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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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U.S. DISTRICT COURT
EASTERN DISTRICT
OF NEW YORK

-----X Case No.
ALEXANDRA MITROPOULOS,

Plaintiff, **COMPLAINT**

-against-

AVLEE GREEK KITCHEN, and
PETER ROGAKOS, *Individually,*

**PLAINTIFF DEMANDS
A TRIAL BY JURY**

GERSHON, J.

Defendants.

ORENSTEIN, M.J.

-----X
Plaintiff, ALEXANDRA MITROPOULOS, by her attorneys, PHILLIPS & ASSOCIATES, Attorneys at Law, PLLC, hereby complains of the Defendants, upon information and belief, as follows:

NATURE OF THE CASE

1. Plaintiff complains pursuant to Title VII of the Civil Rights Act of 1964, as codified, 42 U.S.C. §§ 2000e to 2000e-17 (amended in 1972, 1978 and by the Civil Rights Act of 1991, Pub. L. No. 102-166 ("Title VII") and the New York City Human Rights Law, Administrative Code §8-107 *et seq.* ("NYCHRL"), and seeks damages to redress the injuries she has suffered as a result of being **Sexually Battered**, **Sexually Harassed**, and **Discriminated Against on the Basis of Gender** by her employer.

JURISDICTION AND VENUE

2. Jurisdiction of this Court is proper under 42 U.S.C. §2000e-5(f)(3), and 28 U.S.C. §§1331 and 1343.
3. The Court has supplemental jurisdiction over the claims of Plaintiff brought under state

law pursuant to 28 U.S.C. §1367.

4. Venue is proper in this district pursuant to 28 U.S.C. §1391(b) based upon Defendants' principal place of business within the Eastern District of New York.

PROCEDURAL PREREQUISITES

5. Plaintiff filed charges of discrimination upon which this Complaint is based with the Equal Employment Opportunities Commission ("EEOC").
6. Plaintiff received a Notice of Right to Sue from the EEOC, dated July 30, 2014, with respect to the herein charges of discrimination. A copy of the Notice is annexed hereto.
7. This Action is being commenced within ninety (90) days of receipt of said Right to Sue.

PARTIES

8. That at all times relevant hereto, Plaintiff ALEXANDRA MITROPOULOS ("MITROPOULOS") was a resident of the State of New York and the County of Kings.
9. That at all times relevant hereto, Defendant AVLEE GREEK KITCHEN ("AVLEE") was a domestic business organization, duly organized and existing under, and by virtue of, the laws of the State of New York, with offices located at 349 Smith Street, Brooklyn, New York 11231.
10. That at all times relevant hereto, Defendant AVLEE owns and operates a Greek restaurant with the same name, located at 349 Smith Street, Brooklyn, New York 11231.
11. That at all times relevant hereto, Plaintiff MITROPOULOS was an employee of Defendant AVLEE.
12. That at all times relevant hereto, Defendant PETER ROGAKOS ("ROGAKOS") was an employee of Defendant AVLEE, holding the position of "Owner."

13. That at all times relevant hereto, Defendant ROGAKOS was Plaintiff MITROPOULOS's supervisor and had supervisory authority over Plaintiff MITROPOULOS.
14. That at all times relevant hereto, Defendant AVLEE and Defendant ROGAKOS are collectively referred to herein as "Defendants."

MATERIAL FACTS

15. In or about early-September 2013, Plaintiff MITROPOULOS, who was only twenty (20) years old, decided to ask Defendant ROGAKOS, an old friend of her late father, for a job at his restaurant, Defendant AVLEE. Defendant ROGAKOS offered Plaintiff MITROPOULOS a job as a "Waitress" and Plaintiff MITROPOULOS happily accepted.
16. As such, on or about September 7, 2013, Plaintiff MITROPOULOS began working for Defendants as a "Waitress," earning approximately \$10.00 per hour plus tips.
17. At all times relevant hereto, Plaintiff MITROPOULOS was an exemplary employee, was never disciplined, and always received compliments for her work performance.
18. However, during her employment, **Plaintiff MITROPOULOS was also sexually harassed and sexually battered by her supervisor, Defendant ROGAKOS, solely due to Plaintiff MITROPOULOS's gender (female)**, creating an extremely hostile and intimidating work environment.
19. By way of example, on Plaintiff MITROPOULOS's second day, on or about September 8, 2013, as Plaintiff MITROPOULOS was helping to organize Defendant ROGAKOS's office, **she found a pair of woman's thong underwear**. Although Plaintiff MITROPOULOS thought that this was rather strange, she decided not to say anything.
20. On or about September 9, 2013, Defendant ROGAKOS awkwardly told Plaintiff MITROPOULOS that she has **"nice cleavage."** Plaintiff MITROPOULOS was

extremely uncomfortable and offended by this inappropriate comment, but was hoping it was simply a one-time occurrence. Unfortunately, she was very wrong.

21. At end of the same day, after all the other employees had already left, Defendant ROGAKOS suddenly offered Plaintiff MITROPOULOS an alcoholic drink. This was extremely suspicious to Plaintiff MITROPOULOS, as Plaintiff MITROPOULOS was only twenty (20) years old and could not even legally drink alcohol. As such, she politely declined his offer.
22. Shockingly, Defendant ROGAKOS then asked her, **“Is it bad that I want you sexually? I see that you are wearing a pink bra. What color underwear are you wearing?”** Absolutely stunned by this forward sexual advance, Plaintiff MITROPOULOS asked Defendant ROGAKOS to stop all his offensive remarks. However, Defendant ROGAKOS nevertheless continued to subject Plaintiff MITROPOULOS to sexual harassment.
23. In fact, Defendant ROGAKOS even started to **caress and pull Plaintiff MITROPOULOS’s hair** and even tried to **kiss her on the lips**. Even though Plaintiff MITROPOULOS continuously told him that she was not interested, Defendant ROGAKOS nonetheless continued to beg Plaintiff MITROPOULOS to kiss him. Plaintiff MITROPOULOS was so disgusted and intimidated by his sexual advances, she immediately pulled away from him and left the restaurant.
24. Outrageously, less than an hour later, on or about September 9, 2013 at 11:39 pm, Defendant ROGAKOS sent Plaintiff MITROPOULOS a text message stating, “Tell me you are home and safe. I should of drove you home,” to which Plaintiff MITROPOULOS replied, “No I’m home. **You can never try and kiss me again**. I’m engaged and it’s just

not how it should be. I respect ur wife and kids.”

25. In response, Defendant ROGAKOS wrote, “I understand. Waiting for you,” to which Plaintiff MITROPOULOS asked, “waiting for me for what?”

26. As if he couldn’t get any creepier, Defendant ROGAKOS then sent Plaintiff MITROPOULOS a text message stating, **“To enjoy you.”**

27. Plaintiff MITROPOULOS immediately told him, **“Stop. Please don’t ever try and kiss me again.** I stay faithful. I love my fiancé,” to which Defendant ROGAKOS responded, **“I will never but you can kiss me when you want.”** Plaintiff MITROPOULOS was shocked by Defendant ROGAKOS’s sexual harassment and his refusal to put an end to it.

28. Accordingly, Plaintiff MITROPOULOS replied, “Peter for real it was way **out of line.** I thought u had way more respect for my father. **Pulling my hair when I told you don’t cross that line come on.**” At this time, Plaintiff MITROPOULOS realized that Defendant ROGAKOS didn’t see her as a regular employee and instead viewed her as a sexual object. It also became clear to Plaintiff MITROPOULOS that Defendant ROGAKOS had no intention of ending the sexually harassing and hostile work environment to which he subjected Plaintiff MITROPOULOS.

29. The following day, on or about September 10, 2013, since **Plaintiff MITROPOULOS was too fearful to even go back to work,** Plaintiff MITROPOULOS’s fiancé went to Defendants’ restaurant and told Defendant ROGAKOS that Plaintiff MITROPOULOS was resigning from her position due to his horrendous sexual harassment.

30. In response, Defendant ROGAKOS simply started making excuses for his behavior and handed Plaintiff MITROPOULOS’s fiancé \$420.00 in cash for her wages.

31. Then, also on or about September 10, 2013, in response to an email from Plaintiff

MITROPOULOS's mother concerning his despicable sexual harassment, Defendant ROGAKOS simply said, **"I cannot express to you how disgusted I am at my behavior. I cannot apologize to her fiancé enough. This has made me realize I have a drinking problem. You are absolutely correct. I am a piece of shit."**

32. Later that same day, Plaintiff MITROPOULOS filed an incident report with the 76th Precinct of the NYPD concerning Defendant ROGAKOS's sexual battery.
33. In sum, on or about September 10, 2013, Plaintiff MITROPOULOS notified Defendants that due to Defendant ROGAKOS's unlawful sexual harassment and sexual battery, she felt she had no choice but to resign from her position.
34. Plaintiff MITROPOULOS has been degraded, humiliated and violated in the worst possible ways at the hands of Defendant ROGAKOS.
35. Plaintiff MITROPOULOS felt that any ordinary person in her shoes would have felt compelled to resign from her employment.
36. Plaintiff MITROPOULOS was subjected to such a discriminatory, hostile and abusive work environment that no reasonable person in Plaintiff MITROPOULOS's shoes should or could be expected to endure.
37. **As a result of the patently and brazenly illegal behavior described herein, as well as Defendant ROGAKOS's own admissions, Plaintiff MITROPOULOS was thus constructively discharged from her employment with Defendants, effective on or about September 10, 2013.**
38. Plaintiff MITROPOULOS felt offended, disturbed, and humiliated by the illegal sexual harassment and sexual battery.
39. Defendants created a hostile working environment, which unreasonably interfered with

Plaintiff MITROPOULOS's work environment.

40. Plaintiff MITROPOULOS began to suffer severe anxiety and depression as a result of Defendant ROGAKOS's sexual harassment and sexual battery.

41. **Plaintiff MITROPOULOS was treated differently (sexually harassed and battered) by a supervisor, Defendant ROGAKOS, solely due to her gender (female).**

42. But for the fact that Plaintiff MITROPOULOS is a female, Defendant ROGAKOS would not have treated her differently (sexually harassed and battered her).

43. Defendant ROGAKOS's actions were unsolicited, unwelcome and offensive.

44. Defendants thus constructively terminated Plaintiff MITROPOULOS's employment because of her gender (female).

45. Plaintiff MITROPOULOS has been unlawfully sexually harassed, discriminated against, humiliated, degraded, and belittled, and as a result, suffers loss of rights, emotional distress, loss of income, earnings and physical injury.

46. Defendants' actions and conduct were intentional and intended to harm Plaintiff MITROPOULOS.

47. **Defendant ROGAKOS took advantage of the situation and the power he held over Plaintiff MITROPOULOS by forcibly sexually battering and harassing her.**

48. The above are just some of the acts of sexual harassment and discrimination that Plaintiff MITROPOULOS experienced on a regular basis while employed by Defendants.

49. Defendant AVLEE had knowledge of and/or acquiesced in the sexual harassment and sexual battery by Defendant ROGAKOS, as Defendant ROGAKOS is the Owner of Defendant AVLEE.

50. Plaintiff MITROPOULOS's performance was, upon information and belief, above

average during the course of her employment with Defendants.

51. As a result of Defendants' actions, Plaintiff MITROPOULOS feels extremely humiliated, degraded, victimized, embarrassed, and emotionally distressed.

52. As a result of the Defendants' discriminatory and intolerable treatment of Plaintiff MITROPOULOS, Plaintiff MITROPOULOS has suffered severe emotional distress and physical ailments.

53. As a result of the acts and conduct complained of herein, Plaintiff MITROPOULOS has suffered a loss of income, the loss of a salary, bonus, benefits, and other compensation which such employment entails, and Plaintiff MITROPOULOS has also suffered future pecuniary losses, emotional pain, suffering, inconvenience, loss of enjoyment of life, and other non-pecuniary losses. Plaintiff MITROPOULOS has further experienced severe emotional and physical distress.

54. As a result of the above, Plaintiff MITROPOULOS has been damaged in an amount which exceeds the jurisdiction limits of the Court.

55. Defendants' conduct has been malicious, willful, outrageous, and conducted with full knowledge of the law. As such, Plaintiff MITROPOULOS demands Punitive Damages as against both Defendants, jointly and severally.

**AS A FIRST CAUSE OF ACTION
FOR DISCRIMINATION UNDER TITLE VII
(Not Against Individual Defendant)**

56. Plaintiff repeats and realleges each and every allegation made in the above paragraphs of this complaint.

57. This claim is authorized and instituted pursuant to the provisions of Title VII of the Civil Rights Act of 1964, 42 U.S.C. Section(s) 2000e et seq., for relief based upon the unlawful

employment practices of the above-named Defendants. Plaintiff complains of Defendants' violation of Title VII's prohibition against discrimination in employment based, in whole or in part, upon an employee's gender (sexual harassment).

58. Defendants engaged in unlawful employment practices prohibited by 42 U.S.C. §2000e et seq., by discriminating against Plaintiff because of her gender (sexual harassment).

**AS A SECOND CAUSE OF ACTION FOR DISCRIMINATION
UNDER THE NEW YORK CITY ADMINISTRATIVE CODE**

59. Plaintiff repeats, reiterates and realleges each and every allegation made in the above paragraphs of this Complaint as if more fully set forth herein at length.

60. The New York City Administrative Code §8-107 (1) provides that, "It shall be an unlawful discriminatory practice: (a) For an employer or an employee or agent thereof, because of the actual or perceived age, race, creed, color, national origin, gender, disability, marital status, sexual orientation or alienage or citizenship status of any person, to refuse to hire or employ or to bar or to discharge from employment such person or to discriminate against such person in compensation or in terms, conditions or privileges of employment."

61. Defendants violated the section cited herein as set forth by discriminating against Plaintiff because of her gender (sexual harassment).

**AS A THIRD CAUSE OF ACTION FOR DISCRIMINATION
UNDER THE NEW YORK CITY ADMINISTRATIVE CODE**

62. Plaintiff repeats, reiterates and realleges each and every allegation made in the above paragraphs of this Complaint as if more fully set forth herein at length.

63. The New York City Administrative Code §8-107(6) provides that it shall be unlawful

discriminatory practice: “For any person **to aid, abet, incite, compel, or coerce** the doing of any of the acts forbidden under this chapter, or attempt to do so.”

64. Defendant ROGAKOS engaged in an unlawful discriminatory practice in violation of New York City Administrative Code §8-107(6) by aiding, abetting, inciting, compelling and coercing the above discriminatory and unlawful conduct.

**AS A FOURTH CAUSE OF ACTION FOR DISCRIMINATION
UNDER THE NEW YORK CITY ADMINISTRATIVE CODE**

65. Plaintiff repeats, reiterates and realleges each and every allegation made in the above paragraphs of this Complaint as if more fully set forth herein at length.
66. The New York City Administrative Code §8-107(13) **Employer liability** for discriminatory conduct by employee, agent or independent contractor.
- a. An employer shall be liable for an unlawful discriminatory practice based upon the conduct of an employee or agent which is in violation of any provision of this section other than subdivisions one and two of this section.
 - b. An employer shall be liable for an unlawful discriminatory practice based upon the conduct of an employee or agent which is in violation of subdivision one or two of this section only where:
 - i. the employee or agent exercised managerial or supervisory responsibility; or
 - ii. the employer knew of the employee's or agent's discriminatory conduct, and acquiesced in such conduct or failed to take immediate and appropriate corrective action; an employer shall be deemed to have

knowledge of an employee's or agent's discriminatory conduct where that conduct was known by another employee or agent who exercised managerial or supervisory responsibility; or

iii. the employer should have known of the employee's or agent's discriminatory conduct and failed to exercise reasonable diligence to prevent such discriminatory conduct.

c. An employer shall be liable for an unlawful discriminatory practice committed by a person employed as an **independent contractor**, other than an agent of such employer, to carry out work in furtherance of the employer's business enterprise only where such discriminatory conduct was committed in the course of such employment and the employer had actual knowledge of and acquiesced in such conduct.

67. Defendants violated the section cited herein as set forth.

**AS A FIFTH CAUSE OF ACTION FOR
ASSAULT AND BATTERY**

68. Plaintiff repeats, reiterates and realleges each and every allegation made in the above paragraphs of this Complaint as if more fully set forth herein at length.

69. That the aforesaid occurrences and resultant injuries to Plaintiff were caused by reason of the intent, carelessness and recklessness of Defendants, their agents, servants and/or employees, suddenly and without provocation did physically assault and batter Plaintiff herein and did cause unwelcome contact, causing the Plaintiff to sustain damages.

70. Defendants violated the section cited herein as set forth.

71. That as a direct result of the foregoing, Plaintiff has been damaged in an amount, which

exceeds the jurisdictional limits of all lower Courts.

JURY DEMAND

72. Plaintiff requests a jury trial on all issues to be tried.

WHEREFORE, Plaintiff respectfully requests a judgment against the Defendants:

- A. Declaring that Defendants engaged in unlawful employment practices prohibited by Title VII and the NYCHRL, in that Defendants discriminated against Plaintiff due to her gender, sexually battered Plaintiff, and sexually harassed Plaintiff;
- B. Awarding damages to Plaintiff for all lost wages and benefits resulting from Defendants' unlawful sexual harassment and discrimination and to otherwise make her whole for any losses suffered as a result of such unlawful employment practices;
- C. Awarding Plaintiff compensatory damages for mental, emotional and physical injury, distress, pain and suffering and injury to her reputation in an amount to be proven;
- D. Awarding Plaintiff punitive damages;
- E. Awarding Plaintiff attorneys' fees, costs, and expenses incurred in the prosecution of the action; and
- F. Awarding Plaintiff such other and further relief as the Court may deem equitable, just and proper to remedy Defendants' unlawful employment practices.

Dated: New York, New York
September 16, 2014

**PHILLIPS & ASSOCIATES,
ATTORNEYS AT LAW, PLLC**

By:

A handwritten signature in black ink, appearing to read 'Alex Umansky', written over a horizontal line.

Alex Umansky, Esq.
Attorneys for Plaintiff
45 Broadway, Suite 620
New York, New York 10006
(212) 248-7431
aumansky@tpglaws.com

EEOC Form 161 (11/09)

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DISMISSAL AND NOTICE OF RIGHTS

To: Alexandra Mitropoulos
23 Wilkeshire Boulevard
Randolph, NJ 07869

From: New York District Office
33 Whitehall Street
5th Floor
New York, NY 10004

On behalf of person(s) aggrieved whose identity is
CONFIDENTIAL (29 CFR §1601.7(a))

EEOC Charge No. 520-2014-02549
EEOC Representative Maritza Rondon-Velazquez, Investigator
Telephone No. (212) 336-3678

THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:

- The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.
Your allegations did not involve a disability as defined by the Americans With Disabilities Act.
The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.
Your charge was not timely filed with EEOC; in other words, you waited too long after the date(s) of the alleged discrimination to file your charge.
[X] The EEOC issues the following determination: Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.
The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.
Other (briefly state)

- NOTICE OF SUIT RIGHTS -

(See the additional information attached to this form.)

Title VII, the Americans with Disabilities Act, the Genetic Information Nondiscrimination Act, or the Age Discrimination in Employment Act: This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit must be filed WITHIN 90 DAYS of your receipt of this notice; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

Equal Pay Act (EPA): EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.

On behalf of the Commission

Kevin J. Berry, District Director

7/30/14 (Date Mailed)

Enclosures(s)

cc: Director of Human Resources
AVLEE GREEK KITCHEN
349 Smith Street
Brooklyn, NY 11231

Jeffrey T. Rosenberg, Esq.
PHILLIPS & ASSOCIATES, ATTORNEYS AT LAW, PLLC
45 Broadway, Suite 620
New York, NY 10006