

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

LOUVEINA NIPPLE,)	
)	Civil Action No.
Plaintiff,)	
)	
v.)	
)	JURY TRIAL DEMANDED
PARK MANAGEMENT GROUP, LLC,)	
d/b/a JAMESON INNS, INC.,)	
)	
Defendant.)	
_____)	

COMPLAINT FOR DAMAGES

COMES NOW, Plaintiff Louveina Nipple (hereinafter “Plaintiff” or “Ms. Nipple”), by and through her undersigned counsel, and files this, her Complaint for Damages against Defendant Park Management Group, LLC, d/b/a Jameson Inns, Inc. (hereinafter “Defendant” or “Jameson Inns”), and respectfully shows this Court as follows:

I. NATURE OF COMPLAINT

1.

Plaintiff brings this action to obtain full and complete relief and to redress the unlawful employment practices described herein.

2.

This action seeks declaratory relief, liquidated and actual damages for Defendant's unlawful employment practices on the basis of sex in violation of Title VII of the Civil Rights Act of 1964 42 USC §§ 2000e, *et seq.* (hereinafter "Title VII").

3.

Additionally, this action seeks damages for Defendant's discrimination on the basis of disability, and failure to provide accommodations to Plaintiff in connection with the same pursuant to the Americans with Disabilities Act, as amended, 42 U.S.C. § 12111 *et seq.* (hereinafter "ADA").

II. JURISDICTION AND VENUE

4.

Plaintiff invokes the jurisdiction of this Court pursuant to 28 U.S.C. § 1331 and 42 U.S.C. § 2000e-5(f); Plaintiff also invokes this Court's pendant jurisdiction to hear Plaintiff's state law claims.

5.

The unlawful employment practices alleged in this Complaint were committed within this District in the State of Georgia.

6.

Therefore, in accordance with 28 U.S.C. § 1391 and 42 U.S.C. §2000(e)-5(f), venue is appropriate in this Court.

III. PARTIES

7.

Plaintiff is a female citizen of the United States of America, and is subject to the jurisdiction of this Court.

8.

Defendant Jameson Inns is qualified and licensed to do business in Georgia, and at all times material hereto has conducted business within this District.

9.

Defendant Jameson Inns may be served with process by delivering a copy of the summons and complaint to its Registered Agent and Chief Financial Officer (“CFO”), C. David Carley, whose office is located at 4770 South Atlanta Road, S.E., Smyrna, Georgia 30080-7057.

10.

Defendant is now, and at all times relevant hereto, has been an employer engaged in an industry affecting commerce within the meaning of the ADA and

§§701(b), (g) and (h) of Title VII and has employed more than the requisite number of persons for the requisite duration under the ADA and Title VII.

IV. ADMINISTRATIVE PROCEDURES

11.

Plaintiff timely filed a charge of discrimination against Defendant Jameson Inns with the Equal Employment Opportunity Commission (EEOC).

12.

The EEOC issued a “Notice of Right to Sue” on January 29, 2013, entitling an action to be commenced within ninety (90) days of receipt of that notice.

13.

This action has been commenced within ninety (90) days of Ms. Nipple’s receipt of the “Notice of Right to Sue.”

V. FACTUAL ALLEGATIONS

14.

Defendant hired Hector Del Rosario (hereafter “Mr. Del Rosario”) for employment.

15.

Mr. Del Rosario sexually harassed individuals, including Plaintiff, while employed by Defendant.

16.

Defendant was aware of Mr. Del Rosario's propensity to sexually harass its employees.

17.

Louveina Nipple was hired by Defendant on June 26, 2011 as a Housekeeper.

18.

Mr. Del Rosario was Louveina Nipple's direct supervisor.

19.

Starting immediately after Plaintiff began working for Defendant, Mr. Del Rosario began sexually harassing Louveina Nipple.

20.

The sexual harassment was severe or pervasive, so as to alter the terms and conditions of Ms. Nipple's employment.

21.

Defendant created a hostile work environment that Ms. Nipple was required to endure as a condition of her continued employment with Defendant.

22.

By way of example, Mr. Del Rosario would tell Plaintiff, a female of slightly heavier build, that he “like[s] big girls, I don’t like skinny girls,”

23.

On multiple occasions, Mr. Del Rosario would stare at Ms. Nipple’s behind in a lewd and inappropriate manner and say “mmm, you have a big ass,” and “do you have a boyfriend?”

24.

On a regular basis, Mr. Del Rosario would rub Ms. Nipple’s shoulders and arms, without her permission or consent, and would approach Ms. Nipple very closely, lean into her face and ask her “how was your night?”

25.

On at least one occasion in July or August of 2011, Mr. Del Rosario sent Ms. Nipple a text message stating: “What are you doing? Someone’s got the hots for you.”

26.

On at least one occasion in July or August of 2011, Mr. Del Rosario called Ms. Nipple on her cell phone and said “I wish I could come over to your house so we could get naked and drink Jack Daniels.”

27.

In response to these comments and behaviors, Ms. Nipple would ask Mr. Del Rosario to stop and not to make those comments.

28.

On at least one occasion during the summer of 2011, Ms. Nipple spoke with Defendant's General Manager Mr. Michael Frankly about the harassment.

29.

Mr. Frankly responded by telling Ms. Nipple that he would "take care of it."

30.

On Approximately August 2, 2011, Ms. Nipple went to Mr. Frankly again to speak with him about Mr. Del Rosario's harassment.

31.

In their meeting, Ms. Nipple told Mr. Frankly in detail what had been taking place with Mr. Del Rosario and told Mr. Frankly that Mr. Del Rosario was sexually harassing her, touching her, and saying inappropriate comments to her.

32.

Mr. Frankly responded by telling Ms. Nipple "Louveina, I'm going to get around to it."

33.

However, to the best of Plaintiff's knowledge, Defendant never took any steps to investigate her complaints of harassment, or take any remedial or corrective measures in connection with the same.

34.

Finally, in approximately October 2011, Ms. Nipple approached Mr. Frankly one last time about Mr. Del Rosario's sexual harassment; on this occasion, Mr. Frankly responded only by stating "Louveina, I don't have anything to do with that," and walked off.

35.

Defendant chose not to take reasonable steps to prevent sexual harassment from occurring, despite its knowledge of its employee's propensity for sexual harassment.

36.

Defendant failed to take appropriate remedial actions to correct the sexual harassment.

37.

Defendant did not widely disseminate a written anti-sexual harassment policy.

38.

Additionally, upon commencing her employment with Defendant, Plaintiff informed her supervisors that she had ongoing foot problems with her right foot.

39.

As a result, Ms. Nipple requested that she be assigned to the cleaning of first-floor rooms only, as Defendant's premises did not have an elevator for the Housekeeping Staff to travel to the upper floor, requiring Ms. Nipple to traverse the stairs.

40.

Defendant failed to accommodate Ms. Nipple, and continued to assign her to clean rooms on all floors.

41.

On at least one occasion, while discussing her disability with her supervisor, Mr. Del Rosario, Ms. Nipple explained to Mr. Del Rosario that it caused her a significant amount of pain and discomfort to traverse the stairs to clean the rooms on the upper floor.

42.

In response, Mr. Del Rosario would pull up his pant leg to show Ms. Nipple that he had a blood clot on his leg, indicating that they had similar disabilities in

common; Mr. Del Rosario did not take any further action to address Ms. Nipple's complaints regarding her disability and her requests for accommodations for the same.

43.

Defendant continued to assign Ms. Nipple to the upper floors, and continued to deny her request for accommodations for her disability for the remainder of her employment.

44.

On approximately November 19, 2011, when Ms. Nipple went in to work, Mr. Frankly and Mr. Del Rosario informed her that she was being "let go" for allegedly using an expletive in conversation with a co-worker.

VI. FEDERAL CLAIMS FOR RELIEF

HOSTILE WORK ENVIRONMENT SEXUAL HARASSMENT

45.

Plaintiff re-alleges the preceding paragraphs as if set forth fully herein.

46.

On a consistent basis during Plaintiff's employment, Mr. Del Rosario subjected her to sexual harassment.

47.

Plaintiff's was obligated to work in an atmosphere that was hostile by virtue of unsolicited and unwelcome sexual advances, comments, sex based comments, sexual innuendo and other sexually charged conduct.

48.

This sexual harassment was sufficiently severe or pervasive to alter the terms and conditions of employment and create a working environment that was intimidating, insulting and abusive to employees.

49.

Because of its failure to take prompt and remedial action, and its deliberate indifference to sexually hostile conduct, Defendant has intentionally engaged in unlawful employment practices in violation of Title VII.

50.

The effect of the conduct complained of herein has been to deprive Plaintiff of equal employment opportunity, and has otherwise adversely affected her status as an employee because of sex.

51.

As a direct and proximate result of Defendant's violation of Title VII, Plaintiff has been made the victim of acts that have adversely affected her psychological and physical well-being.

CLAIMS FOR RELIEF UNDER CIVIL RIGHTS ACT OF 1991

52.

Plaintiff re-alleges the preceding paragraphs as if set forth fully herein.

53.

Defendant permitted its employee to act in a hostile manner towards Plaintiff and other employees, and in failing and refusing to take any appropriate remedial action to remedy the unlawful employment practices has not only deprived Plaintiff of equal employment opportunities, but exhibits malice or reckless indifference to Plaintiff's federally protected rights.

54.

As a direct and proximate result of Defendant's unlawful employment practices, Plaintiff has been embarrassed, humiliated and has suffered damage to her emotional health.

55.

Plaintiff thus seeks compensatory and punitive damages pursuant to §102(a)(1) of the Civil Rights Act of 1991.

**CLAIMS FOR RELIEF BASED ON
DISCRIMINATION ON ACCOUNT OF AN ACTUAL OR PERCEIVED
DISABILITY AND/OR FAILURE TO ACCOMMODATE IN VIOLATION
OF THE AMERICANS WITH DISABILITIES ACT (“ADA”)**

56.

Plaintiff re-alleges the preceding paragraphs as if set forth fully herein.

57.

Plaintiff has a known history of posterior tibial tendonitis and tendon dysfunction.

58.

Plaintiff's medical conditions substantially limited one or more of her major life activities without reasonable accommodation.

59.

Defendant perceived that Plaintiff's medical condition limited one or more of her major life activities and regarded her as having a disability but refused to provide her with reasonable accommodation even though to do so would not impose an undue hardship.

60.

At all times relevant to this action, Plaintiff was a qualified individual with a known or perceived disability as defined in the ADA.

61.

Defendant refused to accommodate Plaintiff, and did not engage in the interactive process to determine if an accommodation was warranted.

62.

As a direct and proximate result of Defendant's unlawful conduct, Plaintiff has suffered emotional pain and suffering, inconvenience, mental anguish, loss of enjoyment of life, and other past and future pecuniary and non-pecuniary losses.

63.

Defendant, therefore, violated the ADA and is thus liable for the damages resulting from this violation.

64.

Accordingly, Plaintiff seeks compensatory and punitive damages pursuant to 42 U.S.C. § 12117 and 42 U.S.C. § 1981(a).

VII. STATE LAW CLAIMS FOR RELIEF
NEGLIGENT AND WRONGFUL
HIRING, RETENTION AND SUPERVISION

65.

Plaintiff re-alleges the preceding paragraphs as if set forth fully herein.

66.

Defendant knew, or in the exercise of ordinary diligence, should have known of the propensity of its employees to engage in sexually offensive conduct toward other employees, and Louveina Nipple in particular.

67.

Defendant nevertheless failed and refused to act to protect Louveina Nipple.

68.

Defendant is thus liable to Louveina Nipple for all of the damages sustained as a result.

NEGLIGENT FAILURE TO PREVENT SEXUAL HARASSMENT

69.

Plaintiff re-alleges the preceding paragraphs as if set forth fully herein.

70.

Defendant had a duty to prevent sexual harassment in the workplace.

71.

Defendant failed to use ordinary care to prevent sexual harassment in the workplace, causing Louveina Nipple to be sexually harassed.

72.

The conduct of Defendant was consciously or recklessly indifferent to the inevitable or probable consequences of its conduct in failing to remedy the harassment.

73.

Defendant is thus liable to Louveina Nipple for all of the damages sustained as a result.

INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

74.

Defendant's conduct was extreme and outrageous.

75.

Defendant intended to inflict severe emotional distress or knew that it was a high probability that the conduct would do so.

76.

Defendant's conduct actually caused severe emotional distress.

77.

Defendant is liable for all general and special damages proximately resulting from the intentional infliction of emotional distress.

VIII. PRAYER FOR RELIEF

78.

WHEREFORE, Plaintiff respectfully requests that this Court GRANT judgment as follows:

- (a) General damages for mental and emotional suffering caused by Defendant's misconduct;
- (b) Punitive damages based on Defendant's willful, malicious, intentional, and deliberate acts, including ratification, condonation and approval of said acts;
- (c) Special damages and/or liquidated damages for lost wages and benefits and prejudgment interest thereon;
- (d) Reasonable attorney's fees and expenses of litigation;
- (e) Trial by jury as to all issues;
- (f) Prejudgment interest at the rate allowed by law;
- (g) Declaratory relief to the effect that Defendant Jameson Inns has violated Plaintiff's statutory rights;

- (h) Injunctive relief of reinstatement, or front pay in lieu thereof, and prohibiting Defendant Jameson Inns from further unlawful conduct of the type described herein; and
- (i) All other relief to which he may be entitled.

Respectfully submitted the 29th day of April, 2013.

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