

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

Index No.:

-----X  
PAKO MIKEL and DENISE KLERX,

Plaintiff,

-against-

**SUMMONS**

Venue is based on  
Defendant's Principal  
Place of Business  
19 East 57<sup>th</sup> Street,  
NY, NY

GUERLAIN, INC.

Defendant.

-----X  
To the above named Defendant:

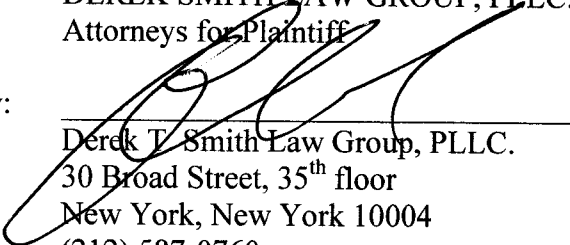
YOU ARE HEREBY SUMMONED to answer the complaint in this action and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance, on the Plaintiff's attorney within 20 days after the service of this summons, exclusive of the day of service (or within 30 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.

Dated: New York, New York

September 23, 2014

DEREK SMITH LAW GROUP, PLLC.  
Attorneys for Plaintiff

By:

  
Derek T. Smith Law Group, PLLC.  
30 Broad Street, 35<sup>th</sup> floor  
New York, New York 10004  
(212) 587-0760

Defendant's Address:

GUERLAIN, INC.

-Via Secretary of State-

SUPREME COURT OF THE UNITED STATES  
COUNTY OF NEW YORK

-----X

PAKO MIKEL and DENISE KLERX,

Index No:

Plaintiff,

-against-

**COMPLAINT**

GUERLAIN, INC.

Defendants.

-----X

Plaintiffs, PAKO MIKEL and DENISE KLERX , by their attorneys, DEREK SMITH  
LAW GROUP, PLLC complain of Defendants upon information and belief as follows:

**NATURE OF THE CASE**

1. Plaintiffs complain pursuant to the New York City Human Rights Law, New York City Administrative Code § 8-502(a), *et. seq.* (“NYCHRL”), and seek damages to redress the injuries Plaintiffs have suffered as a result of being wrongfully terminated and retaliated against by their employer for complaining about sexual harassment.

**VENUE**

2. Venue is proper in that Defendants’ place of business is located in the State of New York, County of New York.

## PARTIES

3. Plaintiff PAKO MIKEL (hereinafter also referred to as "Plaintiff MIKEL") is an individual male who resides in the State of New York.
4. Plaintiff DENISE KLERX (hereinafter also referred to as "Plaintiff KLERX") is an individual woman who resides in the State of New York.
5. At all times material, Defendant GUERLAIN INC. (hereinafter also referred to as "GUERLAIN") is a domestic business corporation, duly existing pursuant to, and by virtue of, the laws of New York, with its principal place of business located at 19 East 57<sup>th</sup> Street New York, New York 10022.
6. At all times material, Defendant's employee HABIB RAHMEN (hereinafter also referred to as RAHMEN) is an individual man who resides in the State of New York.
7. At all times material, Plaintiffs were employees of Defendant GUERLAIN at SAKS 5<sup>th</sup> Avenue, a retail store located on 611 5<sup>th</sup> Avenue New York, New York 10022.
8. At all times material, GUERLAIN's employee Defendant RAHMEN and Plaintiffs were co-workers at Defendant GUERLAIN.
9. Defendant GUERLAIN is a luxury company that sells cosmetics and perfumes.
10. Defendant GUERLAIN is a subsidiary company of their international group, LVMH.
11. This case involves horrific acts of sexual harassment committed by RAHMEN against Plaintiff MIKEL and Plaintiff KLERX.

## MATERIAL FACTS

12. In or around August 2008, Plaintiff MIKEL was hired by GUERLAIN as a part-time Sales Specialist.
13. In or around June 2012, Plaintiff KLERX was hired by GUERLAIN as a freelance Sales Specialist.
14. In or around August 2012, Plaintiff KLERX started working for GUERLAIN as a full time Sales Specialist.
15. On or around July 4, 2013, RAHMEN, a newly hired make-up artist, started making inappropriate comments towards Plaintiff MIKEL. RAHMEN would talk about the size of his penis, sharing very graphic and unwanted details about his sexual life with Plaintiff MIKEL. Referring to his sexual partners, RAHMEN told Plaintiff MIKEL "If they have a bigger penis than mine, I like to get fucked all night but if it is smaller than mine, then I may fuck them." Plaintiff MIKEL was horrified and told RAHMEN that he did not want to hear about his sexual desires. RAHMEN ignored Plaintiff MIKEL and showed Plaintiff MIKEL the naked picture of RAHMEN's last "hookup" on his phone and said: "I love his ass."
16. Later that day, RAHMEN came up from behind Plaintiff MIKEL and grabbed Plaintiff MIKEL's waist and groped his buttocks. Plaintiff MIKEL was infuriated and shouted "Habib, you cannot do that!" RAHMEN walked away, laughing. This incident took place in front of Manager, Johan Nunez, who took no action against RAHMEN for this indecent behavior.
17. On the same day, Plaintiff MIKEL was talking with one of his coworkers, Plaintiff KLERX, by the front counter. RAHMEN came up from behind Plaintiff KLERX, put his hands under Plaintiff KLERX' skirt and stuck his finger in Plaintiff KLERX' genitals. Plaintiff KLERX

screamed and shouted at RAHMEN that he had “crossed the line.” Plaintiff KLERX then burst into tears. As Plaintiff MIKEL was trying to calm her down, Plaintiff KLERX told Plaintiff MIKEL that she felt extremely disrespected, insulted and violated and would not talk to RAHMEN ever again.

18. On another occasion, as Plaintiff MIKEL and Plaintiff KLERX were standing by the cash register, RAHMEN suddenly walked by Plaintiff MIKEL and grabbed Plaintiff MIKEL’s crotch. RAHMEN further groped and squeezed Plaintiff MIKEL’s genitals. Plaintiff MIKEL was horrified and pushed him away. Plaintiff MIKEL then tried to protect his genitals with his hands, fearing that RAHMEN would try to grab his genitals again. RAHMEN then took a cordless phone from the register, waved it in Plaintiff KLERX face, and said, referring to the size of Plaintiff MIKEL’s penis: “Oh my god! He is bigger than this phone!” Plaintiff MIKEL was in a state of shock and felt extremely ashamed and violated.
19. Following that incident, Plaintiff KLERX confessed to Plaintiff MIKEL that on or around June 21, 2013, RAHMEN had put his hands inside her blouse and fondled her breasts in front of the Manager Johan Nunez. Defendant RAHMEN then said to Johan Nunez “You should touch her boobs; they feel so nice and soft!” Instead of taking appropriate actions against RAHMEN, ManagerJohan Nunez smiled and merely replied “I cannot do that. I am her boss.”
20. RAHMEN could thus sexually harass and abuse whomever he wanted without having the fear of ever being written up by management or even terminated. Plaintiffs realized that they could never complain to their manager about this unwanted and devious sexual behavior by RAHMEN.
21. On many occasions, RAHMEN would show Plaintiff KLERX pictures of his penis on his

phone.

22. On or around July 8, 2013, RAHMEN tried to set Plaintiff KLERX up with his roommate. Against Plaintiff KLERX will, RAHMEN gave Plaintiff's number to his roommate who started calling Plaintiff KLERX to ask her out on dates. RAHMEN's roommate would also come by the store or register in the store to talk to her. Plaintiff would even get harassing phone calls at her department counter from RAHMEN's roommate. Plaintiff KLERX told RAHMEN that it had to stop but Defendant RAHMEN laughed and his roommate continued to harass Plaintiff KLERX.
23. On or around July 18, 2013, as soon as RAHMEN entered the store, he immediately started talking about sex with Chong Panda Yu, another employee of GUERLAIN, in front of Plaintiff MIKEL and other coworkers. RAHMEN explained to co-worker Chong Panda Yu that the night before, RAHMEN had a "bootie call" and had "the best sex of [his] life." RAHMEN further stated "I was fucked all night wonderfully." Co-worker of Defendant Chong Panda Yu added that she masturbated all night but was very loud and "had to be careful not to wake up [her] conservative sister who slept in the room next to [her]." Plaintiff MIKEL was very distraught and offended by this graphic and totally inappropriate conversation.
24. Later on that particular day, RAHMEN went by Plaintiff MIKEL and whispered in his ear that he thought about Plaintiff MIKEL all night while being "fucked by his bootie call." Plaintiff MIKEL became angry and said: "Get out of my face Habib!" RAHMEN started caressing Plaintiff MIKEL's tie and went from the knot all the way down while saying to Plaintiff MIKEL: "You will have me one day and you will like it. I am a great fuck, I can teach you a few things about sex." Manager Johan Nunez was walking by the register and

overheard the conversation. He then said to Plaintiff MIKEL and RAHMEN: "Okay you two, no more sex talk." Plaintiff MIKEL was mortified and ashamed to realize that his manager believed that he was actually taking part in the conversation.

25. Plaintiff MIKEL then saw RAHMEN caressing Manager Johan Nunez' tie, going from the knot, all the way down. RAHMEN then put his hands on Manager Johan Nunez' waist. Instead of telling him that his behavior was inappropriate, Manager Johan Nunez laughed and said to Defendant RAHMEN "Ok Habib, go get a client!" Johan Nunez, Plaintiffs' Manager was condoning RAHMEN's inappropriate sexually harassing behavior in the workplace.
26. A few hours later, RAHMEN went by the register and started making fun of Aisha Mati, another co-worker of both Plaintiffs. In front of Manager Nunez and other employees, RAHMEN moved his hands in a circular motion miming co-worker Aisha Mati's breasts. Again, Manager Johan Nunez did not take any action against RAHMEN and the abusive and inappropriate comments continued until the end of the day.
27. On or around July 27, 2013, co-worker Chon Panda Yu started talking to Plaintiff MIKEL about her sexual needs. By way of example, she told Plaintiff MIKEL that she had to masturbate a lot because she felt very lonely in New York. Plaintiff MIKEL could not take it anymore and said to Chong Panda Yu: "If you ever talk to me about sex again, I will report you to Saks, GUERLAIN and LVMH!" A few days later, co-worker Chong Panda Yu went to her Manager to complain about Plaintiff MIKEL. Co-worker Yu stated that Plaintiff MIKEL had threatened her and that she could not sleep for a few days as a result.
28. Co-worker Chong Panda Yu resigned from her position at GUERLAIN when Plaintiff MIKEL made a formal complaint to his superiors about the sexual harassment at Defendant

GUERLAIN.

29. On or around July 27, 2013, RAHMEN assaulted Plaintiff MIKEL once again. Defendant RAHMEN came extremely close to Plaintiff MIKEL's right side, mounted Plaintiff, humped Plaintiff's leg and raised his knee to rub Plaintiff MIKEL's crotch. Plaintiff MIKEL grabbed RAHMEN's knee and pushed him away while saying "Habib get off me now! That's it, I have had enough. I am going to report you and your filthy behavior." RAHMEN left with a smirk on his face.
30. On or around August 1, 2013, Kristal Marker, a Manager at GUERLAIN, approached Plaintiff MIKEL and asked him if everything was okay. Manager, Kristal Marker at Defendant GUERLAIN has known Plaintiff MIKEL for almost seven years and noticed that Plaintiff MIKEL was not acting himself lately. Plaintiff MIKEL did not reply for he was scared of losing his job if he complained about t RAHMEN and the incidents of sexual harassment. Throughout the day, Kristal Marker repeatedly asked Plaintiff MIKEL if something was wrong but Plaintiff MIKEL refused to speak, in fear of retaliation.
31. On or around August 9, 2013, Plaintiff MIKEL could not deal with the situation anymore and requested a meeting with his managers and supervisors: Johan Nunez, Kristal Marker and Marie-Line Patry, GUERLAIN's National Director of Fragrance and Beauty. As Plaintiff MIKEL started talking about the sexual harassment incidents and the abuse he had to endure from RAHMEN. Supervisor Patry interrupted Plaintiff MIKEL and started to act in an agitated manner, threatening Plaintiff MIKEL saying "We have many powerful attorneys. You try to do this and you'll see." Plaintiff MIKEL then mentioned that he had witnesses, such as Plaintiff KLERX. Supervisor Patry merely replied: "Oh! You think Denise is a witness? We'll see about that."



32. Supervisor Patry further said to Plaintiff MIKEL that he was not to come to the Sak's counter ever again and that he could not talk to Defendant GUERLAIN's employees. Without being given the opportunity to finish his story and present the facts as they occurred, Plaintiff MIKEL was terminated.
33. On that same day, Supervisor Patry went to Defendant GUERLAIN's counter at SAK's and brought chocolates to Plaintiff KLERX. Plaintiff KLERX had also complained to Human Resources a few days ago in regards to her being assaulted and sexually harassed by RAHMEN. Supervisor Patry began to inquire about Plaintiff KLERX' friendship with Plaintiff MIKEL. Supervisor Patry then said to Plaintiff KLERX, "Pako is a bad person and he disgusts me." Plaintiff KLERX found it very inappropriate for a supervisor to denigrate an employee in front of another coworker and reported it to Human Resources. Plaintiff KLERX was then allowed to take a week off to recover.
34. On or around September 4, 2013, Plaintiff KLERX resigned from her position at Defendant GUERLAIN. Plaintiff KLERX could no longer endure the abusive and hostile treatment.
35. On or around August 12, 2013, Plaintiff MIKEL tried to reach Amalia, the Human Resources Manager for GUERLAIN/ LVMH to request a meeting. Human Resource Manager Amalia returned Plaintiff MIKEL's call and stated that they could discuss the situation over the phone. Plaintiff MIKEL asked if the conversation was private and confidential since he noticed that she was on speakerphone. Human Resource Manager, Amalia replied that she wanted to take notes and that the conversation was private, which Plaintiff MIKEL believed to be untrue. Plaintiff MIKEL told Amalia about the meeting he had with Supervisor Patry and the fact that Plaintiff MIKEL was threatened and fired while making a formal complaint. Later on that day, Human Resources Manager Amalia called

Plaintiff MIKEL back and told Plaintiff MIKEL that he would receive one week severance pay and that his belongings would be delivered by messenger.

36. During their employment at Defendants, Plaintiffs experienced severe anxiety and depression due to his work environment. This was due to the discriminatory, unprofessional, degrading, condescending and hostile treatment towards Plaintiffs by Defendants.
37. Plaintiffs had also begun to suffer extreme levels of stress both physical and mental.
38. Plaintiffs became very concerned about the harassment, hostile treatment and general unprofessional treatment that they were receiving from Defendants.
39. Despite Plaintiffs' attempt to cease this behavior by Defendant GUERLAIN, no action was taken by Defendant GUERLAIN.
40. At all times material, Plaintiffs' supervisors were aware of the conduct mentioned herein.
41. As Defendants' conduct has been malicious, willful, outrageous, and conducted with full knowledge of the law, Plaintiffs demand Punitive Damages as against Defendants. Plaintiffs seeks reinstatement, back pay, front pay, all lost wages and earning capacity, punitive damages, damages for emotional distress, physical injuries, medical expenses and attorney's fees.

**AS A FIRST CAUSE OF ACTION FOR DISCRIMINATION**

**UNDER STATE LAW**

42. Plaintiffs repeat and realleges each and every allegation made in the above paragraphs of this complaint.
43. Executive Law Section Executive Law § 296 provides that "It shall be an unlawful discriminatory practice: (a) For an employer or licensing agency, because of an individual's

age, race, creed, color, national origin, sexual orientation, military status, sex, disability, predisposing genetic characteristics, marital status, or domestic violence victim status, to refuse to hire or employ or to bar or to discharge from employment such individual or to discriminate against such individual in compensation or in terms, conditions or privileges of employment”

44. Defendants violated the section cited herein by discharging, creating and maintaining discriminatory working conditions, and otherwise discriminating against the Plaintiffs because of sex, sexual orientation, with sexual harassment and retaliation.

**AS A SECOND CAUSE OF ACTION**  
**FOR DISCRIMINATION UNDER STATE LAW**

45. Plaintiffs repeat and reallege each and every allegation made in the above paragraphs of this complaint. New York State Executive Law §296(7) provides that it shall be an unlawful discriminatory practice: For any person engaged in any activity to which this section applies to retaliate or discriminate against any person because [s]he has opposed any practices forbidden under this article."

46. Defendants engaged in an unlawful discriminatory practice by discriminating and retaliating against Plaintiffs for their opposition to the unlawful practices as set forth herein.

**AS A THIRD CAUSE OF ACTION**  
**FOR DISCRIMINATION UNDER STATE LAW**

47. Plaintiffs repeat and reallege each and every allegation made in the above Paragraphs of this complaint.
48. New York State Executive Law §296(6) provides that it shall be an unlawful discriminatory practice: "For any person to aid, abet, incite, compel or coerce the doing of any acts forbidden under this article, or attempt to do so.
49. Defendants engaged in an unlawful discriminatory practice in violation of New York State Executive Law §296(6) by aiding, abetting, inciting, compelling and coercing the discriminatory conduct.

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

50. Plaintiff repeats and realleges each and every allegation made in the above paragraphs of this complaint.
51. The Administrative Code of City of New York § 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."

52. Defendants engaged in an unlawful discriminatory practice in violation of New York City Administrative Code Title 8, §8-107(1)(a) by creating and maintaining discriminatory working conditions, and otherwise discriminating against Plaintiffs because of gender, sexual orientation and sexual harassment.

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

53. Plaintiffs repeat and reallege each and every allegation made in the above paragraphs of this complaint.

54. The New York City Administrative Code Title 8, §8-107(1)(e) provides that it shall be unlawful discriminatory practice: "For an employer . . . to discharge . . . or otherwise discriminate against any person because such person has opposed any practices forbidden under this chapter. . . "

55. Defendants engaged in an unlawful discriminatory practice in violation of New York City Administrative Code Title 8, §8-107(1)(e) by discriminating against the Plaintiffs by wrongfully terminating their employment in unlawful retaliation for his opposition to Defendants' unlawful conduct.

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

56. Plaintiffs repeat and reallege each and every allegation made in the above paragraphs of this complaint.
57. The New York City Administrative Code Title 8, §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."
58. Defendant GUERLAIN engaged in an unlawful discriminatory practice in violation of New York City Administrative Code Title 8, §8-107(6) by aiding, abetting, inciting, compelling and coercing the above discriminatory conduct and unlawful termination of Plaintiffs MIKEL and KLERX.

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

59. Plaintiffs repeat and reallege each and every allegation made in the above paragraphs of this complaint.
60. Section 8-107(19), entitled Interference with protected rights provides that "It shall be an unlawful discriminatory practice for any person to coerce, intimidate, threaten or interfere with, or attempt to coerce, intimidate, threaten or interfere with, any person in the exercise or enjoyment of, or on account of his or her having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected pursuant to this section."

61. Defendants violated the above section as set forth herein.

**AS AN EIGHTH CAUSE OF ACTION**  
**FOR DISCRIMINATION UNDER THE NEW YORK CITY ADMINISTRATIVE CODE**

62. Plaintiffs repeat and reallege each and every allegation made in the above paragraphs of this complaint.

63. Section 8-107(13) entitled Employer liability for discriminatory conduct by employee, agent or independent contractor. Provides

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.

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:

(1) the employee or agent exercised managerial or supervisory responsibility; or

(2) 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

(3) 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.

64. Defendant GUERLAIN violated the above section as set forth herein.

### **INJURY AND DAMAGES**

65. As a result of the acts and conduct complained of herein, Plaintiffs have suffered and will continue to suffer the loss of her career and the loss of a salary, bonuses, benefits and other compensation which such employment entails, out-of-pocket medical expenses and Plaintiffs have also suffered future pecuniary losses, emotional pain, physical pain, humiliation, mental anguish, suffering, inconvenience, injury to reputation, loss of enjoyment of life, and other non-pecuniary losses. Plaintiffs have further experienced severe emotional and physical distress.

### **JURY DEMAND**

Plaintiffs demand a jury on all issues to be tried.

**WHEREFORE**, Plaintiffs respectfully request a judgment against the Defendants jointly and severally for all available damages including but not limited to emotional distress, lost wages, back pay, front pay, punitive damages, statutory damages, attorneys' fees, costs, medical expenses, interest and all other damages as are just and proper to remedy Defendants' unlawful conduct.



Plaintiffs demand a trial by jury as to all issues so triable.

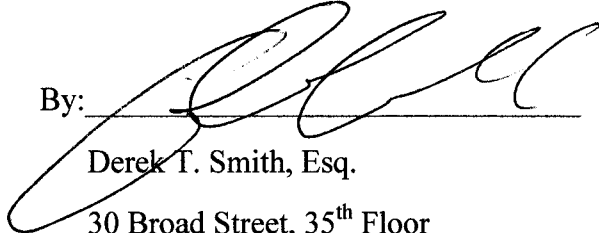
Dated: New York, New York

September 23, 2014

DEREK SMITH LAW GROUP, PLLC

Attorneys for Plaintiffs

By: \_\_\_\_\_

A handwritten signature in black ink, appearing to read 'Derek T. Smith', is written over a horizontal line. The signature is fluid and cursive.

Derek T. Smith, Esq.

30 Broad Street, 35<sup>th</sup> Floor

New York, New York 10004

212.587.0760