

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

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EMILY FELICIANO,

Plaintiff,

-v.-

STARBUCKS CORPORATION d/b/a STARBUCKS
COFFEE COMPANY and ANTHONY NUNEZ,

Defendants,
-----X

:
: Index No.
:

: SUMMONS
:

: Venue is based on Defendants'
: place of business at 41 Union
: Square West, New York, NY
: 10003

Plaintiff designates New York County as the place of Trial.

TO: THE ABOVE-NAMED DEFENDANT

YOU ARE HEREBY SUMMONED to answer the complaint in this action and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance on the plaintiffs' attorney within twenty (20) days after the service of this summons, exclusive of the date of service (or within thirty days after the service is complete if this summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

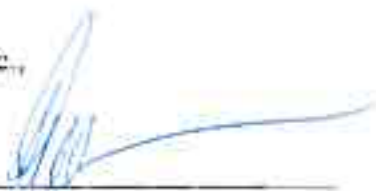
Defendants' Addresses:

STARBUCKS CORPORATION,
41 Union Square West, New York, NY, 10003

ANTHONY NUNEZ
41 Union Square West, New York, NY, 10003

Dated: New York, New York
February 28, 2014

Yours, etc.,



EISENBERG & BAUM, LLP
Attorneys for Plaintiff
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New York, New York 10003
(212) 353-8700

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

EMILY FELICIANO,

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-v.-

STARBUCKS CORPORATION d/b/a STARBUCKS
COFFEE COMPANY and ANTHONY NUNEZ,

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Index No.

VERIFIED COMPLAINT

Venue is based on Defendants'
place of business at 41 Union
Square West, New York, NY
10003

Plaintiff EMILY FELICIANO, by her attorneys, EISENBERG & BAUM, LLP, as and
for her Verified Complaint against Defendants, states as follows:

THE PARTIES

1. Plaintiff EMILY FELICIANO is an individual residing at New York County,
New York.

2. Defendant STARBUCKS CORPORATION d/b/a STARBUCKS COFFEE
COMPANY ("Starbucks") is a foreign corporation organized under the laws of the State of
Washington with its principal place of business in Seattle, Washington and is duly registered to
do business, and is actively doing business, in the State of New York, and maintains retail
premises at 41 Union Square West, New York, NY, 10003.

3. Defendant ANTHONY NUNEZ is an assistant manager of Defendant Starbucks
at its Union Square West retail location.

JURISDICTION AND VENUE

4. This Court has personal jurisdiction over the Defendants pursuant to C.P.L.R.
§§301 and 302, because the Defendants are located in New York, reside in New York, are
licensed to do business in New York and are transacting business in New York.

5. Venue is proper pursuant to C.P.L.R. §503 based on the location of Defendant Starbucks' place of business.

BACKGROUND

6. Ms. Feliciano was hired by Starbucks in August 2013 and has been employed as a barista since then, earning a wage of \$9 per hour. This was her first serious full-time employment, and she was still living at home with her parents at the time. Her service to Starbucks over the past six months has been exemplary. However, despite her commitment to her work, the conditions at the Union Square West location became intolerable because of continuous sexual harassment by Defendant Nunez. The harassment by Defendant Nunez was ignored and condoned by Starbucks management.

7. The following is a summary of facts, including but not limited to, Defendant Nunez is Ms. Feliciano's superior and an assistant manager at Starbucks. Defendant Nunez began sexually harassing Ms. Feliciano in her first week of employment. He found her working hard washing dishes and made an obscene comment about being "wet."

8. Starbucks failed to offer Ms. Feliciano any training as to how to respond to sexual harassment, and being a very young woman just starting out in the working world, Ms. Feliciano was unable to protect herself from Nunez's advances, afraid that if she confronted Nunez she would be fired. Nunez told Ms. Feliciano she should call him "daddy" and repeatedly demanded that she have sexual intercourse with him. He then began demanding sexual and physical contact, in the form of "hugs," and made sexual comments to her on a daily basis, which created a hostile work environment.

9. At the Starbucks in question, there is a set of steps that leads from the store down to the basement. There is a door at the top of the steps and at the bottom of the steps. There is an

office behind the door at the bottom of the stairs. In October 2013, Defendant Nunez requested that Ms. Feliciano meet with Defendant Nunez in the basement office of the Starbucks. It was common for managers and assistant managers to request to speak with employees at this location if there was a need to discuss job performance privately rather than out in the open amongst other employees and patrons so Ms. Feliciano assumed Defendant Nunez, her assistant manager, needed to discuss her job performance. Instead, once Ms. Feliciano went to the basement office and sat down at the table, Defendant Nunez indicated to Ms. Feliciano that she was performing her job well and demanded that she give him a hug, which made Ms. Feliciano feel uncomfortable.

10. Defendant Nunez made sexual remarks towards Ms. Feliciano every time they worked together, and these remarks caused Ms. Feliciano to feel uncomfortable and uneasy.

11. During the first week of February 2014, Ms. Feliciano indicated to her supervisor, Defendant Nunez, that she was having stomach pains. Defendant Nunez asked Ms. Feliciano whether she was pregnant and stated that if she were pregnant, it meant that she allowed her boyfriend to "fuck her raw." Defendant Nunez then asked Ms. Feliciano whether she would allow him to "fuck her raw." Ms. Feliciano was disgusted, appalled and immediately walked away from the situation.

12. On Wednesday, February 12, 2014, Nunez sexually assaulted Ms. Feliciano and she was so terrorized and distraught that she raised the issue with another Starbucks assistant manager Maurice Morris who then relayed her concerns to assistant manager Jimmy Dimanche. After that, store manager Mark Venneri was also informed, as was the Starbucks Partner Resource Center.

13. On February 12, 2014, as Ms. Feliciano was on her lunch break, Nunez demanded to speak with her in the stairway. Nunez then trapped Ms. Feliciano in the stairway that had doors at both ends, and blocked her exit. He held her up against the wall against her will, embraced her against her will, rubbed his chest against her breasts, attempted to grope her and kissed her neck, all as she furiously tried to push him away from her and repeatedly demanded that he stop. Ms. Feliciano repeatedly told Nunez that he was making her feel "weird" and "uncomfortable" and demanded that she be allowed to leave, but Nunez continued to attack and sexually assault her. He stated that she had been late to work on several occasions but that he has not said anything about the tardiness because he liked her very much and continued his sexual advances. He then stated that he would not let her leave until she said that she would "fuck" him. This incident lasted approximately 3-5 minutes and ended only when Ms. Feliciano began screaming. At that point Nunez finally released the stairway door and allowed her to leave.

14. After Ms. Feliciano made complaints to Starbucks's management about Nunez's conduct, no disciplinary action whatsoever was taken against him.

15. On February 19, 2014, Ms. Feliciano was working at the location and she attempted to monitor Nunez's whereabouts so that she would not be in a situation where the two of them were alone. Prior to taking her break, she waited for Nunez to return from the basement office. Once he came up the steps from the basement office, Ms. Feliciano descended down the stairs. Nunez followed Ms. Feliciano into the stairwell, even though she had been doing all she could to avoid him, and demanded sex and tried to embrace her. She repeatedly told him "no" and to get away from her.

16. Ms. Feliciano escaped Nunez's attack and locked herself in the employee bathroom on the premises to remain safe and away from Nunez and she called her assistant

manager, Jimmy Dimanche, to notify him about the attack. While she was still in the bathroom, Mark Venneri, the store manager, called her and berated Ms. Feliciano for continuing to talk about Nunez's attack. Ms. Feliciano explained to Mark Venneri that Nunez had attacked her again just moments before, but Mark Venneri yelled at Ms. Feliciano and asked she was discussing the harassment with other employees. Mark Venneri then told Ms. Feliciano not to speak about the incidents with other people and that he would handle the situation. Mark Venneri, however, failed to take any action based on Ms. Feliciano's previous complaints to him.

17. Ms. Feliciano then concluded that her workplace was no longer safe and fled Starbucks. She has yet to return, having not received any assurances from Starbucks that Nunez has been removed from the workplace. After fleeing, Nunez made repeated harassing phone calls to Ms. Feliciano in which he admitted his wrongdoing and begged Ms. Feliciano not to move forward with her complaint against him so that he would not lose his job.

AS AND FOR A FIRST CAUSE OF ACTION

(Sexual Harassment, Quid Pro Quo and Hostile Workplace – Against Both Defendants)

18. Plaintiff repeats, reiterates and re-alleges each and every allegation set forth in paragraphs numbered "1" through "17" as if set forth more fully and at length herein.

19. Section 296.1(a) of the New York Human Rights Law, N.Y. Exec. Law § 290 *et seq.*, and Title 8 of the New York City Administrative Code, §8-107, prohibit sexual harassment in employment. Defendants' actions as described herein violated those provisions.

20. Plaintiff deserved to retain her employment with Starbucks and did not do anything to merit discharge or discipline. Nevertheless, Starbucks denied Plaintiff the benefit of employment, including all favorable conditions and emoluments thereof and created and allowed to exist a hostile, intolerable workplace imposed upon her by the conduct of its employees and managers, of which it was well aware and without any non-discriminatory basis therefor.

21. Ms. Feliciano was propositioned in a quid pro quo manner when Defendant Nunez indicated to her that she had not been written up for being tardy.

22. Starbucks's actions were taken under circumstances giving rise to an inference of discrimination. Nunez's actions were taken within the scope of his employment while both he and Ms. Feliciano were at work on duty.

23. As a direct and proximate result of Starbucks's discriminatory conduct, Plaintiff suffered adverse employment consequences. Plaintiff was caused to endure severe emotional pain and trauma, all to her detriment.

AS AND FOR A SECOND CAUSE OF ACTION
(False Imprisonment – Against Both Defendants)

24. Plaintiff repeats, reiterates and re-alleges each and every allegation set forth in paragraphs numbered "1" through "23" as if set forth more fully and at length herein.

25. As described above, Nunez intended to confine Ms. Feliciano, she was conscious of her confinement and did not consent to it, and the confinement was not otherwise privileged. Nunez's actions were taken within the scope of his employment while both he and Ms. Feliciano were at work on duty.

26. As a result of this confinement, Ms. Feliciano incurred severe emotional distress.

AS AND FOR A THIRD CAUSE OF ACTION
(Intentional Infliction of Emotional Distress – Against Both Defendants)

27. Plaintiff repeats, reiterates and re-alleges each and every allegation set forth in paragraphs numbered "1" through "26" as if set forth more fully and at length herein.

28. As described above, Defendant Nunez intended to inflict extreme emotional distress upon Ms. Feliciano, Nunez's actions were taken within the scope of his employment, and Ms. Feliciano did in fact sustain such distress.

AS AND FOR A FOURTH CAUSE OF ACTION
(Assault and Battery – Against Both Defendants)

29. Plaintiff repeats, reiterates and re-alleges each and every allegation set forth in paragraphs numbered “1” through “28” as if set forth more fully and at length herein.

30. Defendant Nunez inflicted unwanted violent sexually-oriented touching and striking upon the person of Ms. Feliciano, Nunez’s actions were taken within the scope of his employment, and placed her in immediate fear of receiving such attacks.

31. As a direct and proximate result of these attacks and threats of attacks, Ms. Feliciano was caused to suffer extreme emotional trauma, all to her detriment.

WHEREFORE, Plaintiff demands judgment as follows:

- i. On the First Cause of Action a judgment against Defendants and an award of compensatory damages for back pay, front pay, past and future employment benefits, damages for emotional distress, punitive and/or exemplary damages, attorneys’ fees, pre and post-judgment interest, in an amount, in excess of the jurisdictional limits of any other court, to be determined at trial by the jury, and such further relief as this Honorable Court deems just, equitable and proper;
- ii. On the Second Cause of Action a judgment against Defendants and an award of compensatory damages for back pay, front pay, past and future employment benefits, damages for emotional distress, punitive and/or exemplary damages, attorneys’ fees, pre and post-judgment interest, in an amount, in excess of the jurisdictional limits of any other court, in an amount to be determined at trial by the jury, and such further relief as this Honorable Court deems just, equitable and proper.

- iii. On the Third Cause of Action a judgment against Defendants and an award of compensatory damages for back pay, front pay, past and future employment benefits, damages for emotional distress, punitive and/or exemplary damages, attorneys' fees, pre and post-judgment interest, in an amount, in an amount, in excess of the jurisdictional limits of any other court, to be determined at trial by the jury, and such further relief as this Honorable Court deems just, equitable and proper;
- iv. On the Fourth Cause of Action a judgment against Defendants and an award of compensatory damages for back pay, front pay, past and future employment benefits, damages for emotional distress, punitive and/or exemplary damages, attorneys' fees, pre and post-judgment interest, in an amount, in excess of the jurisdictional limits of any other court, in an amount to be determined at trial by the jury, and such further relief as this Honorable Court deems just, equitable and proper;
- v. Enter a declaratory judgment, stating that Defendants' practices, policies and procedures have subjected Plaintiff to discrimination in violation of Section 296.1(a) of the New York Human Rights Law, N.Y. Exec. Law § 290 *et seq.*, and Title 8 of the New York City Administrative Code, §§8-107;
- vi. Enter a permanent injunction ordering Defendant:
 - a. To abstain from any and all further incidents of such conduct against Plaintiff and other employees;

- b. To promulgate and comply with policies and procedures to ensure that Defendant and its staff abstain from any and all further incidents of such conduct other employees;
- c. To train all of Defendant's employees with proper information on how to maintain a safe workplace free from harassment.


JURY DEMAND

Plaintiff demands a jury trial on all issues so triable.

Dated: New York, New York
February __, 2014

EISENBERG & BAUM, LLP

By: _____


Eric M. Baum, Esq.
Attorneys for Plaintiff Emily Feliciano
Office and Post Office Address
24 Union Square East
Fourth Floor
New York, NY 10003
(212) 353-8700

VERIFICATION

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

The undersigned, EMILY FELICIANO, shows:

Deponent is EMILY FELICIANO, Plaintiff in the above-entitled action.

Deponent has read the foregoing Verified Complaint dated February __, 2014, and states that, to deponent's knowledge, the same is true except as to matters herein stated to be alleged upon information and belief; as to those matters, deponent believes them to be true.

The undersigned affirms that the foregoing statements are true, under the penalties of perjury.

Dated: February 28, 2014



EMILY FELICIANO

Sworn to before me this
28 day of February, 2014



NOTARY PUBLIC

DANIEL STUDIO
Notary Public - State of New York
No. 0251628699
Qualified in New York County
My Comm. Expires Aug. 25, 2017

Index:

Year:

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SUMMONS and COMPLAINT

EISENBERG & BAUM, LLP

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Office & P.O. Address
24 Union Square East, 4th Fl.
New York, New York 10003
(212) 353-8700

Signature (Rule 130-1.1-a)


Eric M. Baum

Service of a copy of the within
Dated:

is hereby admitted.

.....
Attorney(s) for

PLEASE TAKE NOTICE

*that the within is a (certified) true copy of a
NOTICE OF
ENTRY* *duly entered in the office of the clerk of the within court on*

*that an Order of which the within is a true copy will be presented for settlement to the Hon.
NOTICE OF
SETTLEMENT* *at on*

DATED: