

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT MARYLAND

- - - - - x
:
EQUAL EMPLOYMENT :
OPPORTUNITY COMMISSION, :
:
Plaintiff, :
: Civil Action No.
v. : 8:07-CV-02612
:
BLOCKBUSTER, INC., :
:
Defendant. :
:
- - - - - x

Deposition of

MICHELLE R. DESPERTT

Bethesda, Maryland

Thursday, August 28, 2008

11:15 a.m.

CONFIDENTIAL - PURSUANT TO PROTECTIVE ORDER

THIS TRANSCRIPT CONTAINS CONFIDENTIAL INFORMATION

Job No.: 1-135451

Pages 1 through 128

Reported by: Rebecca L. Stonerock, RPR

<p style="text-align: right;">Page 17</p> <p>1 Q And where were you before Westat?</p> <p>2 A Oh, Goodman & Company.</p> <p>3 Q What kind of company is that?</p> <p>4 A CPA.</p> <p>5 Q And what were you --</p> <p>6 A I was a receptionist.</p> <p>7 Q How long were you there?</p> <p>8 A Three years.</p> <p>9 Q Why did you leave Goodman & Company?</p> <p>10 A Actually I left there to accept a position</p> <p>11 at another CPA firm which didn't work out.</p> <p>12 Q And how much time was it between Goodman &</p> <p>13 Company and Westat? After you left Goodman & Company</p> <p>14 how long did you --</p> <p>15 A I'm not sure.</p> <p>16 Q Do you remember where you were before</p> <p>17 Goodman & Company?</p> <p>18 A Sorry, I'm trying to think. I can't --</p> <p>19 can't think -- can't recall that right now.</p> <p>20 Q If you remember. Just if --</p> <p>21 A No, I don't remember actually.</p> <p>22 Q Do you remember when you began working with</p>	<p style="text-align: right;">Page 19</p> <p>1 Q Was there an application that you filled</p> <p>2 out?</p> <p>3 A On line, yes.</p> <p>4 Q What happened after you filled out your</p> <p>5 online application?</p> <p>6 A That was to Cinnie Brown and I faxed</p> <p>7 everything back to her, but Thomas was the one who</p> <p>8 hired me. He hired me directly.</p> <p>9 Q What do you mean it was through Cinnie</p> <p>10 Brown?</p> <p>11 A The position was through Express Personnel,</p> <p>12 Monica -- Monique and I are friends and she was</p> <p>13 working with Mr. TAJ at the time and she told me about</p> <p>14 the position. I met TAJ, I contacted Express, they</p> <p>15 sent me everything via e-mail and I reported two days</p> <p>16 later to Blockbuster.</p> <p>17 Q What was it they sent you via e-mail?</p> <p>18 A Just the application, INI and tax forms.</p> <p>19 Q And who is Cinnie Brown?</p> <p>20 A That was my supervisor at Express.</p> <p>21 Q Do you remember what position you were</p> <p>22 hired for?</p>
<p style="text-align: right;">Page 18</p> <p>1 Express Personnel?</p> <p>2 A I would think it was around February. I</p> <p>3 believe it was around February.</p> <p>4 Q Of what year?</p> <p>5 A 2006, 2005.</p> <p>6 Q Do you remember when you left?</p> <p>7 A March.</p> <p>8 Q Are you still not sure of whether it was</p> <p>9 2005 or 2006? Do you have a better idea of what year</p> <p>10 it is?</p> <p>11 A Not really. I'm sorry.</p> <p>12 Q You said you heard about Express Personnel</p> <p>13 through Monique Spears. Was she working with Express</p> <p>14 Personnel?</p> <p>15 A Yes.</p> <p>16 Q And, now, who did you interview with when</p> <p>17 you first contacted Express?</p> <p>18 MR. PHILLIPS: Objection, assumes facts.</p> <p>19 You can answer.</p> <p>20 A Can you repeat the question?</p> <p>21 Q Did you interview with anyone?</p> <p>22 A No.</p>	<p style="text-align: right;">Page 20</p> <p>1 A It was just warehouse. I don't even</p> <p>2 remember if we -- we didn't have -- I can't remember</p> <p>3 the exact title, what we -- what we were called, but</p> <p>4 it was working in the warehouse distribution.</p> <p>5 Q What were your job duties?</p> <p>6 A At Blockbuster?</p> <p>7 Q Yes.</p> <p>8 A Well, we would come in, at first we would</p> <p>9 open up all the mail that was -- that came in and we</p> <p>10 would go through the CDs and, you know -- the DVDs,</p> <p>11 I'm sorry, we'd take them out, and there were several</p> <p>12 piles. If it was damaged, we would put it in a pile.</p> <p>13 If there was a note with any instructions from a</p> <p>14 customer, we would put that in a pile. And then we</p> <p>15 would put the rest of them in a pile. And that went</p> <p>16 on for approximately two hours.</p> <p>17 And after that all the DVDs were sorted,</p> <p>18 they were scanned and then they were put back on the</p> <p>19 shelf. That was in the morning. In the afternoon we</p> <p>20 would get a list of the DVDs going out and each person</p> <p>21 received a list and we would go pull the DVDs for the</p> <p>22 customers and bring them over to the table where we</p>

<p style="text-align: right;">Page 21</p> <p>1 would check them again, scan them out and then stuff 2 them in envelopes to be mailed. 3 Then after that at the end of the day we 4 would put back the DVDs from that morning that were 5 scanned. 6 Q Okay. Did someone inform you of your job 7 duties? 8 A Well, we had supervisors, but we pretty 9 much knew. It was the same routine every day. Every 10 now and then they would switch up, like other people 11 would scan or other people would get different 12 assignments doing other special projects like, you 13 know, pulling a special order or things like that. 14 Q And who were your supervisors? 15 A TAJ and Kofi Tutu. 16 Q And for the record, when you refer to "TAJ" 17 is that Thomas Johnson? 18 A Yes. 19 Q Is there anyone else? 20 A Kofi Tutu. 21 Q And -- 22 A And Linc was the supervisor. There were</p>	<p style="text-align: right;">Page 23</p> <p>1 Q Were you ever paid overtime? 2 A Yes. 3 Q Did you receive any benefits as an employee 4 of Express Personnel? 5 A No. 6 Q Could you tell me when your employment 7 ended? 8 A It was sometime in March. 9 Q And why? 10 A I was terminated. 11 Q Do you know why? 12 A No. 13 Q Who told you you were terminated? 14 A I received a call from Cinnie Brown about 15 10:30 p.m. -- I believe it was March 6, 7, something 16 to that effect -- telling me not to report. 17 Q What else did she tell you? 18 A That was it. 19 Q Did you ask her why? 20 A Yes. 21 Q And what did she tell you? 22 A She didn't.</p>
<p style="text-align: right;">Page 22</p> <p>1 three. 2 Q Is "Linc" Mr. Lincoln Barrett? 3 A Uh-huh. 4 Q And you mentioned when you were describing 5 the job duties that sometimes there are individuals 6 who receive special assignments. 7 A Uh-huh. 8 Q How did they receive special assignments? 9 A Through TAJ or through Kofi. 10 Q What were your hours when you first began 11 working there? 12 A Seven -- seven until whenever we got done. 13 Q Seven a.m.? 14 A Uh-huh. 15 Q Approximately -- did that fluctuate every 16 day? 17 A Yes. It was until whenever we completed 18 the project, including Saturdays. 19 Q And what was your salary when you began? 20 A Ten dollars. 21 Q Did you ever receive a salary increase? 22 A No.</p>	<p style="text-align: right;">Page 24</p> <p>1 Q Do you remember what she said when you 2 asked her why? 3 A She just said, "Michelle, there's no need 4 for you to report back to Blockbuster." 5 Q Did you ever return to Express Personnel to 6 seek out other employment? 7 A No. 8 Q Did Express Personnel ever contact you 9 about coming back to work or any other opportunities? 10 A I received an e-mail from Cinnie, but she 11 never said, you know, "I found something. Go here." 12 Q Do you remember what the e-mail said? 13 A Just basically, I believe, something to the 14 effect that she was going to help me to find something 15 else, something to that effect, if I can recall. 16 Q Did you stay in contact with her after that 17 e-mail or was there any other contact? 18 A Just sent her the e-mail expressing my 19 concerns about TAJ. But after that, no, I didn't have 20 any contact with her until I -- I asked for a 21 follow-up to the letter that I had sent her -- or the 22 e-mail that I had previously sent her and she</p>

<p style="text-align: right;">Page 25</p> <p>1 responded that she wasn't at liberty to discuss it 2 with me. And after that I had no contact with her. 3 Q Did you file any formal complaint after 4 your termination? 5 A I just sent the e-mail, but I didn't file 6 anything. 7 Q Do you remember what the e-mail said? Did 8 you refer to your complaints about -- your concerns 9 about TAJ? What were your concerns? 10 MR. PHILLIPS: Request for clarification. 11 Are you asking the witness to state what she said 12 in the e-mail or are you asking her more generally 13 what were her concerns in her own mind? 14 Q What were your concerns about TAJ that were 15 reflected in the e-mail -- 16 MR. PHILLIPS: That were set forth in the 17 e-mail? Okay. 18 Go ahead and answer. 19 A There were several things that he -- that 20 he did that wasn't appropriate. My second day of 21 employment there he -- I was putting away some DVDs 22 and he came up from behind and he grabbed me and he</p>	<p style="text-align: right;">Page 27</p> <p>1 get down like that. What did you mean by that? 2 A Meaning that I wasn't going to get involved 3 with him. 4 Q You also said that you told him that he was 5 dating one of your friends. 6 A Right. 7 Q Which one of your friends? 8 A Twanessa Stevenson. 9 Q And did you tell him that that is why you 10 don't get down like that, because he was dating one of 11 your friends? Is that what you told him? 12 MR. PHILLIPS: Objection, asked and 13 answered. 14 You can answer. 15 Q You can answer. 16 A It wasn't just that. It was I wasn't 17 interested in him on top of the fact that he was 18 dating one of my friends. It was both. 19 Q When this incident occurred on your second 20 day did you share this incident with anyone at the 21 facility? 22 A Just my fiance. I didn't share it with</p>
<p style="text-align: right;">Page 26</p> <p>1 turned me around and he pushed -- took one of my arms 2 and he pushed me up against the wall and he informed 3 me that he wanted me. And I told him, "No, I don't 4 get down like that." And he said, "Well, I want you." 5 I said, "Well, I'm sorry, I don't get down like that. 6 You're dating one of my friends." And he left me 7 alone the remainder of that day. 8 I also expressed to her an incident that 9 happened in a room that I was cleaning some DVDs. I 10 expressed my concern about that. I also expressed my 11 concern of his inappropriate eye gestures, in my 12 opinion, where he was physically looking at body 13 parts, which I found very uncomfortable. And I also 14 expressed to her that he was -- he was sabotaging my 15 work little bits at a time, but -- and I was upset I 16 didn't get the proper response from her and that 17 which -- that which also made me upset. And that's 18 about it. 19 Q Okay. I'm just going to start with the 20 first thing that you listed on your second day, you 21 were putting up some DVDs and you said -- you 22 responded to TAJ when he approached you that you don't</p>	<p style="text-align: right;">Page 28</p> <p>1 anyone at Blockbuster, no. 2 Q You also mentioned that you expressed in 3 the e-mail that he made inappropriate eye contact -- 4 A Uh-huh. 5 Q -- looking at body parts. What did you 6 mean by that? 7 A What I mean by that is we were sitting at 8 these tables and the tables, you know, were fairly 9 high. And I have muscle damage to my lower back, so 10 some of us were allowed to sit versus standing. Let 11 me add that we were allowed to wear jeans -- wasn't 12 like dress-up, it wasn't formal -- and most of us did. 13 And we were sitting down and he was sitting across 14 from us. He was sitting in a chair like this and he 15 had his hands behind his head and he was leaning back 16 and just rolling back in the chair and he said this is 17 the best seat in the house. He was referring to one 18 of the other gentleman, a worker. And then once -- he 19 said it, like, three times and he was just smiling to 20 himself. And I looked and he was sitting there and he 21 was looking -- in my opinion, he was looking at our 22 vaginal area.</p>

<p style="text-align: right;">Page 29</p> <p>1 Q And were you sitting across from him at 2 this time? 3 A I was sitting, like, at the table. It 4 was -- they were long tables. The tables were really 5 long and the floor was open. Everything was open, and 6 he was sitting, like, over there. 7 Q Could you explain -- you said that some of 8 you were allowed to sit and some were allowed to 9 stand? 10 A Uh-huh. 11 Q Do you know why some were allowed to sit 12 and some were allowed to stand? 13 A Anyone who had any types of problems with 14 their back and couldn't stand or any physical that 15 they weren't able to stand for a long time, we were 16 allowed to sit. And like I said, since I had muscle 17 damage to my lower back, I was allowed to sit. 18 Q Did you have to ask someone beforehand or 19 would you just sit down because you had the muscle 20 damage? 21 A No, they knew who we were. 22 Q How did they know? Who is "they"?</p>	<p style="text-align: right;">Page 31</p> <p>1 anything to anyone else about this comment? 2 A No. 3 Q You mentioned, Ms. Despertt, that you felt 4 he was sabotaging your work. 5 A Yes. 6 Q What do you mean by that? 7 A What I mean by that is there was -- we had 8 a time limit to get -- open up a certain amount of 9 CDs. And one day Linc was doing a count and he went 10 down the table. When he got -- there were eight of 11 us, I believe. When he got to the person beside me 12 and was next to come to me, TAJ walked over to right 13 in front of me, picked up a whole stack of my DVDs and 14 walked them over to the other side of the room, which 15 made me fail the count because I ended up short. 16 At that time I pointed out to Linc right 17 then and there, I said, "Linc, TAJ just took a bunch 18 of my DVDs. If he had not taken them, then I would 19 have been over quota." And Linc, he didn't say 20 anything to me. He says, "Well, we'll do another 21 count later." But that never happened. 22 And also, when I had to put DVDs back, I</p>
<p style="text-align: right;">Page 30</p> <p>1 A Because there were three of us. I mean, 2 TAJ and Kofi knew it was three of us that were allowed 3 to sit. 4 Q Who were the other individuals allowed to 5 sit? 6 A Ms. Gonzales and Say -- Say Wing. 7 Q Do you remember Ms. Gonzales' first name? 8 A No. 9 Q Do you know if she had a daughter that also 10 worked at the facility? 11 A There was a mother and daughter, yes. 12 Q Do you know if the Ms. Gonzales that you're 13 referring to is the mother or the daughter? 14 A The mother. 15 Q And so when Mr. Johnson made this comment 16 about the best seat in the house, do you know if 17 anyone else heard this comment besides you? 18 A I can't say if they did. 19 Q Did anyone say anything to you about this 20 comment -- 21 A No. 22 Q -- that they heard it? Did you say</p>	<p style="text-align: right;">Page 32</p> <p>1 noticed him adjacent to me, although I really wasn't, 2 you know -- I was doing my work, but I did -- there 3 were rows. And every DVD -- two particular days every 4 DVD that I put back ended up being misfiled. And it 5 was brought to my attention that he was going behind 6 me and moving them when I put them back. And that was 7 Shon who informed me of that. Because when you don't 8 put them back correctly, you get in trouble. That's 9 what I mean by sabotaging my work. 10 Q Now, starting with your first example of 11 him sabotaging your work, do you know if Linc said 12 anything to TAJ about picking up the DVDs? 13 A I don't know. 14 Q Do you know if he was disciplined? 15 A I don't know. 16 Q Do you know if TAJ picked up anyone else's 17 DVDs? 18 A No, he didn't. 19 Q How do you know? 20 A I was there. 21 Q Did you watch TAJ and Linc as Linc moved to 22 everyone's station?</p>

<p style="text-align: right;">Page 33</p> <p>1 A Uh-huh. Yes.</p> <p>2 Q And going to your second example about the</p> <p>3 misfiled DVDs, you said it was brought to your</p> <p>4 attention by Shon?</p> <p>5 A Uh-huh.</p> <p>6 Q Who is Shon?</p> <p>7 A He was one of the -- another worker doing</p> <p>8 the same thing we were doing.</p> <p>9 Q Do you remember Shon's last name?</p> <p>10 A No. Sorry.</p> <p>11 Q And what did Shon tell you?</p> <p>12 A He said that TAJ was walking behind me.</p> <p>13 Q Did you see TAJ walking behind you?</p> <p>14 A I saw him, but I -- you know, I saw him in</p> <p>15 the area, but, I mean, like -- it's a long row, I</p> <p>16 mean, so -- but yeah, I did see him in the area. He</p> <p>17 just happened to be on the same row that I was on.</p> <p>18 Q And how did Shon know that he -- that --</p> <p>19 strike that.</p> <p>20 Do you know what TAJ was doing when he was</p> <p>21 walking behind you or did Shon tell you what TAJ was</p> <p>22 doing when he was walking behind you?</p>	<p style="text-align: right;">Page 35</p> <p>1 response?</p> <p>2 A He told me he would look into it.</p> <p>3 Q Do you know what happened after that?</p> <p>4 A No, I do not.</p> <p>5 Q Did you ask about it ever again?</p> <p>6 A No, because no one said anything to me,</p> <p>7 so --</p> <p>8 Q And did you complain to anyone else about</p> <p>9 this incident?</p> <p>10 A No.</p> <p>11 Q Did you have any other concerns about</p> <p>12 Thomas Johnson, or TAJ, that were not expressed in the</p> <p>13 e-mail?</p> <p>14 A I mentioned about him when I was in a room</p> <p>15 and he groped me from behind. There was a time, too,</p> <p>16 where he walked up behind me and he put his -- he</p> <p>17 palmed both of my breasts with his hands.</p> <p>18 Q Do you remember when that was?</p> <p>19 A Maybe about two weeks before I ended up</p> <p>20 leaving. And I can't recall the dates, but often he</p> <p>21 would come up behind me and, you know, put his hands</p> <p>22 on my shoulders.</p>
<p style="text-align: right;">Page 34</p> <p>1 A Shon told me.</p> <p>2 Q And what did he say he was doing?</p> <p>3 A He said that TAJ was moving the DVDs.</p> <p>4 Q When Shon informed you of this, did you</p> <p>5 tell that to anyone else?</p> <p>6 A Yes.</p> <p>7 Q To whom did you tell --</p> <p>8 A Kofi.</p> <p>9 Q And why did you tell Kofi?</p> <p>10 A Because I knew I would get in trouble.</p> <p>11 Q I don't understand. You knew that you</p> <p>12 would get in trouble --</p> <p>13 A If the orders are not put back accurately,</p> <p>14 I'll be responsible for that.</p> <p>15 Q Okay. So why did you choose to tell Kofi?</p> <p>16 A Because I knew I would get in trouble --</p> <p>17 Q And what was Kofi's role?</p> <p>18 A He's the -- he's the supervisor.</p> <p>19 Q And what did you say to Kofi?</p> <p>20 A I told him that Shon told me that TAJ was</p> <p>21 moving my DVDs.</p> <p>22 Q Do you remember what Kofi told you in</p>	<p style="text-align: right;">Page 36</p> <p>1 Q Is there anything else?</p> <p>2 A Not that I can recall at this time.</p> <p>3 Q Let's talk about the incident where he put</p> <p>4 the palm of his hands on both of your breasts. You</p> <p>5 said that was about two weeks before you left?</p> <p>6 A Uh-huh.</p> <p>7 Q Where did that take place? You said it was</p> <p>8 in a room --</p> <p>9 A No. There's two different incidents. I</p> <p>10 was sitting on a floor and I was scanning DVDs in.</p> <p>11 Q And was this -- was this also in the</p> <p>12 warehouse?</p> <p>13 A Yeah.</p> <p>14 Q Was there anyone else around at the time?</p> <p>15 A Well, there was always people around,</p> <p>16 but -- I mean, the way he did it, it was kind of fast,</p> <p>17 so -- and I told him, you know, "Don't" -- "Don't do</p> <p>18 that again." And he -- he just laughed and walked</p> <p>19 away.</p> <p>20 MR. PHILLIPS: Are you okay?</p> <p>21 THE WITNESS: Yeah, just kind of thinking</p> <p>22 about -- you know.</p>

<p style="text-align: right;">Page 41</p> <p>1 comfortable.</p> <p>2 Q Other than the incident where you told</p> <p>3 Mr. Lincoln Barrett about Kofi taking out DVDs --</p> <p>4 A TAJ.</p> <p>5 Q -- excuse me, strike that -- about TAJ</p> <p>6 taking out the DVDs, do you know if there was another</p> <p>7 incident where you complained to Mr. Lincoln Barrett?</p> <p>8 A Not that I can recall at this time.</p> <p>9 Q And moving on to the other example you</p> <p>10 gave, you said Mr. Johnson, TAJ, often put his hands</p> <p>11 on your shoulder?</p> <p>12 A Like he was going to, like, try to massage.</p> <p>13 And I would just shrug him off.</p> <p>14 Q Do you remember about how many times he did</p> <p>15 that?</p> <p>16 A It was often. I can't say every day, but</p> <p>17 it was often.</p> <p>18 Q Was it more than once a week?</p> <p>19 A Yes.</p> <p>20 Q Was it more than two times a week?</p> <p>21 A Yes.</p> <p>22 Q Was it more than three times a week?</p>	<p style="text-align: right;">Page 43</p> <p>1 A No, I would just shrug him off.</p> <p>2 Q Did you tell anyone about him massaging you</p> <p>3 at any time?</p> <p>4 A Just Kofi.</p> <p>5 Q Did you tell Kofi more than once?</p> <p>6 A Yes.</p> <p>7 Q What would Kofi say to you in response or</p> <p>8 what did he say?</p> <p>9 A He would make all different types of</p> <p>10 gestures to the effect of, you know, like, "What's</p> <p>11 wrong with him?" You know, "Why does he do things</p> <p>12 like that?" Stuff like that.</p> <p>13 Q Did you ever complain to anyone else</p> <p>14 besides Kofi?</p> <p>15 A No -- I'm sorry, my fiance. I pretty much</p> <p>16 talked his head off about it.</p> <p>17 Q Are there any other examples of concerns</p> <p>18 that you had for Mr. Johnson?</p> <p>19 A When I was cleaning the DVDs he -- I was</p> <p>20 out there scanning and he came up to me and he said</p> <p>21 that he had a special project for me to do. So I went</p> <p>22 in a room where there's -- there was this machine that</p>
<p style="text-align: right;">Page 42</p> <p>1 A Yes.</p> <p>2 Q Do you remember where you would be sitting</p> <p>3 or standing when he would massage your shoulders or</p> <p>4 try to massage your shoulders?</p> <p>5 A Most of the time it was when I was sitting.</p> <p>6 Q When he would massage your shoulders were</p> <p>7 you around other individuals?</p> <p>8 A Sometimes.</p> <p>9 Q Would you ever -- did anyone, to your</p> <p>10 knowledge, see him massaging your shoulders?</p> <p>11 A Not to my knowledge. He also did it to</p> <p>12 other females.</p> <p>13 Q Did you see him massage other females?</p> <p>14 A Yes.</p> <p>15 Q Did anyone share that with you --</p> <p>16 A No.</p> <p>17 Q -- that you had not seen?</p> <p>18 A No.</p> <p>19 Q You said that you would shrug him off --</p> <p>20 A Uh-huh.</p> <p>21 Q -- from trying to massage you. Did you do</p> <p>22 anything else in response to him massaging you?</p>	<p style="text-align: right;">Page 44</p> <p>1 would clean the DVDs and he showed me how to do it and</p> <p>2 he left me and I was in there cleaning them. About</p> <p>3 10, 15 minutes later he came in and he closed the door</p> <p>4 and he pulled me up from the chair, put his hands on</p> <p>5 my waist and was thrusting me from behind. And I --</p> <p>6 you know, I fought him off and I told him to stop.</p> <p>7 And I walked around the table and opened up the door</p> <p>8 and went and told Kofi and Kofi, he's like, "What is</p> <p>9 wrong with this guy." You know, he would just shake</p> <p>10 his head. So Kofi came over and there was a table</p> <p>11 outside the door and he sat right there for the</p> <p>12 remaining of the time that I was in there cleaning</p> <p>13 DVDs.</p> <p>14 Q Did you tell anyone else about the</p> <p>15 incident?</p> <p>16 A Just my fiance.</p> <p>17 Q Did you do anything else that day in</p> <p>18 response to that incident?</p> <p>19 A I just kind of steered clear of him because</p> <p>20 that was a little too much, so I just kind of, like,</p> <p>21 stayed out of his path. If I saw him coming, I went</p> <p>22 another way. If he was in a room, I went to another</p>

<p style="text-align: right;">Page 45</p> <p>1 room.</p> <p>2 Q Were there any other incidents that</p> <p>3 concerned you about Mr. Johnson?</p> <p>4 A Besides comments and eye gestures, not that</p> <p>5 I can recall.</p> <p>6 Q Is there anyone else that -- strike that.</p> <p>7 Do you believe that there was any -- was</p> <p>8 there anyone else that sexually harassed you while you</p> <p>9 were working there?</p> <p>10 A No.</p> <p>11 Q Okay. I'm going to show you what's going</p> <p>12 to be marked as Despertt 2.</p> <p>13 (Exhibit 2 was marked for identification</p> <p>14 and attached to the deposition transcript.)</p> <p>15 BY MS. QUAMIE:</p> <p>16 Q Have you ever seen this document before?</p> <p>17 A No.</p> <p>18 Q I'm going to represent to you that this</p> <p>19 document that's marked as Despertt 2 is Plaintiff</p> <p>20 EEOC's First Supplemental Answers to Blockbuster,</p> <p>21 Inc.'s First Set of Interrogatory Requests.</p> <p>22 If you would turn to the second page, page</p>	<p style="text-align: right;">Page 47</p> <p>1 have a C cup." That's basically what he said.</p> <p>2 Q It was just once?</p> <p>3 A Uh-huh.</p> <p>4 Q Now, you said this was while you were</p> <p>5 sitting at the table. If you could again help me to</p> <p>6 visualize, was this when you were sitting in a row</p> <p>7 with other distribution clerks?</p> <p>8 A Uh-huh.</p> <p>9 Q Was he sitting across from you?</p> <p>10 A He was sitting out on the floor.</p> <p>11 Q About how far away was he approximately?</p> <p>12 Maybe the distance between you and I, about four feet?</p> <p>13 A More about the distance where that window</p> <p>14 is.</p> <p>15 Q So maybe we can approximate about 10 to 12</p> <p>16 feet away from you?</p> <p>17 A Uh-huh.</p> <p>18 Q Do you know if anyone else heard him make</p> <p>19 the comment about the push-up bra?</p> <p>20 A I can't say.</p> <p>21 Q Did you tell anyone about the comment?</p> <p>22 A Just my fiance.</p>
<p style="text-align: right;">Page 46</p> <p>1 2, towards the bottom, begins, "In February/March 2005</p> <p>2 Thomas Johnson subjected Michelle Despertt to at least</p> <p>3 the following conduct." Does that statement refresh</p> <p>4 your recollection about when you worked at the</p> <p>5 facility?</p> <p>6 A Uh-huh.</p> <p>7 Q Would you agree that it was 2005?</p> <p>8 A Yes, ma'am.</p> <p>9 Q See after the letter B it states, "He</p> <p>10 pushed her up against the wall and holding her there</p> <p>11 said, 'I want you'?"</p> <p>12 A Uh-huh.</p> <p>13 Q Did we already discuss that incident?</p> <p>14 A Yes.</p> <p>15 Q "He asked her that she" -- "whether she</p> <p>16 wore push-up bras"?</p> <p>17 A We didn't discuss that, but he did ask me</p> <p>18 that when we was sitting at -- when I was sitting at</p> <p>19 the table.</p> <p>20 Q Was this on more than one occasion?</p> <p>21 A It was a comment and he commented the size</p> <p>22 and says, "I bet you wear a push-up bra. I bet you</p>	<p style="text-align: right;">Page 48</p> <p>1 Q Okay. If you would turn to the top of the</p> <p>2 next page, number 3. If you could read into the</p> <p>3 record the clause beginning after (E) in parentheses,</p> <p>4 "On a daily basis."</p> <p>5 A Uh-huh.</p> <p>6 Q If you wouldn't mind reading that.</p> <p>7 A Oh. "On a daily basis he made offensive</p> <p>8 sexual comments to Despertt and to other female</p> <p>9 employees while in her presence, such as asking them</p> <p>10 how they liked to have sex and what sexual positions</p> <p>11 they liked, stating the sexual positions and types of</p> <p>12 sex he liked, stating he liked performing oral sex on</p> <p>13 women and describing how he liked his body touched</p> <p>14 during sex and asking Say Wing if she ever had any big</p> <p>15 black dick."</p> <p>16 Q When did he ask -- did he ask you</p> <p>17 specifically whether you liked to have sex and what</p> <p>18 sexual positions you liked?</p> <p>19 A He was just talking in general how -- what</p> <p>20 he wanted and how he liked it.</p> <p>21 Q Okay.</p> <p>22 A And what positions he liked and how he was</p>

<p style="text-align: right;">Page 49</p> <p>1 a pro at oral sex and how much he liked it. He also 2 told me directly that he wanted to perform oral sex on 3 me and which I told him no. 4 Q Did he ever ask you how you liked to have 5 sex and what position you liked? 6 A He never asked me about position, no. He 7 would just describe positions that he -- how he liked 8 it. And this was addressed to me and Say, because Say 9 sat right behind me. 10 Q Did you ever hear him ask anyone else how 11 they liked to have sex and what sexual positions they 12 liked? 13 A Other females, yes. 14 Q What did you do when you heard him make 15 these comments? 16 A We would -- we would just continue working. 17 I mean, it just -- after a while it just -- you know, 18 you hear it but you kind of, like, tune him out 19 because he's just talking and he's just there. But it 20 was often. It was very often that he would talk about 21 it. 22 Q Did you tell your fiance about these</p>	<p style="text-align: right;">Page 51</p> <p>1 Brown about the sexual harassment." 2 Q You can stop there. Thank you. So just to 3 go back to the first sentence that you read, or that 4 first section, you described at least one occasion 5 where Mr. Johnson took a stack of DVDs to make your 6 work look smaller. Was there any other occasion where 7 he did that? 8 A The DVD stack? 9 Q Yes, where he picked up the stack of DVDs 10 to make your work look smaller. 11 A Not that I saw. 12 Q Did you hear about another incident where 13 he did that to you? 14 A No. 15 Q Did you hear about an incident where he did 16 that to anyone else? 17 A Not to my knowledge. 18 Q Did this cause you to be terminated by 19 Blockbuster? 20 A I never received a reason as to why I was 21 terminated from Blockbuster. 22 MR. PHILLIPS: And we'll object to the</p>
<p style="text-align: right;">Page 50</p> <p>1 comments? 2 A Uh-huh. 3 Q Did you tell anyone else about these 4 comments? 5 A I would talk to Kofi about it. I would 6 tell my fiance everything. 7 Q Did you talk to Kofi, also, pretty 8 regularly about the -- your concerns about TAJ? 9 A When I saw him. He wasn't there all the 10 time. TAJ and Linc were there all the time. Kofi was 11 not. I believe he had another job. 12 Q Were you and Kofi friends outside of the 13 workplace? 14 A No. 15 Q If you could look again at the document in 16 front of you, after the letter (G) in parentheses -- 17 A "He sabotaged her work because she declined 18 to enter into a sexual relationship with him, such as 19 taking stacks of DVDs from her to make her production 20 look smaller than it actually was, which caused her to 21 be terminated by defendant. Despertt complained to 22 Lincoln Barrett about the work sabotage and to Cinnie</p>	<p style="text-align: right;">Page 52</p> <p>1 foundation. 2 Q So you just read into the record a 3 statement that said Mr. Johnson would do such things 4 as take a stack of DVDs to make your production look 5 smaller, "which caused her to be terminated by 6 defendant." Do you know if that's referring to you? 7 A Yes, because this particular day when that 8 happened, that evening was when Cinnie called. 9 Q Now, you referred to an e-mail that you 10 shared -- or you sent to Ms. Cinnie Brown? 11 A Uh-huh. 12 Q Aside from that e-mail, was there any other 13 time that you complained about Mr. Johnson or anyone 14 else at the facility to Cinnie Brown? 15 MR. PHILLIPS: By e-mail or by any means? 16 A Yeah. 17 Q By any means was there any other time that 18 you complained, e-mail or over the phone or -- 19 A To Kofi. Just to Kofi. 20 Q You complained to Kofi? 21 A Uh-huh. 22 Q Did you complain to Cinnie Brown in any</p>

<p style="text-align: right;">Page 53</p> <p>1 other fashion other than the e-mail that you referred 2 to earlier? 3 A No. 4 Q Okay. You can put that document aside. We 5 may return to it. 6 I'm going to show you what will be marked 7 as Despertt 3. 8 (Exhibit 3 was marked for identification 9 and attached to the deposition transcript.) 10 BY MS. QUAMIE: 11 Q Do you recognize this document? 12 A Yes. 13 Q Do you know if this is the document that 14 you were referring to earlier about an e-mail that you 15 sent to Cinnie Brown? 16 A Yes. 17 Q I'll give you a moment to skim the document 18 if you need time to review it. 19 A I'm all right. 20 Q Do you remember when the last time was that 21 you saw this particular e-mail? 22 A When I sent it to Mr. Phillips.</p>	<p style="text-align: right;">Page 55</p> <p>1 this e-mail? 2 A I wrote the e-mail because when she called 3 to terminate me I was upset. I wanted to know why. 4 Q Okay. Did anyone instruct you to write the 5 e-mail? 6 A No. 7 MR. PHILLIPS: If I may, Counsel, for the 8 record, Despertt 3 is Bates number EEOC 00616 and 9 00617. 10 Q The -- maybe about three or four lines into 11 the e-mail, so into the second paragraph referring to 12 Thomas, or TAJ, "I had met him previously through 13 association of another friend." 14 A Uh-huh. 15 Q Was this the same friend who told you about 16 Express Personnel or was it a different friend? 17 A It was Monique. 18 Q Was it Monique Spears? 19 A Uh-huh. 20 Q Where had you met him previously? 21 A At a gathering at Shon's house. As I said, 22 he was dating my girlfriend Twanessa. Twanessa and I</p>
<p style="text-align: right;">Page 54</p> <p>1 Q At the beginning of the e-mail it states, 2 "This is a follow-up to our conversation on Friday, 3 March 4, 2005." 4 A Uh-huh. 5 Q Do you remember what that conversation was? 6 A I -- I called her and she was unavailable. 7 And she didn't call me back, so that's when I sent the 8 e-mail. 9 Q So did you have a conversation with her 10 then on Friday, March 4? 11 A We didn't -- I mean, it was quick. She 12 didn't -- I called her. She said that she was on 13 another call and she would call me back. She didn't 14 call me back. 15 Q I see. And why did you call her on that 16 date, if you remember. 17 A I don't remember. 18 Q Do you remember if that was the same day 19 that Ms. Brown told you that you were terminated from 20 your employment? 21 A I believe so. 22 Q And do you remember why you chose to write</p>	<p style="text-align: right;">Page 56</p> <p>1 went to Shon's house and he was there. 2 Q Do you remember when this gathering was? 3 A I think it had something to do with the 4 Super Bowl or something to that effect. 5 Q And do you remember how -- when that was in 6 relation to when you began working at Express? Was 7 it -- 8 A It was about a week, two weeks before I 9 started working at Express. And Monique was -- said, 10 "Can you hook my girl up with a job?" And he asked me 11 what type of work I did. I told him. And he told me 12 that he would check into it and he would let Twanessa 13 know because he knew that Twanessa and I were friends. 14 Monique was in New York at the time and he 15 gave me the number -- well, he gave Twanessa the 16 number to Express. I called Express, talked to 17 Cinnie, and a day later she called me back and told me 18 that I could report to Blockbuster 7:00 that morning. 19 Prior to I went to the library, I printed out the 20 forms and I took them with me to Blockbuster and then 21 I faxed them from Blockbuster. 22 Q Had you interacted with Mr. Johnson at all</p>

<p style="text-align: right;">Page 57</p> <p>1 after that incident but before starting to work at</p> <p>2 Blockbuster?</p> <p>3 A Just besides at the party, no.</p> <p>4 Q If you could just look at the bottom of</p> <p>5 that first page, it states -- the sentence beginning,</p> <p>6 "I became friends with one of the other managers, Kofi</p> <p>7 Tutu," if you could read that to the end of the page,</p> <p>8 please.</p> <p>9 A "I became friends with one of the other</p> <p>10 managers, Kofi Tutu. TAJ was under the impression I</p> <p>11 was sleeping with Mr. Tutu, which has never happened.</p> <p>12 I believe since I did not give into TAJ's advances,</p> <p>13 then all of a sudden out of the blue I am not working</p> <p>14 out any longer. I was being considered for a</p> <p>15 permanent, position possibly as a driver, just last</p> <p>16 week."</p> <p>17 Q Okay. Thank you. What did you mean by the</p> <p>18 sentence, "I became friends with one of the other</p> <p>19 managers, Kofi Tutu"?</p> <p>20 A Because since Kofi was the only one that I</p> <p>21 trusted to confide in. And at one point I started</p> <p>22 doing inventory at night for Linc because I asked to</p>	<p style="text-align: right;">Page 59</p> <p>1 A We were on the floor.</p> <p>2 Q Did anyone else hear this comment?</p> <p>3 A I can't say if they did.</p> <p>4 Q Was anyone else around that you saw?</p> <p>5 A They were always around, but I can't say if</p> <p>6 they --</p> <p>7 Q Did you say anything in response or was the</p> <p>8 conversation just between those two individuals?</p> <p>9 A I was adjacent to it and Kofi told him no.</p> <p>10 And then I told him we're not sleeping together.</p> <p>11 Q Did you tell anyone else about this comment</p> <p>12 or this question by TAJ?</p> <p>13 A Not that I recall.</p> <p>14 Q If you would just back up a little bit, you</p> <p>15 said that you were -- you asked to work a little bit</p> <p>16 later. You said that, "We would do inventory."</p> <p>17 A Uh-huh.</p> <p>18 Q Who is "we"?</p> <p>19 A Me, Kofi and Linc.</p> <p>20 Q Did anyone else stay late to do the</p> <p>21 inventory?</p> <p>22 A We were the only three.</p>
<p style="text-align: right;">Page 58</p> <p>1 come in later so that I wouldn't have to be around</p> <p>2 TAJ. And Linc offered me the chance to come in a</p> <p>3 little later in the afternoon, but I would stay until</p> <p>4 late at night and we would do inventory of the whole</p> <p>5 stock. And my car broke down and Kofi was giving me a</p> <p>6 ride home. I would catch the bus to work, but Kofi</p> <p>7 would give me a ride home. That's what I mean by we</p> <p>8 became friends.</p> <p>9 And one night TAJ saw me getting in Kofi's</p> <p>10 car. And I can't say exactly what transpired between</p> <p>11 him and Kofi, but after that he came to work and he</p> <p>12 asked Kofi was he fucking me, and Kofi was like no.</p> <p>13 And TAJ was like, "Oh, man, you know you hitting</p> <p>14 that." And Kofi was like, "No. We're just friends."</p> <p>15 So that's what I meant by that. I -- I believe TAJ</p> <p>16 was under the impression that I was sleeping with</p> <p>17 Kofi. However, I was not sleeping with him.</p> <p>18 Q When TAJ asked Kofi about whether the two</p> <p>19 of you were sleeping together, did you hear this</p> <p>20 comment? Did you hear this --</p> <p>21 A Uh-huh.</p> <p>22 Q Where were you when this comment was made?</p>	<p style="text-align: right;">Page 60</p> <p>1 Q Was it always you, Kofi and Linc?</p> <p>2 A Yes.</p> <p>3 Q And do you remember -- do you recall when</p> <p>4 Mr. Johnson asked the question about whether the two</p> <p>5 of you were sleeping together?</p> <p>6 A The date?</p> <p>7 Q The date or in relation to when you stopped</p> <p>8 working at Blockbuster or Express Personnel.</p> <p>9 A It was within two weeks of me leaving</p> <p>10 there -- I'm sorry, if I may back up, it may have been</p> <p>11 within, I would say, two to four weeks.</p> <p>12 Q Had you received any discipline while you</p> <p>13 were working as a distribution clerk?</p> <p>14 A No.</p> <p>15 Q How do you know you were being considered</p> <p>16 for a permanent position?</p> <p>17 A Because Linc told me.</p> <p>18 Q When did he tell you?</p> <p>19 A It happened within two weeks prior to me</p> <p>20 leaving or a week. He said that I did such a good job</p> <p>21 with the inventory and I was familiar with the</p> <p>22 procedures at Shady Grove. When you're doing bulk</p>

<p style="text-align: right;">Page 61</p> <p>1 mail or metered mail there are certain procedures that</p> <p>2 you need to know, which I was familiar with because I</p> <p>3 had the experience from a previous employer.</p> <p>4 Therefore, he said that I would be great since I knew</p> <p>5 those procedures.</p> <p>6 And he asked did I have a driver's license.</p> <p>7 I told him yes. And he told me that within a month</p> <p>8 that I would be the one driving to take the mail,</p> <p>9 because every night we had to take the mail to go out,</p> <p>10 the DVDs that were going out. And he said that within</p> <p>11 a month that I was going to be his driver and that I</p> <p>12 was going to be a Blockbuster employee. And I was</p> <p>13 happy about that.</p> <p>14 Q While you were working there did you</p> <p>15 receive any other -- any performance evaluations or --</p> <p>16 A No.</p> <p>17 Q -- any feedback about your work?</p> <p>18 A Just verbal.</p> <p>19 Q What was the verbal feedback that you</p> <p>20 received?</p> <p>21 A From Linc?</p> <p>22 Q Or anyone else.</p>	<p style="text-align: right;">Page 63</p> <p>1 that. Where you state in the e-mail, "I went to Linc</p> <p>2 and told him about my concerns on the 4th of March,"</p> <p>3 do you remember that conversation? What were the</p> <p>4 concerns that you went to Linc to talk about?</p> <p>5 A After he took -- said that when he took my</p> <p>6 DVDs I went to complain to Linc about that then.</p> <p>7 Q Okay. And so you went to Linc to tell him</p> <p>8 about TAJ taking DVDs?</p> <p>9 A Uh-huh.</p> <p>10 Q Did you share with him any other concerns</p> <p>11 at that time?</p> <p>12 A No.</p> <p>13 Q And was that incident, to your knowledge,</p> <p>14 the only time that your stacks had not been up -- your</p> <p>15 stack had not been up to ten stacks per hour or ten</p> <p>16 DVDs --</p> <p>17 A That's the only time.</p> <p>18 Q Would someone inform you or would you be</p> <p>19 informed if it was not at the right amount?</p> <p>20 A Yes.</p> <p>21 Q Did you have any other concerns that were</p> <p>22 not addressed in this e-mail to Cinnie Brown and that</p>
<p style="text-align: right;">Page 62</p> <p>1 A From Linc -- it was mostly from Linc and</p> <p>2 Kofi. They were impressed to the fact that I was able</p> <p>3 to scan very fast. They were also impressed, like I</p> <p>4 said, with the knowledge and the procedures. The</p> <p>5 policy and procedures at the Post Office. And Linc</p> <p>6 was impressed to the fact that, you know, wherever --</p> <p>7 whatever area he put me in I excelled. I did a good</p> <p>8 job at it and he often commented me on that.</p> <p>9 Q Did Cinnie Brown ever give you any feedback</p> <p>10 about your performance?</p> <p>11 A No.</p> <p>12 Q If you can just draw your attention to the</p> <p>13 last line of that page, "I went to Linc and told him</p> <p>14 about my concerns on the 4th of March. He said I had</p> <p>15 to get my stacks up to ten stacks per hour."</p> <p>16 A Uh-huh. That's like I said where we were</p> <p>17 being timed as far as stacks and he -- it was in the</p> <p>18 beginning and you had to get ten stacks per hour, and</p> <p>19 I believe I was getting eight. But it did improve to</p> <p>20 ten. And he said that -- I believe TAJ was supposed</p> <p>21 to give me a count, but that never happened.</p> <p>22 Q And we can back up to the first part of</p>	<p style="text-align: right;">Page 64</p> <p>1 we have not discussed about TAJ Johnson or your work</p> <p>2 there?</p> <p>3 A Besides the eye gestures and, you know, he</p> <p>4 would, like, stick his tongue out, you know, like</p> <p>5 (indicating), like that.</p> <p>6 And the other thing that was in here that</p> <p>7 we didn't address was him coming to work reeking of</p> <p>8 alcohol, which I personally have a sensitive stomach</p> <p>9 and he would be, like, right up in our faces. And, I</p> <p>10 mean, it was just, like, coming out of his breath,</p> <p>11 which made me sick to my stomach. And it happened</p> <p>12 often.</p> <p>13 And I do recall twice, I think it was two</p> <p>14 days in a row, that Linc sent him home because he was</p> <p>15 reeking of alcohol. But other than that and the eye</p> <p>16 gestures and, you know, the thing with the tongue and,</p> <p>17 you know -- other than that, no, that I can recall of</p> <p>18 everything we have already discussed.</p> <p>19 Q Okay. Thank you. I'm going to go through</p> <p>20 two more e-mails. I'm going to show you what's going</p> <p>21 to be marked Despertt 4.</p> <p>22 (Exhibit 4 was marked for identification</p>

<p style="text-align: right;">Page 97</p> <p>1 during lunch.</p> <p>2 And during lunch myself and Monique would</p> <p>3 have lunch together. The -- Ms. -- Dolores and all</p> <p>4 them would sit at a table by themselves. TAJ and Kofi</p> <p>5 and them rarely ever had lunch with us. So there</p> <p>6 wasn't much time to, like, on the floor talk. We</p> <p>7 didn't do that. We weren't allowed to do that. But I</p> <p>8 did notice that when we would go to the back when we</p> <p>9 were putting away the stuff where the racks were, they</p> <p>10 would get together and talk back there unless they</p> <p>11 heard or saw somebody coming.</p> <p>12 Q Who's "they"?</p> <p>13 A Dolores and her daughter or -- they would</p> <p>14 try to work together on the same row, because we all</p> <p>15 got different rows. So they would try to get -- so</p> <p>16 they would be together. But there wasn't much talk</p> <p>17 about -- I didn't hear anything about them complaining</p> <p>18 about him. And like I said before, if they did</p> <p>19 converse, it was in their language which I don't</p> <p>20 understand.</p> <p>21 Q Do you know who Elizabeth Ledesma is?</p> <p>22 A That name does ring a bell.</p>	<p style="text-align: right;">Page 99</p> <p>1 Q Do you know if -- did you ever see anyone</p> <p>2 touch her in a sexually offensive manner?</p> <p>3 A Besides the shoulders thing, no.</p> <p>4 Q Did you ever hear anyone make any sexual</p> <p>5 comments towards Lita?</p> <p>6 A As I said before, the sexual comments were</p> <p>7 in general when we were sitting there. I mean, it was</p> <p>8 my opinion that he was addressing anyone who was</p> <p>9 listening. So I would have to say yes, because I felt</p> <p>10 that it was directed towards all of us.</p> <p>11 Q What about any racist comments or racial</p> <p>12 comments towards Lita?</p> <p>13 A I don't remember.</p> <p>14 Q Does the name Gilda --</p> <p>15 A Yes, I remember Ms. Gilda.</p> <p>16 Q Ms. Gilda. Is her last name Arevalo?</p> <p>17 Arevalo?</p> <p>18 A I don't know what her last name is, but I</p> <p>19 remember Ms. Gilda.</p> <p>20 Q Do you remember Ms. Gilda ever making any</p> <p>21 complaints towards you about her -- any concerns about</p> <p>22 TAJ or Kofi or anyone else at the facility?</p>
<p style="text-align: right;">Page 98</p> <p>1 Q Would you recognize her if you saw her</p> <p>2 today?</p> <p>3 A Maybe.</p> <p>4 Q Do you know if anyone ever -- do you know</p> <p>5 if TAJ or anyone else at the facility touched her in a</p> <p>6 sexually offensive manner?</p> <p>7 A I don't remember. Not that I can recall.</p> <p>8 Q Do you recall anyone ever making any racist</p> <p>9 comments towards her?</p> <p>10 A Not that I can recall.</p> <p>11 Q What about -- do you know if anyone made</p> <p>12 any sexual comments towards her directly?</p> <p>13 A Not that I know of.</p> <p>14 Q Does the name Milagros Ledesma sound</p> <p>15 familiar? Do you know who she is?</p> <p>16 A No.</p> <p>17 Q Do you know who Grisel Nunez is?</p> <p>18 A Nunez rings a bell.</p> <p>19 Q Do you know if her first name is Grisel?</p> <p>20 A I'm not sure.</p> <p>21 Q Do you know Lita Zubiate?</p> <p>22 A I remember Lita, yes.</p>	<p style="text-align: right;">Page 100</p> <p>1 A No.</p> <p>2 Q Do you know if anyone ever made any</p> <p>3 sexually offensive comments towards Ms. Gilda</p> <p>4 directly?</p> <p>5 A Again, I feel that the comments were in</p> <p>6 general to all of us because we were all sitting</p> <p>7 there.</p> <p>8 Q How about any racist comments?</p> <p>9 A Not that I know of.</p> <p>10 Q Did you ever see anyone touch her in a</p> <p>11 sexually offensive manner?</p> <p>12 A Just besides the shoulders thing.</p> <p>13 Q Victor Ruiz, does that name sound familiar?</p> <p>14 A It does, but I don't remember who he is. I</p> <p>15 think I've heard that name before, though. I don't</p> <p>16 remember who he is, though.</p> <p>17 Q You mentioned Say Wing earlier. Do you --</p> <p>18 can you recall if you ever saw anyone touch her in a</p> <p>19 sexually offensive manner?</p> <p>20 A The shoulder thing.</p> <p>21 Q Is there anything else?</p> <p>22 A Not that I saw. It was just the comment</p>

<p style="text-align: right;">Page 101</p> <p>1 that he asked her directly -- and I did hear this --</p> <p>2 has she ever had any big black dick. And she laughed,</p> <p>3 and he asked -- he said, "Do you want some big black</p> <p>4 dick?" And she laughed it off. But again, she, too,</p> <p>5 would talk in her language on the phone with somebody.</p> <p>6 I don't know who she was talking to.</p> <p>7 Q Did she ever talk to you about her</p> <p>8 concerns --</p> <p>9 A No.</p> <p>10 Q -- or share any concerns about --</p> <p>11 A No.</p> <p>12 Q -- how she felt?</p> <p>13 A No.</p> <p>14 Q Did anyone else hear this comment?</p> <p>15 A We were all sitting there. I'm sure they</p> <p>16 did. Ms. Lolita was sitting there, Ms. Dolores was</p> <p>17 sitting there when TAJ made that comment to Say.</p> <p>18 Q Were there any other comments that you are</p> <p>19 aware of made towards Ms. Say Wing that were sexually</p> <p>20 offensive, in your opinion?</p> <p>21 A There were, but I can't remember exactly</p> <p>22 what was said.</p>	<p style="text-align: right;">Page 103</p> <p>1 A Yeah, but I don't remember exactly what was</p> <p>2 said. But yes.</p> <p>3 Q Did you speak with her about it?</p> <p>4 A No. We didn't talk directly about it.</p> <p>5 Q How did you hear about it?</p> <p>6 A I could hear her talk on the phone.</p> <p>7 Q Oh, okay. Do you remember who she was</p> <p>8 talking to?</p> <p>9 A No.</p> <p>10 Q Do you remember what she was saying?</p> <p>11 A She was saying that TAJ asked her out and</p> <p>12 she told him no, and I think he asked her out again</p> <p>13 and she told him no. I think that's about it. I</p> <p>14 think he just kept asking her out. She said she</p> <p>15 wasn't interested.</p> <p>16 Q And you said -- just to make sure I'm</p> <p>17 clear, you said she never spoke with you directly --</p> <p>18 A No.</p> <p>19 Q -- about her interactions with TAJ?</p> <p>20 A No, not that I remember.</p> <p>21 Q Did you ever see anyone touch Blythe in a</p> <p>22 physically -- in a sexually offensive manner?</p>
<p style="text-align: right;">Page 102</p> <p>1 Q Do you ever remember hearing any racial</p> <p>2 comments towards Say Wing?</p> <p>3 A No.</p> <p>4 Q Does the name Yasmina Asumanu sound</p> <p>5 familiar to you?</p> <p>6 A I don't recall that. No.</p> <p>7 Q Does the name Emetem Nkwetta sound familiar</p> <p>8 to you?</p> <p>9 A No.</p> <p>10 Q Does the name Blythe sound familiar?</p> <p>11 A I've heard that name before. Yeah, I've</p> <p>12 heard that name. Yeah, she used to work there.</p> <p>13 Q Do you know if she went by any other names?</p> <p>14 A She -- I believe she came when -- right</p> <p>15 when -- right before I ended up leaving. But I</p> <p>16 don't -- I think she had a nickname, but I don't</p> <p>17 remember who it was. But -- because I remember</p> <p>18 Blythe. I thought that was an unusual name. So I do</p> <p>19 recall that name.</p> <p>20 Q Do you remember ever hearing about any</p> <p>21 complaints that she may have made about anyone</p> <p>22 touching her in a sexually offensive manner?</p>	<p style="text-align: right;">Page 104</p> <p>1 A I don't remember.</p> <p>2 Q Did you anyone make any racist comments</p> <p>3 towards Blythe?</p> <p>4 A Not that I recall.</p> <p>5 Q And can you recall her ethnicity or</p> <p>6 national origin?</p> <p>7 A I don't know where she was from.</p> <p>8 Q Do you remember LaQuanta Brinson?</p> <p>9 A That name sounds familiar. That sounds</p> <p>10 familiar.</p> <p>11 Q Would you recognize her if she walked in</p> <p>12 this room today?</p> <p>13 A I can't say.</p> <p>14 Q So do you remember seeing her at the</p> <p>15 facility?</p> <p>16 A I remember the name. I definitely remember</p> <p>17 the name. There were a lot of us, though, all the</p> <p>18 females and, like, three guys.</p> <p>19 Q While you were working at the facility did</p> <p>20 any other supervisors ever raise their voice or yell</p> <p>21 at you?</p> <p>22 A Yes.</p>

<p style="text-align: right;">Page 109</p> <p>1 stay with them. For each thing that they would do, 2 you would stay with them to make sure that they were 3 doing it correctly. 4 Q Who told you to do that? Who told you to 5 monitor the new employees? 6 A Sometimes it would come from Linc, 7 sometimes it would come from TAJ. 8 Q And do you know why they asked you and 9 Monique to monitor the new employees? 10 A No. 11 Q Did anyone else -- did you ever see anyone 12 else besides Monique and obviously yourself monitor 13 the new employees? 14 A Yeah, Shon did, Fernando did. It wasn't 15 just -- you know, just us all the time. 16 Q And what is Monique's ethnicity or race? 17 A African-American. 18 Q And Shon? 19 A African-American. 20 Q And Fernando? 21 A African-American. 22 Q Are you aware of any accidents of employees</p>	<p style="text-align: right;">Page 111</p> <p>1 Q So were you ever asked to help someone else 2 finish their work -- 3 A Yes. 4 Q -- or was someone else ever asked to finish 5 your work? 6 A Yes. If they weren't finished putting them 7 away, then yeah. 8 Q You would help someone else? 9 A Uh-huh. 10 Q I think you talked a little bit about 11 lunchtime. How long was the lunch break? 12 A Thirty minutes. 13 Q About 30 minutes. How did you know when it 14 was time to take lunch? 15 A They would tell us. 16 Q Who's "they"? 17 A TAJ or -- it was -- it was mostly TAJ. 18 Mostly TAJ would tell us when to go to lunch. 19 Q And where did you take lunch? Where did 20 you have lunch? 21 A I would bring my lunch. 22 Q Could individuals leave the warehouse and</p>
<p style="text-align: right;">Page 110</p> <p>1 being accused of stealing DVDs while you were there? 2 A Did I witness any? 3 Q Did you witness any employees stealing 4 DVDs? 5 A No. I heard about it. 6 Q What would happen, to your knowledge, when 7 people were accused of -- 8 A I don't know what happened. 9 Q Were you ever called in to speak with -- to 10 answer questions about employees stealing DVDs? 11 A Not that I remember. I remember it was 12 a -- it was an issue at one time, but I can't recall 13 exactly what happened. But I do remember there was an 14 issue with stealing DVDs. 15 Q I think you mentioned earlier that you 16 would work from 7:00 a.m. until the work got done. 17 A Uh-huh. 18 Q What happened at the end of the day? Did 19 everyone -- did you leave when you were done with your 20 particular assignment or did everyone have to finish 21 at the same time? 22 A They all finished at the same time.</p>	<p style="text-align: right;">Page 112</p> <p>1 get their lunch and return? 2 A Yes. Yes. 3 Q And how did you know it was time to return 4 from lunch? 5 A We only had 30 minutes, so we'd be back in 6 30 minutes. 7 Q What happened if you took 35 minutes? 8 MR. PHILLIPS: Objection, foundation, 9 speculation. 10 You can answer if you can. 11 A It was rare that anybody came back late. 12 Q Did you ever come back late from your 13 30-minute lunch? 14 A Not that I remember. 15 Q Do you know what happened if someone came 16 back late from a 30-minute lunch? 17 A Not that I remember. 18 Q Were some employees allowed to stay at 19 lunch longer than others? 20 A Yes. 21 Q Do you know which employees were allowed to 22 stay at lunch longer than others?</p>

<p style="text-align: right;">Page 113</p> <p>1 A Monique was one of them.</p> <p>2 Q Were the African-American employees allowed</p> <p>3 to stay at lunch longer than the Hispanic employees?</p> <p>4 A Yeah, sometimes. Yes.</p> <p>5 Q Were the Hispanic employees ever allowed to</p> <p>6 stay at lunch longer than the African-American</p> <p>7 employees?</p> <p>8 A No.</p> <p>9 MS. QUAMIE: Okay. I'm going to ask the</p> <p>10 court reporter to mark this document as</p> <p>11 Despertt 6.</p> <p>12 (Exhibit 6 was marked for identification</p> <p>13 and attached to the deposition transcript.)</p> <p>14 BY MS. QUAMIE:</p> <p>15 Q Have you seen this document before?</p> <p>16 A No.</p> <p>17 Q If you can take a minute to flip through</p> <p>18 it, it's -- I'm going to represent to you this is</p> <p>19 Plaintiff EEOC's Answer to Defendant Blockbuster's</p> <p>20 First Set of Interrogatory Requests.</p> <p>21 MR. PHILLIPS: Just want her to flip</p> <p>22 through to see if she can identify it?</p>	<p style="text-align: right;">Page 115</p> <p>1 A Uh-huh.</p> <p>2 Q To your knowledge, did you observe TAJ, or</p> <p>3 Mr. Johnson, monitoring the Hispanics' work more</p> <p>4 closely?</p> <p>5 A No.</p> <p>6 Q Did you ever see Mr. Johnson and Kofi Tutu</p> <p>7 time the Hispanic employees while they were sorting</p> <p>8 DVDs and make them compete against each other?</p> <p>9 A They timed us, yes.</p> <p>10 Q Was everyone timed or were other employees</p> <p>11 timed besides Hispanic employees?</p> <p>12 A It was -- it was kind of like a different</p> <p>13 person each day, but we were all timed.</p> <p>14 Q You were timed?</p> <p>15 A Uh-huh.</p> <p>16 Q You were timed?</p> <p>17 A Uh-huh.</p> <p>18 Q Could you respond audibly?</p> <p>19 A Yes. Yes. I'm sorry.</p> <p>20 Q Going to the next sentence, it states at</p> <p>21 the end that, "Hispanic workers were made to help the</p> <p>22 black workers finish their work." Did you say that --</p>
<p style="text-align: right;">Page 114</p> <p>1 MS. QUAMIE: Yeah. I think she said she</p> <p>2 had never seen it before. That's fine.</p> <p>3 A (Complying.) This is confidential, right,</p> <p>4 this information --</p> <p>5 MR. PHILLIPS: The --</p> <p>6 A -- that's in here?</p> <p>7 MR. PHILLIPS: Some of it may be.</p> <p>8 A I don't remember this.</p> <p>9 Q Okay. If you could turn to page 23, I want</p> <p>10 to ask you about the last paragraph. I recognize</p> <p>11 you've not seen it before, but I want to ask you about</p> <p>12 some of the statements in the last paragraph that</p> <p>13 begins, "Johnson monitored the Hispanics' work more</p> <p>14 closely."</p> <p>15 MR. PHILLIPS: Would you like her to read</p> <p>16 the paragraph?</p> <p>17 Q You can read it to yourself. You don't</p> <p>18 need to read it out loud.</p> <p>19 A (Complying.)</p> <p>20 Q You can just stop after just reading that</p> <p>21 paragraph. I'm going to ask you just a few quick</p> <p>22 questions.</p>	<p style="text-align: right;">Page 116</p> <p>1 did you ever see black workers helping Hispanic</p> <p>2 workers finish their work?</p> <p>3 A Not that I remember.</p> <p>4 Q Did you ever help someone else finish their</p> <p>5 work?</p> <p>6 A Yes.</p> <p>7 Q If you can turn to the next page, page 24.</p> <p>8 A That's true (indicating).</p> <p>9 Q What are you referring to?</p> <p>10 A I'm referring to when we had decreased work</p> <p>11 availability, he would send the Hispanic workers home</p> <p>12 prior to us. That I do recall.</p> <p>13 Q Okay. And do you know why that is?</p> <p>14 A No.</p> <p>15 MR. PHILLIPS: For the record, the witness</p> <p>16 was referring to the first sentence on page 24.</p> <p>17 Q If you could direct your attention to the</p> <p>18 paragraph that begins, "Black employees." It's the</p> <p>19 next paragraph. "Black employees were given longer</p> <p>20 lunch breaks than Hispanic employees. Johnson</p> <p>21 consistently allowed African workers to use the</p> <p>22 microwave before Hispanic workers." To your</p>

<p style="text-align: right;">Page 121</p> <p>1 basically who I talked to. But to -- to see a 2 psychiatrist or anything like that, no. 3 MS. QUAMIE: I don't have any additional 4 questions for you. Your attorney may -- or will 5 likely ask you some questions now to clarify, and 6 then I may have a few follow-ups. 7 THE WITNESS: Okay. 8 MS. QUAMIE: But that's it as far as my 9 initial questioning for you. 10 MR. PHILLIPS: Thank you. 11 EXAMINATION OF MICHELLE R. DESPERTT 12 BY MR. PHILLIPS: 13 Q Just a few, as you say, clarification 14 questions. Ms. Despertt, did anyone from Express 15 Personnel ever communicate to you the procedure for 16 complaining about sexual harassment. 17 A No. 18 Q Did anyone from Express Personnel ever 19 communicate to you whether or not sexual harassment 20 was against company policy? 21 A No. 22 Q Did anyone from Blockbuster ever</p>	<p style="text-align: right;">Page 123</p> <p>1 was a manager that came. I can't recall his name, but 2 he came from another Blockbuster and he commented on 3 my size. And TAJ commented to him, like, "Oh, yeah, 4 man, she's fine. I'm trying to get that." And he 5 asked TAJ were him and I dating, and TAJ was like, 6 "No, but I'm trying to get with her." 7 And this same night he invited Say Wing, 8 myself, Fernando, I believe Shon, out to the club. I 9 believe it was Love Club. He said he had VIP. And 10 Say Wing, I know, went for sure because the next day 11 when we came to work that Monday they were talking 12 about it. 13 So after that I just kind of, like -- I 14 really, like, stayed to myself. I mean, I went and I 15 did my work, I wasn't rude, but I didn't dress like I 16 used to. I started wearing sweatpants and 17 sweatshirts. I wore my hair up in a ponytail. I 18 never wore it down, although it was much longer then. 19 I stopped wearing makeup. I kind of stopped making 20 myself, in my opinion, look attractive because I 21 didn't feel comfortable with the -- you know, because 22 we used to -- like I said, we used to be able to wear</p>
<p style="text-align: right;">Page 122</p> <p>1 communicate to you the procedure for complaining about 2 sexual harassment? 3 A No. 4 Q And did anyone from Blockbuster ever 5 communicate to you whether or not sexual harassment 6 was against company policy? 7 A No. 8 Q Did anyone from either Express Personnel or 9 Blockbuster ever question you specifically about 10 sexual harassment that you may or may not have 11 experienced? 12 A No. 13 Q When you were at -- when you were still 14 working at the Blockbuster warehouse, at some point 15 did you start changing the way you dressed? 16 A Yes. 17 Q Why did you do that? 18 A Because I felt uncomfortable. I stopped 19 wearing jeans, started wearing sweatpants, sweat 20 suits. I stopped wearing -- like, for instance -- 21 like, for example, what I have on today. 22 One time I was wearing some jeans and there</p>	<p style="text-align: right;">Page 124</p> <p>1 whatever we wanted, but after a while I started 2 changing my dress. 3 MR. PHILLIPS: Thank you. No further 4 questions. Pass the witness. 5 MS. QUAMIE: I don't have any follow-up 6 questions. 7 MR. PHILLIPS: All right. We'll read and 8 sign. 9 (Signature having not been waived, the 10 deposition of Michelle R. Despertt, ended at 2:13 11 p.m.) 12 13 14 15 16 17 18 19 20 21 22</p>