

IN THE CIRCUIT COURT OF SALINE COUNTY, ARKANSAS

Saline County
Circuit Court

2010 JUL 23 PM 2:14

BRIGITTE RANEY

PLAINTIFF

vs.

CASE NO.

CN 2010-680-3

BY: DR

OK APPLE, INC., APPLE GOLD, INC.,
DAVID SHUMAKER, AND ALEX GARLINGTON

DEFENDANTS

AFS: Apple Gold, Inc. c/o
Robert M. Stoltz
170 Wind Chime Ct.
Raleigh, NC 27615

OK Apple, Inc. c/o
The Corporation Company
124 W. Capitol Ave.
Ste. 1900
Little Rock, AR 72201

COMPLAINT

COMES NOW the Plaintiff, by and through counsel, Harrill & Sutter P.L.L.C., and for this
Complaint, states:

PARTIES AND JURISDICTION

1. Brigitte Raney (Plaintiff) is a resident of Jefferson County, Arkansas, who was employed by Defendants in Pulaski County, Arkansas and the events leading to this lawsuit took place in Pulaski County. This action is brought under the Arkansas Civil Rights Act of 1993 (ACRA) for an amount exceeding that required for diversity jurisdiction. Accordingly, venue is proper, and this court has personal and subject matter jurisdiction. Defendant Shumaker lived and resided in Saline County and Defendant Applebee's operated a restaurant in Benton, Arkansas. Alex Garlington is an Arkansas resident and citizen. Apple Gold, Inc. and OK Apple, Inc. are foreign corporations doing business in Arkansas, in a business substantially impacting interstate commerce.

GENERAL ALLEGATIONS OF FACT

2. Plaintiff is a female who had worked for Defendant Applebee's from in Spring 2009 as a hostess, while she was still a minor.

3. At all times relevant hereto, Plaintiff performed her job satisfactorily.

4. Plaintiff was subjected to gender discrimination and retaliation by managers and employees for Defendant

5. Within days, Defendant David Shumaker, the General Manager (in his mid-30s) of the store began sexually harassing Plaintiff by coming up to her, rubbing her back, touching her hair, and calling her 'baby' and 'pumpkin.'

6. He started texting her a great deal. There were in excess of 90 text messages in a 3 to 4 day period. Some of these texts were sexual.

7. The GM would call her to try to arrange rendezvous where he offered to get her drinks.

8. The GM would ask her to stay at his house after work and to take her to work the next morning.

9. The GM would instruct her to go in the bathroom and he would be in there to see her in a minute.

10. He would follow her around on breaks and during work, including following her into the freezer and shutting the door behind them.

11. He would try to undo her garments to reveal her body. He would tell her to take her pants off.

12. The GM would slap her behind.

13. This environment encouraged sexual harassment from others. It was so obvious that Mexican cooks who could not speak English would come up and wrap their arms around and dirty dance or kiss her neck. A morning server, Defendant Alex Garlington, (in his 20s) chased her for weeks, coming up behind her hugging her in a way that held down her arms so

that he could kiss her. He would ask her out repeatedly. He followed her at the mall. He suggested she take her clothes off. When his girlfriend found out he accused Plaintiff of disclosing his behavior and yelled and cursed at her. He called her a liar on this issue to numerous persons in the store.

14. The GM would harass other women, doing things such as frisking them and putting his finger in their pants.

15. The GM would ask what Plaintiff's favorite sexual position was and who she would have sex with.

16. This conduct was unwelcome.

17. Plaintiff was not given an employee manual or any training on sexual harassment.

18. Plaintiff complained to a manager, but nothing was done.

19. Accordingly, Plaintiff quit her job because the environment was so hostile that it was causing her mental distress and no reasonable woman in the Plaintiff's position would have remained in it. She then filed an EEOC charge.

20. The type of harassment above was done to other women by the GM and others..

21. In 2007 and 2008 Defendant employed more than 501 persons during more than twenty weeks of the year in Arkansas.

22. In 2007 and 2008 Defendant employed more than 301 persons during more than twenty weeks of the year in Arkansas.

23. In 2007 and 2008 Defendant employed more than 101 persons during more than twenty weeks of the year in Arkansas.

24. In 2007 and 2008 Defendant employed more than 15 persons during more than twenty weeks of the year in Arkansas.

COUNT I – ACRA

25. Plaintiff realleges the foregoing as if fully set out herein.

26. Based on the foregoing, Defendant Applebee's has violated Plaintiff's rights under the Arkansas Civil Rights Act of 1993 by creating a hostile work environment and constructive discharge based on gender, and all Defendants have violated her rights by retaliating in response to her complaint of discrimination.

27. As a direct and proximate cause of Defendants' acts or omissions, Plaintiff has suffered severe mental and emotional distress, lost wages, lost fringe benefits, lost earning capacity, and has incurred medical expenses which would not otherwise have been incurred.

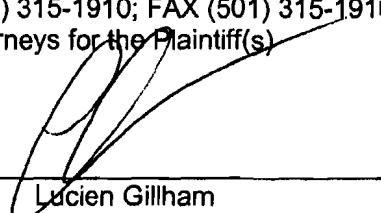
28. Defendants' acts have been in willful, intentional, and malicious violation of the law and are so egregious so as to warrant the imposition of punitive damages.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for the following relief: back pay, front pay or reinstatement, compensatory damages, punitive damages, for a jury trial of all issues so triable, for an injunction requiring Defendants to remove all adverse employment information from her personnel file, designating her as rehirable, and for a positive employment recommendation, for a declaratory judgment that Defendant's acts and omissions have violated the the ACRA, for an injunction requiring Defendant to comply with the the ACRA, for a requirement that this lawsuit be posted and that it be posted that Defendant has violated the law, for investigation and disciplinary action against the appropriate individuals for committing discrimination, for a requirement that Defendant retain all complaints of discrimination for seven years, for a requirement that Defendant establish a hotline for complaints of discrimination, for a requirement of an independent monitor, for a requirement of training sessions for all personnel and management regarding discrimination and the handling of such complaints, for her reasonable attorney's fees and costs, and for all other proper relief.

Respectfully Submitted,

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