside her car. She repeatedly tried to call the General Manager at Centennial
3 while she was in her car, but the General Manager never answered the phone. After Charging
4 Party Mercedes Garcia arrived at Centennial, Claimant 1 exited her vehicle. When Claimant 1
5 later complained to management at Centennial, no corrective action was taken.
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7 e. Claimant 2 is a female who worked as a Food Server and Crew Chief at a
8 Nevada location under the joint management and control of Defendant Centennial Food
9 Corporation dba IHOP Restaurant and Defendant Lucinda Management, LLC. Claimant 2
10 worked for Defendants from approximately April 2002 to October 2016. Several of the cooks
11 subjected Claimant 2 to regular and repeated sexual harassment, including but not limited to
12 following her into the dry storage area, refrigerator, or freezer, shutting the door, and touching
13 her sexually; asking when it was their turn to have intercourse with her, making graphic
14 comments about her genitalia, and vulgar name calling. Such conduct was unwelcome. When
15 Claimant 2 complained to the General Manager at Centennial, the General Manager failed to
16 take corrective action.
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19 f. Claimant 3 is a female who worked as a Food Server at a New York
20 location under the joint management and control of Defendant Bayshore Food Corporation dba
21 IHOP Restaurant and Defendant Lucinda Management, LLC. Claimant 3 worked for Defendants
22 from approximately October 2012 to September 2013. The General Manager at Bayshore
23 subjected Claimant 3 to regular and repeated sexual harassment, including but not limited to
24 comments regarding her physical appearance and genitalia, propositions to engage in intercourse,
25 and sending her pictures of his genitalia. Such conduct was unwelcome. Claimant 3 repeatedly
26 rejected the General Manager's advances and told him to stop, but he did not. As a result,
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1 Claimant 3 was forced to resign because of the continued harassment.

2 g. Claimant 4 is a female who worked as a Food Server at a New York
3 location under the joint management and control of Bayshore Food Corporation dba IHOP
4 Restaurant and Defendant Lucinda Management, LLC. Claimant 4 worked for Defendants from
5 approximately January 2011 to January 2015. The General Manager at Bayshore subjected
6 Claimant 4 to regular and repeated sexual harassment, including but not limited to, lewd text
7 messages, pretending to grab female employees' breasts, holding "twerking" contests in the
8 store, and viewing pornography in the store. Such conduct was unwelcome. Claimant 4
9 repeatedly rejected the General Manager's advances and told him to stop, but he did not.
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11 h. Defendants' General Managers and other employees subjected other
12 similarly aggrieved employees to sexual harassment, including but not limited to unwelcome
13 sexual touching and kissing, vulgar comments regarding employees' physical appearance, lewd
14 and vulgar jokes, watching pornography, and sending pictures with sexually suggestive
15 messages. The General Manager at Defendant Cooper Street Clam & Oyster Bar repeatedly told
16 a seventeen year old female employee that she was of legal age to have sex in New York State,
17 and made lewd and vulgar jokes to employees, including one regarding the sexual assault of a
18 child. Such conduct was unwelcome, and frequently resulted in the similarly aggrieved
19 employees being forced to resign due to the harassment and/or retaliation.
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22 Retaliation

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24 30. Defendants further engaged in unlawful employment practices in violation of
25 §704(a) of Title VII, 42 U.S.C. § 2000e-3(a) when it retaliated against the Charging Parties and
26 similarly aggrieved employees for engaging in protected activity. Defendants' retaliatory
27 conduct included, but is not limited to reducing the Charging Parties and similarly aggrieved
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1 employees work hours or numbers of days worked, groundless discipline, and termination. In
2 addition to the examples of adverse actions taken in response to protected activity as described
3 above, Respondents' employees at its New York businesses were similarly harmed by its
4 discriminatory sexual harassment policy. At the DiHop location, where Dominick Conti's son
5 Joseph was the General Manager, during the relevant time period, Claimant 5 witnessed a
6 "handsy" cook regularly touch female food servers' genitals and kiss them. At one point
7 Claimant 5 witnessed a female food server come out of the kitchen crying due to the cook's
8 harassment. When Claimant 5 reported the harassment to management, Claimant 5 was
9 terminated.
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11 31. The effect of the practices complained of, as described above, has been to deprive
12 the Charging Parties and similarly aggrieved employees of equal employment opportunities and
13 otherwise adversely affect her status as an employee, because of her sex, female.
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15 32. The effect of the practices complained of, as described above, has been to deprive
16 the Charging Parties and similarly aggrieved employees of equal employment opportunities.
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18 33. The unlawful employment complained of in Paragraphs 12-30 above were
19 intentional and caused the Charging Parties and similarly aggrieved employees to suffer
20 emotional distress.
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22 34. The unlawful employment practices complained of in Paragraphs 12-30 above
23 were done with malice or with reckless indifference to the federal protected rights of the
24 Charging Parties and similarly aggrieved employees.
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PRAYER FOR RELIEF

26 Wherefore, the Commission respectfully requests that this Court:
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1 A. Grant a permanent injunction enjoining Defendants, their officers, successors,
2 assigns, and all persons in active concert or participation with them, from engaging in any
3 employment practice in violation of §§ 703(a) and 704(a) of Title VII.

4 B. Order Defendants to institute and carry out policies, practices, and programs to
5 ensure that they would not engage in further unlawful employment practices in violation of §§
6 703(a) and 704(a) of Title VII.

7
8 C. Order Defendants to make whole the Charging Parties and similarly aggrieved
9 employees by providing appropriate back pay with prejudgment interest, in amounts to be
10 determined at trial, and other affirmative relief necessary to eradicate the effects of its unlawful
11 employment practices, including but not limited to rightful place reinstatement or front pay.

12
13 D. Order Defendants to make whole the Charging Parties and similarly aggrieved
14 employees by providing compensation for past and future pecuniary losses, in amounts to be
15 determined at trial including, but not limited to, out-of-pocket expenses suffered by them that
16 resulted from the unlawful employment practices described above in amounts to be determined
17 at trial.

18
19 E. Order Defendants to make whole the Charging Parties and similarly aggrieved
20 employees by providing compensation for past and future non-pecuniary losses resulting from
21 the unlawful practices described above, in amounts to be determined at trial. The non-pecuniary
22 losses include, but are not limited to, emotional pain, suffering, inconvenience, mental anguish,
23 humiliation, and loss of enjoyment of life.

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25 F. Order Defendants to pay the Charging Parties and similarly aggrieved employees
26 punitive damages for their malicious and/or reckless conduct as described above, in amounts to
27 be determined at trial.

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G. Award the Commission its costs of this action.

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

JURY TRIAL DEMAND

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

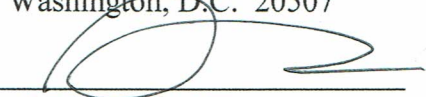
Dated: September 18, 2017

Respectfully Submitted,

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GWENDOLYN YOUNG REAMS,
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