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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

CIVIL ACTION #:
DATE FILED:

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STEFANIA TERMINI,

VERIFIED COMPLAINT

Plaintiff,

JURY TRIAL DEMANDED

-against-

B & A PORK STORE INC., ROBERT BRANNIGAN,
in his corporate and individual capacity, and
JAMES BRANNIGAN in his management and
individual capacity,

Defendants.

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S I R S:

Plaintiff, STEFANIA TERMINI, by her attorney, MICHAEL B. PALILLO, P.C., does hereby make the following claim for damages against B & A PORK STORE INC., ROBERT BRANNIGAN in his corporate and individual capacity and JAMES BRANNIGAN in his corporate, managerial and individual capacity (collectively “Defendants”) hereby alleges, upon information and belief as follows:

NATURE OF THE CLAIMS

1. Plaintiff complains that the Defendants violated her civil rights under the Constitution and laws of the United States, New York State Law and New York State Human Rights Law, New York State Executive Law 290 et seq., [hereinafter “HRL”], and the common law, and Plaintiff seeks declaratory and injunctive relief and damages to redress the injuries

Plaintiff sustained as a result of Defendants' actions.

2. Defendants are liable for the conduct of their officers, managers, agents, servants and/or employees who exercised a managerial and supervisory responsibility, and because the Defendants had knowledge of their officers, managers, employees, agents, servant and/or employees' discriminatory conduct, acquiesced in such conduct and failed to take immediate and appropriate corrective action.

3. This case is about an Italian Specialty Store, B & A PORK STORE INC., [hereinafter known as "B & A"], and its managers, ROBERT BRANNIGAN [hereinafter known as "RB"] and JAMES BRANNIGAN [hereinafter known as "JB"], the son of "RB", who used their positions at "B & A", their money and power to intimidate, degrade and discriminate against women.

JURISDICTION AND VENUE

4. Under 28 U.S. Code 1331, jurisdiction is proper through this Court's original subject-matter jurisdiction and the presentation of a federal question, as the controversy arises under the Constitution, laws, or treaties of the United States.

5. Under 28 U.S. Code 1391[b][1] ;venue is proper in a judicial district where any defendant resides.

6. The business of Defendant "B & A", is headquartered in Kings County, New York and is a corporate entity authorized to conduct business in the State of New York.

7. Plaintiff resides in Kings County New York.

THE PARTIES

8. Plaintiff, STEFANIA TERMINI, is a 20 year old female, former employee of "B & A" who currently resides in the County of Kings, State of New York. At all relevant times

herein, she met the definition of an “employee” under all applicable statutes.

9. Defendant “B & A” is a domestic business corporation incorporated on June 20, 1997 with a principal place of business located at 7818 13th Avenue Brooklyn, New York 11228. “B & A” is a family owned and operated Italian Specialty Store that, at all relevant times herein, met the definition of an “employer” under all relevant statutes.

10. Defendant “RB” is and was at all material times herein a Principal of “B & A,” who upon information and belief, resides in the County of Kings State of New York. At all dates and times herein, Defendant “RB” aided, abetted and/or directly participated in the sexual harassment, discharge, retaliation and other unlawful actions taken against the Plaintiff, and had the authority to terminate the Plaintiff.

11. Defendant “JB” is and was at all material times herein a Principal and or manager of “B & A” who upon information and belief, resides in the County of Kings State of New York. At all dates and times herein, Defendant “JB” aided, abetted and/or directly participated in the sexual harassment, discharge, retaliation and other unlawful actions taken against the Plaintiff, and had the authority to terminate the Plaintiff and/or to initiate, recommend and/or take actions which would result in the termination of the Plaintiff.

FACTUAL ALLEGATIONS

I. Discrimination and Sexual Harassment of STEFANIA TERMINI

12. Ms. Termini began working at Defendant “B & A” as a cashier in approximately April 2014. At all times during her employment, she was a good, qualified and valuable employee and at a later point received a raise.

13. During Ms. Termini’s employment she was subjected to severe and pervasive hostile work environment in which she and other women were subjected to degrading acts of

sexual harassment. Further she and other women were often denied full and equal terms and conditions of employment if they failed to submit to the discriminatory demands of "JB".

14. On numerous occasions, Defendant, "JB," pressured Ms. Termini and other female employees to socialize with him outside of the workplace. Ms. Termini was not one to socialize with co-workers or her bosses, so she always turned down "JB's" invitations.

15. Defendant, "JB," would constantly send Ms. Termini inappropriate, unprofessional text messages about her physical appearance, which Ms. Termini would often ignore.

16. While at work "JB" made verbal comments such as "there are not usually girls as beautiful as you working here" and "your boyfriend is a loser, you should be with me," among other comments referring to her physical appearance.

17. The entire family would participate in the harassment, as both "JB's" mother and the father, "RB", would also comment that "JB" and Ms. Termini would be a good couple. Ms. Termini would always feel extremely distressed and distraught over her unprofessional and objectifying working environment. Ms. Termini felt she had no other choice but accept any comments because they were made by her employers and she did not want to jeopardize her job. Ms. Termini contemplated quitting on many occasions, but she needed to work in order to survive.

18. On one occasion, "JB" attempted to give Ms. Termini a gift upon returning from his family vacation. While at work, "JB" approached Ms. Termini and gave her a necklace that he bought for her on his trip to Italy". Ms. Termini initially declined the gift, because it was inappropriate and unprofessional. "JB" insisted she accept it, and not tell the other girls that worked at the store. Ms. Termini felt she had no other choice to accept the gift because her

manager ordered her to. Ms. Termini never wore the necklace.

19. Defendant, "JB" still didn't get the hint that Ms. Termini wanted to keep their relationship professional, even after Ms. Termini would ignore repeated and continuous non reciprocated text messages such as "hey beautiful" and texts of that nature. Ms. Termini did not want to respond to these late night text messages. These unreciprocated text messages caused Ms. Termini great angst and distress because she had a boyfriend, and she did not want him to see such messages.

20. Defendant, "JB" even showed up at Ms. Termini's home on Christmas Day, even after Ms. Termini told "JB" not to come to her house. Via text message "JB" stated he wanted to come over because he had a gift for her. Ms. Termini explained that anything he had could wait until she was back at work and that it would be unprofessional for him to come to her home. "JB" once again insisted, and showed up at her house. When "JB" arrived, Ms. Termini's father greeted "JB." The entire time "JB" was at the house, Ms. Termini was hiding in her bedroom horrified and embarrassed of the situation. "JB's" actions showed blatant disregard for Ms. Termini and her feelings, and demonstrated a selfish desire to satiate his own desires at her expense.

21. Defendant, "JB" repeatedly pressured Ms. Termini to go on dates with him. On one such occasion, "JB" invited Ms. Termini to a party at a night club to celebrate his brother's birthday. Ms. Termini politely declined the invitation, but "JB" did not stop there.

22. Defendant, "JB" continued to bombard Ms. Termini with unwanted and unwarranted text messages, in an attempt to convince Ms. Termini to socialize with him in a romantic/sexual manner.

II. DISCHARGE AND RETALIATION OF STEFANIA TERMINI

23. When Ms. Termini continued to reject “JB’s” uninvited sexual advances, “JB” admitted to Ms. Termini that the only reason she was being paid at her current pay rate was because he was good to her. He used this tactic to coax Ms. Termini into feeling bad for not accepting his unprofessional conduct.

24. Thereafter, “JB” attempted to make Ms. Termini quit her job at “B & A,” by telling her “just do the right thing and give us 2 [sic] weeks [sic] notice...i [sic] have no idea what ur [sic] thinkin [sic].”

25. While Ms. Termini was still employed at “B & A,” “JB,” unable to accept Ms. Termini’s rejection, “JB” bombarded her with a string of abusive text messages, in which he explicitly threatened Ms. Termini’s employment status.

26. Defendant, “JB,” fired Ms. Termini via text message because Ms. Termini failed to respond to his barrage of texts, stating “just quit..im [sic] done” and “Tuesday the 30th is ur [sic] last day.”

27. After Ms. Termini responded to his termination text with disbelief, “JB” responded by stating, “ok tuesday [sic] isnt [sic] ur [sic] last day,” “now that ur [sic] talkin [sic] to me im [sic] not as aggravated” and “now all of a sudden u [sic] answer bc [sic] u [sic] want ur [sic] job.” “JB” acted in a demeaning and threatening manner solely because Ms. Termini rejected his constant, inappropriate and unwelcome sexual advances.

28. On Saturday December 27, 2014, “JB” again fired Ms. Termini via text message, stating, “not gonna [sic] need u [sic] in anymore..come [sic] see my dad tomorrow for ur [sic] christmas [sic] bonus.”

29. On Monday December 29, 2014, Ms. Termini went to the store in hopes of explaining to the owner, "RB" exactly what had occurred between "JB" and her. Upon arrival to "B&A", Ms. Termini went into "RB's" office. Ms. Termini explained everything that had occurred and pleaded with "RB" to keep her position at the store. Ms. Termini explained that she only wanted to have a professional environment and work at the store. "RB" stated that "he knew what happened" and that Ms. Termini "was an excellent worker and a good girl," but that "he had to let her go because his son, "JB", wanted her fired".

30. Thereafter, Ms. Termini was terminated from her employment at "B&A."

**AS AND FOR A FIRST CAUSE OF ACTION AGAINST DEFENDANTS FOR
VIOLATION OF 42 U.S.C. 1981**

31. Plaintiff hereby repeats and realleges each and every allegation in all paragraphs previously set forth herein.

32. Plaintiff is a member of a protected class, a female.

33. Defendant intended to discriminate against Plaintiff based on her gender.

34. Defendants' actions were such that Plaintiff was not given the full and equal benefits of all laws and proceedings for the security of persons and property as are enjoyed by all citizens, due to her gender.

35. As a result of Defendants unlawful conduct, Plaintiff has suffered and continues to suffer injuries and damages.

**AS AND FOR A SECOND CAUSE OF ACTION AGAINST
DEFENDANTS FOR VIOLATION OF 42 U.S.C. 1983**

36. Plaintiff hereby repeats and realleges each and every allegation in all paragraphs previously set forth herein.

37. Defendants, through their actions and under color of statute and law, intentionally deprived Plaintiff of her rights, privileges and immunities guaranteed by The United States Constitution and law, due to her gender.

38. As a result of Defendant's unlawful conduct Plaintiff has suffered and continues to suffer injuries and damages.

39. Defendants through their actions conspired and intended to deprive Plaintiff from her equal rights privileges and immunities, due to her gender.

40. As a result of Defendants unlawful conduct Plaintiff has suffered and continues to suffer injuries and damages.

AS AND FOR A THIRD CAUSE OF ACTION AGAINST DEFENDANTS
FOR NEGLIGENT HIRING, TRAINING AND SUPERVISION

41. Plaintiff hereby repeats and realleges each and every allegation in all paragraphs previously set forth herein.

42. In supervising personnel, Defendants had a duty to prevent such personnel from engaging in discriminatory, tortious and otherwise unlawful conduct.

43. Defendants negligently and/or recklessly failed to satisfy their duty of care in hiring, supervising and training personnel that engaged and continue to engage in pattern and practice of civil rights violations, discrimination and other tortious conduct.

44. Defendants were negligent, careless and reckless in hiring and retaining as for its officers, managers, agents, servants and/or employees, in that the said people lacked the expertise, deportment and ability to be employed by the Defendants; in that the Defendants failed to exercise due care and caution in their hiring practices and in the training process with which these employees were instructed; and, in that the Defendants, their officers, managers, agents,

servants and/or employees were otherwise careless, negligent and reckless.

45. The Defendants owed to the general public, and to the Plaintiff herein, a duty to determine qualifications of its officers, managers, agents, servants and/or employees, including:

- a) Adequately training and supervising;
- b) Adequately evaluating these officers, managers, agents, servants and/or employees job performance so as to discharge any incompetent or negligent officer, manager, agent, servant and/or employee before he or she injured the public.

46. Defendants knew or should have known that the officers, managers, agents, servants and/or employee at "B & A" subjected women to civil rights violations, sexual discrimination, harassment, verbal abuse, insults, humiliation, coercion and intimidation based on their gender.

47. Defendants knew or should have known that their policies and practices have created an unreasonable risk of civil rights violations, discrimination and other unlawful conduct that would harm people based on their gender.

48. As a result of Defendants conduct the Plaintiff has suffered and continues to suffer injuries and damages.

AS AND FOR A FOURTH CAUSE OF ACTION AGAINST DENDANTS

UNDER NEW YORK STATE HUMAN RIGHTS LAW

49. Plaintiff hereby repeats and realleges each and every allegation in all paragraphs previously set forth herein.

50. Defendants, "B & A", "RB" and "JB" discriminated against the Plaintiff on the basis of her sex in violation of New York State Human Rights Law by denying her equal terms

and conditions of employment, including but not limited to subjecting her to disparate working conditions and denying her the opportunity to work in an employment setting free of unlawful harassment and ultimately discharging the Plaintiff.

51. Defendants “B & A”, “RB” and “JB” have discriminated against the Plaintiff on the basis of her sex in violation of the New York State Human Rights Law by creating, fostering, and condoning, accepting, ratifying and/or otherwise failing to prevent or to remedy a hostile work environment that included among other things, severe and pervasive harassment of the Plaintiff.

52. As a direct and proximate results of Defendants “B & A”, “RB” and “JB” unlawful discriminatory conduct in violation of New York State Human Rights Law, Plaintiff has suffered and continues to suffer monetary and/or economic harm, for which she is entitled to an award of monetary damages and other relief.

53. As a direct and proximate results of Defendants “B & A”, “RB” and “JB” unlawful discriminatory conduct in violation of New York State Human Rights Law, Plaintiff has suffered and continues to suffer severe mental anguish for which she is entitled to an award of monetary damages and other relief.

**AS AND FOR A FIFTH CAUSE OF ACTION FOR
DISCRIMINATION UNDER NEW YORK STATE HUMAN RIGHTS LAW**

54. Plaintiff hereby repeats and realleges each and every allegation in all paragraphs previously set forth herein.

55. Defendants, “B & A”, “RB” and “JB” retaliated against the Plaintiff on the basis of her engagement in protected activities, including, but not limited to, complaints of discrimination, refusal to submit to sexual demands of Defendant “JB”, invocation of her rights

under the anti-discrimination laws.

56. Defendants “B & A”, “RB” and “JB’s” retaliatory conduct included, but is not limited to, denying Plaintiff equal terms and conditions of employment, subjecting her to disparate working conditions, denying her the opportunity to work in an employment setting free of unlawful harassment and discharging the Plaintiff.

57. As a direct and proximate results of Defendants “B & A”, “RB” and “JB”” unlawful discriminatory and retaliatory conduct in violation of New York State Human Rights Law, Plaintiff has suffered and continues to suffer monetary and/or economic harm, for which she is entitled to an award of monetary damages and other relief.

58. As a direct and proximate results of Defendants “B & A”, “RB” and “JB”” unlawful discriminatory and retaliatory conduct in violation of New York State Human Rights Law, Plaintiff has suffered and continues to suffer severe mental anguish for which she is entitled to an award of monetary damages and other relief.

AS AND FOR A SIXTH CAUSE OF ACTION FOR
DISCRIMINATION UNDER NEW YORK STATE HUMAN RIGHTS LAW

59. Plaintiff hereby repeats and realleges each and every allegation in all paragraphs previously set forth herein.

60. Defendant “RB” has knowingly or recklessly aided, abetted and directly participated in the unlawful employment practices, discrimination and retaliation perpetrated against the Plaintiff in violation of the New York State Human Rights Law.

61. Defendant “RB” has knowingly or recklessly aided and abetted the discrimination against the Plaintiff on the basis of her sex and the retaliation against the Plaintiff on the basis of her engaging in protected activities including but not limited to complaints of discrimination,

refusal to submit to the sexual demands of “JB”, invocation of her rights under the antidiscrimination laws.

62. As a direct and proximate results of Defendant “RB’s” unlawful discriminatory and retaliatory conduct in violation of New York State Human Rights Law, Plaintiff has suffered and continues to suffer monetary and/or economic harm, for which she is entitled to an award of monetary damages and other relief.

63. As a direct and proximate results of Defendant “RB’s” unlawful discriminatory and retaliatory conduct in violation of New York State Human Rights Law, Plaintiff has suffered and continues to suffer severe mental anguish for which she is entitled to an award of monetary damages and other relief.

AS AND FOR A SEVENTH CAUSE OF ACTION

FOR INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

64. Plaintiff hereby repeats and realleges each and every allegation in all paragraphs previously set forth herein.

65. By and through their actions, Defendants have intentionally inflicted emotional distress upon the Plaintiff.

66. As set forth above, Defendants “B & A”, “RB” and “JB” conduct towards the Plaintiff threatened her safety and emotional well-being.

67. As a result of Defendant’s behavior, Plaintiff suffered severe emotional distress.

68. As a result of Defendants unlawful conduct, Plaintiff has suffered and continues to suffer injuries and damages.

AS AND FOR AN EIGHTH CAUSE OF ACTION

FOR NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS

69. Plaintiff hereby repeats and realleges each and every allegation in all paragraphs previously set forth herein.

70. By and through their actions, Defendants have negligently inflicted emotional distress upon the Plaintiff.

71. The Defendants engaged in extreme and/or outrageous behavior when they discriminated against the Plaintiff based on her sex, verbally abused, harassed, humiliated and intimidated the Plaintiff without her consent, cause or justification.

72. The Defendants conduct unreasonably endangered the Plaintiff's physical safety and/or caused the Plaintiff to fear for her safety.

73. As a result of Defendant's negligent conduct, Plaintiff suffered extreme emotional distress.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests judgment against the Defendants for compensatory damages together with punitive damages, interest, costs and disbursements of this action, specifically:

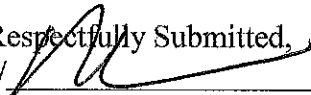
- A. Declaring that the Defendants engaged in unlawful discriminatory practices prohibited by the New York State Human Rights Law;
- B. Declaring that Defendants violated Plaintiff's Civil Rights;
- C. Awarding Plaintiff compensatory damages for emotional pain, suffering, humiliation, embarrassment, inconvenience, mental anguish, loss of enjoyment of life, and distress in excess of jurisdiction of all lower Courts;

- D. Awarding Plaintiff punitive damages;
- E. Awarding Plaintiff the costs of the action and reasonable attorney's fees to the fullest extent permitted by law;
- F. An injunction and order permanently restraining the Defendants from engaging in such unlawful conduct;
- G. Awarding Plaintiff damages in an amount to be determined at trial to compensate the Plaintiff for all non-monetary and/or compensatory harm, including but not limited to compensation for mental anguish;
- H. Awarding Plaintiff damages for any and all monetary and/or non-monetary losses suffered by Plaintiff in an amount to be determined at trial, plus pre-judgment interest;
- I. Awarding Plaintiff such other and further relief as to the Court may deem equitable, just and proper to remedy Defendant's unlawful and discriminatory conduct.

JURY DEMAND

Plaintiff demands a jury of all issues to be tried.

Dated: New York, New York
October 1, 2015

Respectfully Submitted,
s/ 
MICHAEL B. PALILLO P.C.
By: Michael B. Palillo Esq.
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CERTIFICATION

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

I, the undersigned, being duly sworn, depose and say:
I am the attorney for the Plaintiff in the within action; I
have read the foregoing **summons and complaint** and know the
contents thereof; and the same is true to my own knowledge,
except as to the matters therein stated to be alleged upon
information and belief, and as to those matters I believe it to
be true.

I make this certification based on the fact that the
Plaintiff does not reside in the County wherein I maintain my
office for the practice of law.

I swear to the truth of the foregoing under penalties
of perjury.

Sworn to before me this
1st day of October, 2015


Michael B. Palillo

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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STEFANIA TERMINI,

Plaintiff,

-against-

B & A PORK STORE INC., ROBERT BRANNIGAN,
in his corporate and individual capacity,
and JAMES BRANNIGAN in his corporate,
managerial and individual capacity

Defendants.
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SUMMONS AND COMPLAINT

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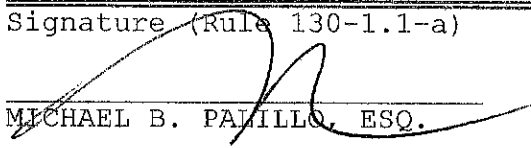
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Signature (Rule 130-1.1-a)


MICHAEL B. PALILLO, ESQ.