

**American Civil Liberties Union Foundation -
Women's Rights Project**

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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

DEYANIRA ESPINAL, ANGELA BERISE
PERALTA FRITMAN and MARIA ARACELI
GONZALES FLORES,

Plaintiffs,

**COMPLAINT
JURY TRIAL DEMANDED**

- against -

RAMCO GENERAL STORES, INC.,
d/b/a RAMCO and/or NATIONAL
DISCOUNT STORE; RAMCO GENERAL
STORE INC 2, d/b/a RAMCO and/or
NATIONAL DISCOUNT STORE; and
ALBERT PALACCI,

Index No.:
Date filed:

Defendants.

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PRELIMINARY STATEMENT

1. This is an action brought on behalf of Deyanira Espinal (“Espinal”), Angela Berise Peralta Fritman (“Peralta”), and María Araceli Gonzales Flores (“Flores”), three Latina women who worked at Ramco and National Discount, retail stores under common ownership and located at 190-192 Dyckman Street in New York, New York. Plaintiffs were exploited and preyed upon as employees of Ramco and National Discount, where gross labor violations, sexual assault, and rampant sexual harassment occurred.

2. Plaintiffs were paid well under the legal minimum wage—as little as \$30 for ten-hour work days—and were not paid overtime; were forced to perform personal chores for their boss, the owner of Ramco and National Discount, both at the stores and at his home; and suffered other labor violations. Plaintiffs were told that they could receive salary increases only if they had sexual relations with their boss.

3. In addition, Plaintiffs were groped and touched in a sexual manner while working at the stores, were asked for sexual favors, and faced retaliation when they rejected these advances. Plaintiffs also endured lewd sexual comments and other demeaning gender-based remarks, and were called sexually-explicit epithets and derogatory terms. Further, a bed was kept in the basement of the store, which Plaintiffs were told was for having sexual relations with women, and Plaintiffs’ boss watched pornographic videos in the store office. Finally, two of the Plaintiffs were taken to a private residence owned by their boss, allegedly to clean, but where he stripped and physically assaulted them.

4. Plaintiffs bring this action seeking remedies against Defendant Ramco General Stores, Inc., d/b/a Ramco and/or National Discount Store (“Ramco”), Defendant

Ramco General Store Inc 2, d/b/a Ramco and/or National Discount Store (“National Discount Store”), and Defendant Albert Palacci (“Palacci”) (collectively, “Defendants”), for Defendants’ violations of the Fair Labor Standards Act, (“FLSA”), 29 U.S.C. §§ 201 et seq.; the New York Labor Law Article 6, §§ 190 et seq. and Article 19, §§ 650 et seq.; the New York State Human Rights Law (“NYSHRL”), N.Y. Exec. Law §§ 290 et seq.; the New York City Human Rights Law (“NYCHRL”), N.Y.C. Admin. Code §§ 8-107(1) et seq.; the New York City Victims of Gender Motivated Violence Act, N.Y.C. Admin. Code §§ 8-902 et seq.; and for assault and battery, negligent hiring and retention, and false imprisonment. Plaintiffs filed Charges of Discrimination with the Equal Employment Opportunity Commission (“EEOC”) on May 12, 2004, and intend to amend this Complaint to include claims under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §§ 2000e et seq., when such claims become ripe.

JURISDICTION AND VENUE

5. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1337 and supplemental jurisdiction over Plaintiffs’ state law claims pursuant to 28 U.S.C. § 1367. In addition, the Court has jurisdiction over Plaintiffs’ claims under the Fair Labor Standards Act pursuant to 29 U.S.C. § 216 (b).

6. Venue is proper in the Southern District of New York pursuant to 28 U.S.C. § 1391(b).

7. This Court is empowered to issue a declaratory judgment pursuant to 28 U.S.C. §§ 2201 and 2202.

THE PARTIES

Plaintiffs

8. Plaintiff Espinal is a woman of Dominican origin who resides in New York, New York.

9. Espinal was employed by Defendants from approximately March 2002 until she was terminated on approximately March 17, 2004.

10. Plaintiff Peralta is a woman of Dominican origin who resides in New York, New York.

11. Peralta was employed by Defendants from approximately September 8, 2002 until she was constructively discharged on approximately October 25, 2003.

12. Plaintiff Flores is a woman of Mexican origin who resides in New York, New York.

13. Flores was employed by Defendants from approximately October 8, 2003 until she was constructively discharged in approximately January 2004.

Defendants

14. Upon information and belief, Defendant Ramco General Stores, Inc. is a domestic corporation doing business within the City and County of New York.

15. Upon information and belief, Defendant Ramco General Stores, Inc. maintains business headquarters within the City and County of New York at 190-192 Dyckman Street, New York, New York.

16. Upon information and belief, Defendant Ramco General Stores, Inc. does business as Ramco.

17. Upon information and belief, Defendant Ramco General Stores, Inc. does

business as National Discount Store.

18. Upon information and belief, Defendant Ramco General Store Inc 2, is a domestic corporation doing business within the City and County of New York.

19. Upon information and belief, Defendant Ramco General Store Inc 2, maintains business headquarters within the City and County of New York at 190-192 Dyckman Street, New York, New York.

20. Upon information and belief, Defendant Ramco General Store Inc 2 does business as Ramco.

21. Upon information and belief, Defendant Ramco General Store Inc 2 does business as National Discount Store.

22. Upon information and belief, Defendant Palacci is the owner and an agent of Ramco and National Discount (collectively “Corporate Defendants”).

23. Upon information and belief, at all times relevant to this Complaint, Palacci had an ownership interest in Corporate Defendants and had power over personnel decisions.

24. Upon information and belief, at all times relevant to this Complaint, Palacci was an agent of Corporate Defendants.

25. Upon information and belief, at all times relevant to this Complaint, Palacci was President of Corporate Defendants.

26. Upon information and belief, Palacci maintains an office in the City and County of New York, located at 190-192 Dyckman Street, New York, New York.

27. Upon information and belief, Palacci and/or Corporate Defendants own and/or operate three retail stores (the “Retail Stores”) located at 190-192 Dyckman Street

in New York, New York.

28. Upon information and belief, Palacci also owns and/or operates several buildings in and around New York City and elsewhere.

29. Upon information and belief, the buildings that Palacci owns throughout New York City are part of a common enterprise that includes the Retail Stores.

30. Upon information and belief, Corporate Defendants also own and/or operate several buildings in and around New York City and elsewhere.

31. Upon information and belief, the buildings that Corporate Defendants own throughout New York City are part of a common enterprise that includes the Retail Stores.

INDIVIDUAL FACTUAL ALLEGATIONS

Plaintiff Devanira Espinal

A. Background, Duties, and Compensation

32. Espinal was employed by Defendants from approximately March 2002 until she was terminated on approximately March 17, 2004.

33. Her duties included but were not limited to working as a cashier, helping customers, unpacking and stacking merchandise, sewing and ironing merchandise, cleaning the store, and going to the bank.

34. For most of Espinal's employment with Defendants, she worked from approximately 9:45 a.m. until at least 7:30 p.m., six days a week.

35. During her entire tenure working at Corporate Defendants, Espinal earned a maximum of \$40.00 a day.

36. Upon information and belief, consistent with their policy, pattern, or

practice, Defendants did not keep accurate records of the hours that Ms. Espinal worked.

B. Sexual Harassment

37. Defendants subjected Espinal to severe and pervasive gender-based harassment and created a gender-based hostile working environment that altered the terms and conditions of Espinal's employment. This harassment included but was not limited to the following:

a. In the summer of 2003, Palacci ordered Espinal to accompany him to a house in Brooklyn, New York, purportedly to clean the house without pay. When Espinal resisted going to Brooklyn with Palacci alone, Palacci ordered Peralta to accompany him as well. When they arrived at the house, Palacci locked the door behind them and demanded that Espinal and Peralta have sex with him. Espinal and Peralta refused. Palacci also ordered Espinal and Peralta to strip to their underwear and model for him. When Espinal and Peralta refused to undress, Palacci then undressed, told Plaintiffs to look at his body, and again demanded sexual favors. Palacci then physically assaulted Espinal and Peralta by grabbing their arms and throwing them on a bed. He told them that they had to do whatever he told them to do. After Espinal's and Peralta's repeated refusals to submit to Palacci's sexual advances, Palacci ultimately took them back to the Retail Stores.

b. Thereafter, in retaliation for their refusal to have sex with him, Palacci treated Espinal and Peralta with an increased level of hostility.

c. Palacci demanded that Espinal have sex with him on several other occasions. For example, in or around October 2003, when Espinal requested a raise, Palacci indicated to her that he would give her a raise only if she had sex with him.

Espinal refused to have sex with Palacci and, accordingly, she did not receive a raise.

d. In or around December 2003, Palacci ordered Espinal into the basement of one of the Retail Stores to look for merchandise. Palacci then grabbed Espinal, threw her on top of a box of clothes, and attempted to sexually assault her. Espinal rejected Palacci's advance and escaped.

e. Palacci retaliated against Espinal for rejecting this sexual advance by reducing her work schedule to three days per week, thereby reducing her income, and otherwise treating her with hostility by, for example, yelling at her, calling her sexual epithets, and requiring her to do his personal ironing. Palacci repeatedly told Espinal that he would increase her work schedule only if she had sex with him.

f. On several occasions, Palacci also conditioned granting Espinal's requests for permission to leave work to attend doctors' appointments upon submitting to his demands for sex.

g. On numerous occasions, Palacci hit Espinal on her buttocks with great force.

h. Palacci threatened Espinal, telling her that she should do what he wanted her to do because she had children to support.

i. On one occasion, Palacci summoned Espinal to his office where he was watching pornography on the television.

38. The foregoing allegations are merely examples of Defendants' regular and repeated unlawful conduct, and are not intended to be an exhaustive account.

C. Working Conditions

39. Consistent with their policy, pattern, or practice, and as further gender

discrimination, Defendants willfully paid Espinal at a rate below the applicable minimum hourly wage.

40. Defendant Palacci repeatedly said that he would give Espinal a raise only if she engaged in sexual relations with him.

41. Defendant Palacci knew that he was violating the law by paying Espinal less than the minimum wage. In approximately March 2004, Defendant Palacci joked with her about a news report he saw on a Department of Labor investigation of another neighborhood store that did not pay the minimum wage to its employees.

42. Consistent with their policy, pattern, or practice, and as further gender discrimination, Defendants willfully and regularly required Espinal to work in excess of 40 hours per week without paying her an overtime premium.

43. Defendants' failure to pay Espinal the minimum wage and an overtime premium for her work in excess of 40 hours per week was willful.

D. Termination

44. On or about March 17, 2004, Defendants terminated Espinal because she rejected Palacci's sexual advances and because of her gender.

Plaintiff Angela Berise Fritman Peralta

A. Background, Duties, and Compensation

45. Peralta worked for Defendants from approximately September 8, 2002 until she was constructively discharged on approximately October 25, 2003.

46. Peralta's duties at the Retail Stores included but were not limited to working as a cashier, helping customers, unpacking and stacking merchandise, sewing and ironing merchandise, cleaning the store, and going to the bank. Peralta regularly

began her day working at the Retail Stores. Palacci then took Peralta to his house where he required her to clean, wash clothes, cook, and shop for groceries for Palacci's family, and then returned Peralta to the Retail Stores. In the evenings, Palacci usually required Peralta to return to his house again to cook dinner and wash dishes.

47. During her entire tenure working at Corporate Defendants, Peralta earned a maximum of \$30.00 per day.

48. Peralta regularly worked from approximately 9:45 a.m. until 9:00 p.m. three days a week and from approximately 9:45 a.m. until approximately 7:30 p.m. three other days. For approximately two months in 2002, Peralta worked seven days a week.

49. Upon information and belief, consistent with their policy, pattern, or practice, Defendants did not keep accurate records of the hours that Peralta worked.

B. Sexual Harassment

50. Defendants subjected Peralta to severe and pervasive gender-based harassment and created a gender-based hostile working environment that altered the terms and conditions of Peralta's employment. This harassment included but was not limited to the following:

a. Palacci physically assaulted Peralta, demanded that she have sex with him, demanded that she undress, and exposed himself to her when Palacci ordered her to go with him and Espinal to the house in Brooklyn in the summer of 2003.

b. In retaliation for rejecting his advances at the house in Brooklyn, Palacci reduced Peralta's work schedule to three days a week, thereby reducing her income.

Peralta's reduced schedule remained in effect for approximately one month.

c. In or around April 2003, Palacci conditioned granting Peralta a raise upon

her submission to his demand for sex, which she refused.

d. In or around September 2003, Peralta and a coworker accompanied Palacci to a trade show in midtown Manhattan. After the show, Palacci told the coworker to return to the Retail Stores because he and Peralta were going to attend another trade show. When the coworker left, Palacci asked Peralta to go to a hotel with him. Palacci said words to the effect of, "I can give you what the young guys cannot," and "You and I can have something." Peralta refused to go to the hotel with Palacci.

e. In or around September 2003, Peralta again asked Palacci for a raise. Palacci again denied her request and indicated to her that if she had agreed to have sex with him, she would have received a raise.

f. In or about the fall of 2003, Peralta went into the basement of the Retail Stores to retrieve merchandise and saw a bed there. Palacci told her that the bed was in the basement so that he could have sex with women.

g. Palacci indicated to Peralta that he hated Dominicans and that they were trash, thieves, and shit.

51. The foregoing allegations are merely examples of Defendants' regular and repeated unlawful conduct, and are not intended to be an exhaustive account.

C. Working Conditions

52. Consistent with their policy, pattern, or practice, and as further gender discrimination, Defendants willfully paid Peralta at a rate below the applicable minimum hourly wage.

53. Consistent with their policy, pattern, or practice, and as further gender discrimination, Peralta was willfully and regularly required to work in excess of 40 hours

per week without being paid an overtime premium.

54. Consistent with their policy, pattern, or practice, Defendants willfully and regularly required Peralta to work 10 or more hours per day without paying her one extra hour of pay as required by law.

D. Constructive Discharge

55. Defendants intentionally created an intolerable work atmosphere in which the sexual harassment, hostile environment, and working conditions were so difficult and unpleasant that a reasonable person in Peralta's position would have felt compelled to resign.

56. On or about October 25, 2003, Defendants constructively discharged Peralta.

Plaintiff María Araceli Gonzales Flores

A. Background, Duties, and Compensation

57. Flores worked for Defendants from approximately October 8, 2003 until she was constructively discharged in approximately January 2004.

58. Flores' duties included, but were not limited to, working as a cashier, helping customers, unpacking and stacking merchandise, sewing and ironing clothing, cleaning the store, and going to the bank.

59. During her entire tenure working at Corporate Defendants, Flores earned a maximum of \$40.00 per day.

60. Flores regularly worked from approximately 9:45 a.m. until at least 7:30 p.m., six days a week.

61. Upon information and belief, consistent with their policy, pattern, or

practice, Defendants did not keep accurate records of the hours that Flores worked.

B. Sexual Harassment

62. Defendants subjected Flores to severe and pervasive sexual harassment and created a gender-based hostile working environment that altered the terms and conditions of her employment. This harassment included but was not limited to the following:

a. On many occasions, Palacci without permission touched Flores on her buttocks, tried to hug her, and put his hands on her waist. On several occasions, he also rubbed his body against Flores' body.

b. When Flores asked Palacci for permission to take time off to go to the gynecologist, Palacci made an obscene gesture with his hands and said words to the effect of, "I can check you out."

c. Palacci watched pornographic videos in his office in full view of Flores and other employees. On one occasion, Flores went to Palacci's office located in the Retail Stores to retrieve her purse, where Palacci insisted employees store all bags, and saw Palacci watching a pornographic video.

d. Palacci told Flores that if she was "good," he would buy her lingerie. Flores rejected this proposition.

e. Palacci regularly told Flores that she had to do everything he wanted her to do.

f. Palacci called Flores derogatory names on several occasions.

63. The foregoing allegations are merely examples of Defendants' regular and repeated unlawful conduct, and are not intended to be an exhaustive account.

C. Working Conditions

64. Consistent with their policy, pattern or practice, and as further gender discrimination, Defendants willfully paid Flores at a rate below the applicable minimum hourly wage.

65. Consistent with their policy, pattern, or practice, and as further gender discrimination, Flores was willfully and regularly required to work in excess of 40 hours per week without being paid an overtime premium.

D. Constructive Discharge

66. Defendants intentionally created an intolerable work atmosphere in which the working conditions were so difficult and unpleasant that a reasonable person in Flores' position would have felt compelled to resign.

67. In or about January 2004, Defendants constructively discharged Flores.

COLLECTIVE ACTION ALLEGATIONS

68. Plaintiffs bring this action on behalf of themselves and other similarly situated current and former employees who work or have worked for Defendants, and who elect to opt into this action pursuant to the FLSA, 29 U.S.C. §§ 201 et seq., and specifically the collective action provision of the FLSA, 29 U.S.C. § 216(b), to remedy Defendants' violations of the wage-and-hour provisions of the FLSA.

69. This action is brought to recover unpaid compensation owed to Plaintiffs and all current and former employees of Defendants who are similarly situated. Upon information and belief, for at least three years prior to the filing of this complaint, Defendants have willfully committed widespread violations of the FLSA by failing to pay their employees minimum wages for their work and overtime compensation for hours

worked in excess of 40 hours per week at a rate of one-and-one-half times their regular rate of pay.

70. Plaintiffs bring their FLSA claims on behalf of themselves and all similarly situated persons who work or have worked for Defendants within the past three years (the “FLSA Class”).

71. Defendants are liable under the FLSA for, *inter alia*, failing to properly compensate plaintiffs and, as such, notice should be sent to the FLSA Class. There are many similarly situated current and former employees of Defendants who have been underpaid in violation of the FLSA who would benefit from the issuance of a court supervised notice of the present lawsuit and the opportunity to join in the present lawsuit. Those similarly situated employees are known to Defendants, are readily identifiable, and can be located through Defendants’ records.

FIRST CAUSE OF ACTION
(Fair Labor Standards Act: Unpaid Minimum Wages and Overtime Wages)
(Brought by Plaintiffs Individually and on Behalf of the FLSA Class)
(Against All Defendants)

72. Plaintiffs reallege and incorporate by reference all allegations in all preceding paragraphs.

73. Defendants willfully failed to record, credit, or compensate all work performed by their employees, including Plaintiffs and the FLSA Class Members.

74. Defendants paid Plaintiffs and the FLSA Class Members less than the minimum hourly wage required by the FLSA.

75. Defendants failed to pay Plaintiffs and the FLSA Class Members overtime premiums when Plaintiffs and the FLSA Class Members worked more than 40 hours in a workweek, as required by the FLSA.

76. Plaintiffs hereby consent in writing to be parties to this action, pursuant to 29 U.S.C. § 216(b).

77. At all times relevant, Plaintiffs and the FLSA Class Members were engaged in commerce and/or the production of goods for commerce within the meaning of 29 U.S.C. §§ 206(a) and 207(a).

78. At all times relevant, Corporate Defendants were enterprises engaged in commerce and/or the production of goods for commerce within the meaning of 29 U.S.C. §§ 206(a) and 207(a).

79. Defendants' violations of the FLSA, as described in this Complaint, were willful and intentional.

80. Defendants have engaged in a widespread policy, pattern, and practice of violating the provisions of the FLSA, as detailed in this Complaint.

81. Because of Defendants' willful violations of the FLSA, a three-year statute of limitations applies to such violations, pursuant to 29 U.S.C. § 255.

82. As a result of Defendants' willful violations of the FLSA, Plaintiffs and all others similarly situated have suffered damages by being denied compensation at the applicable minimum wage rate and overtime wages in accordance with 29 U.S.C. §§ 206 and 207 et seq.

83. Defendants have not made a good faith effort to comply with the FLSA with respect to their compensation of Plaintiffs and other similarly situated current and former employees.

84. As a result of the unlawful acts of Defendants, Plaintiffs and the FLSA Class have been deprived of wages and overtime compensation in amounts to be

determined at trial, and are entitled to recovery of such amounts, liquidated damages, prejudgment interest, attorneys' fees, and costs pursuant to 29 U.S.C. § 216(b).

WHEREFORE, Plaintiffs, individually and on behalf of all other similarly situated persons, pray for the following relief:

A. That, at the earliest possible time, Plaintiffs be allowed to give notice of this collective action, or that the court issue such notice, to all persons who are presently, or have at any time during the three years immediately preceding the filing of this suit, up through and including the date of this Court's issuance of court-supervised notice, been employed by Defendants as non-exempt employees. Such notice shall inform them that this civil action has been filed, of the nature of the action, and of their right to join this lawsuit if they believe they were denied compensation at the applicable minimum wage rate and premium overtime wages.

B. Unpaid wages and overtime wages and an additional and equal amount as liquidated damages pursuant to 29 U.S.C. § 216;

C. Issuance of a declaratory judgment that the practices complained of in this Complaint are unlawful under the FLSA, 29 U.S.C. §§ 201 et seq.;

D. Pre-judgment interest;

E. Attorneys' fees and costs of the action pursuant to 29 U.S.C. § 216; and

F. Such other relief as this Court deems just and proper;

SECOND CAUSE OF ACTION
(New York Labor Law: Unpaid Minimum Wages and Overtime Premiums)
(Brought by Plaintiffs)

(Against All Defendants)

85. Plaintiffs reallege and incorporate by reference all allegations in all preceding paragraphs.

86. At all times relevant to this action, Plaintiffs have been employees and Defendants have been employers within the meaning of the New York Labor Law.

87. Defendants willfully failed to record, credit, or compensate all work performed by Plaintiffs.

88. Defendants paid Plaintiffs less than the minimum hourly wage required by the New York Labor Law.

89. Defendants failed to pay Plaintiffs overtime premiums when Plaintiffs worked more than 40 hours in a workweek, as required by the New York Labor Law.

90. By Defendants' failure to pay Plaintiffs compensation at the applicable minimum wage rate and at the applicable overtime premium rate for hours worked in excess of 40 hours per week, Defendants have willfully violated the New York Labor Law Article 6, §§ 190 et seq., and Article 19, §§ 650 et seq., and the supporting New York State Department of Labor regulations, 12 N.Y. Comp. Codes R. & Regs. § 138-2.

91. Due to Defendants' violations of the New York Labor Law, Plaintiffs are entitled to recover from Defendants their unpaid wages at the applicable minimum wage rate, unpaid overtime premium wages, an additional 25% as liquidated damages, reasonable attorneys' fees and costs of the action, and other equitable relief pursuant to New York Labor Law Article 6, §§ 190 et seq., and Article 19, §§ 650 et seq.

WHEREFORE, Plaintiffs pray for the following relief:

A. Issuance of a declaratory judgment that the practices complained of in this Complaint are unlawful under New York Labor Law Article 6, §§ 190 et seq., and Article 19, §§ 650 et seq., and the supporting New York State Department of Labor regulations, 12 N.Y. Comp. Codes R. & Regs. § 138-2;

B. Unpaid wages overtime wages and an additional 25% as liquidated damages pursuant to New York Labor Law Article 6, §§ 190 et seq., and Article 19, §§ 650 et seq., and the supporting New York State Department of Labor regulations, 12 N.Y. Comp. Codes R. & Regs. § 138-2;

C. Pre-judgment interest;

D. An injunction requiring Defendants to pay all statutorily-required wages pursuant to the New York Labor Law;

E. Attorneys' fees and costs of the action pursuant to New York Labor Law § 663; and

F. Such other relief as this Court deems just and proper;

THIRD CAUSE OF ACTION
(New York Labor Law: Unpaid Spread of Hours Pay)
(Brought by Plaintiff Flores)
(Against All Defendants)

92. Plaintiffs reallege and incorporate by reference all allegations in all preceding paragraphs.

93. Plaintiff Flores regularly worked 10 or more hours in a single day without additional compensation as required by Article 19 of the New York Labor Law, §§ 650 et seq., and the supporting regulations including, but not limited to, 12 N.Y.C.R.R. §§ 142-2.4, 142-3.4.

94. Due to Defendants' violations of the New York Labor Law, Plaintiff

Flores is entitled to recover from Defendants her spread of hours pay, liquidated damages, and reasonable attorneys' fees and costs of the action.

WHEREFORE, Plaintiff Flores prays for the following relief:

A. Issuance of a declaratory judgment that the practices complained of in this Complaint are unlawful under New York Labor Law, Article 6, §§ 190 et seq., and Article 19, §§ 650 et seq., and the supporting New York State Department of Labor regulations, 12 N.Y. Comp. Codes R. & Regs. § 142-2.4;

B. Unpaid wages for spread of hours and liquidated damages pursuant to New York Labor Law Article 6, §§ 190 et seq. and Article 19, §§ 650 et seq., and the supporting New York State Department of Labor regulations, 12 N.Y. Comp. Codes R. & Regs. § 142-2.4;

C. Pre-judgment interest;

D. An injunction requiring Defendants to pay all statutorily-required wages pursuant to the New York Labor Law;

E. Attorneys' fees and costs of the action; and

F. Such other relief as this Court deems just and proper;

FOURTH CAUSE OF ACTION
(New York State Human Rights Law: Gender Discrimination and Retaliation)
(Brought by Plaintiffs)
(Against All Defendants)

95. Plaintiffs reallege and incorporate by reference all allegations in all preceding paragraphs.

96. By the conduct alleged in this Complaint, Defendants intentionally discriminated against Plaintiffs in the terms and conditions of their employment on

account of their gender in violation of the New York State Human Rights Law (“NYSHRL”), N.Y. Exec. Law § 296.

97. Defendant Palacci aided, abetted, incited, compelled, or coerced the doing of acts forbidden under the NYSHRL.

98. Defendants intentionally discriminated against Plaintiffs in violation of the NYSHRL by, *inter alia*, creating a gender-based hostile work environment.

99. Defendants subjected Plaintiffs to severe and pervasive sexual harassment that was sufficiently severe or pervasive to alter the terms and conditions of Plaintiffs’ employment.

100. By the conduct alleged in this Complaint, Defendants retaliated against Plaintiffs after they opposed Defendant Palacci’s unlawful sexual advances, in violation of the NYSHRL.

101. As a direct and proximate consequence of Defendants’ intentional, unlawful, retaliatory, and discriminatory treatment of Plaintiffs, they have suffered and continue to suffer damages including, but not limited to, compensatory damages due to emotional distress and mental anguish.

WHEREFORE, Plaintiffs pray for the following relief:

A. Issuance of a Declaratory Judgment that the practices complained of in this Complaint are unlawful under the NYSHRL, N.Y. Exec. Law § 290 et seq.;

B. An injunction requiring Defendants to refrain from engaging in actions or practices that discriminate or retaliate against any employees or job applicants because of their gender or participation in this lawsuit;

C. Compensatory damages for the emotional distress and pain and suffering caused to Plaintiffs by the discriminatory and/or retaliatory treatment of Defendants as provided by the NYSHRL; and

D. Such other relief as this Court deems just and proper.

FIFTH CAUSE OF ACTION
(New York City Human Rights Law: Gender Discrimination and Retaliation)
(Brought by Plaintiffs)
(Against All Defendants)

102. Plaintiffs reallege and incorporate by reference all allegations in all preceding paragraphs.

103. By the conduct alleged in this Complaint, Defendants intentionally discriminated against Plaintiffs in the terms and conditions of their employment on account of their gender in violation of the New York City Human Rights Law (“NYCHRL”).

104. Defendant Palacci aided, abetted, incited, compelled, or coerced the doing of acts forbidden under the NYCHRL.

105. Defendants intentionally discriminated against Plaintiffs in violation of the NYCHRL by, *inter alia*, creating a gender-based hostile work environment.

106. By the conduct alleged in this Complaint, Defendants retaliated against Plaintiffs after they opposed Defendant Palacci’s unlawful sexual advances, in violation of the NYCHRL.

WHEREFORE, Plaintiffs pray for the following relief:

A. Issuance of a Declaratory Judgment that the practices complained of in this Complaint are unlawful under the NYCHRL, N.Y.C. Admin. Code § 8-107(1) et seq.;

B. An injunction requiring Defendants to refrain from engaging in actions or practices that discriminate or retaliate against any employees or job applicants because of their gender or participation in this lawsuit;

C. Compensatory damages for the emotional distress and pain and suffering caused to Plaintiffs by the discriminatory and/or retaliatory treatment of Defendants as provided by the NYCHRL, N.Y.C. Admin. Code § 8-502;

D. Punitive damages sufficient to punish and deter continuation of Defendants' unlawful employment practices, as provided by the NYCHRL, N.Y.C. Admin. Code § 8-502;

E. Attorneys' fees and costs, as provided by the NYCHRL, N.Y.C. Admin. Code § 8-502; and

F. Such other relief as this Court deems just and proper.

SIXTH CAUSE OF ACTION
(New York City Victims of Gender-Motivated Violence Protection Act)
(Brought by Plaintiffs Espinal and Peralta)
(Against All Defendants)

107. Plaintiffs reallege and incorporate by reference all allegations in all preceding paragraphs.

108. Defendant Palacci committed a crime of violence motivated by gender and thereby injured Espinal and Peralta, in violation of N.Y.C. Admin. Code § 8-903.

109. Defendant Palacci committed an act or series of acts against Espinal and Peralta that would constitute a misdemeanor or a felony as defined in state or federal law.

110. Defendant Palacci's conduct presented a serious risk of physical injury to Espinal and Peralta.

111. Defendant Palacci's conduct was motivated by Espinal's and Peralta's

gender.

112. Corporate Defendants are vicariously liable to Plaintiffs for the conduct of their servant Palacci in the scope of his employment.

WHEREFORE, Plaintiffs Espinal and Peralta pray for the following relief:

A. Issuance of a Declaratory Judgment that the practices complained of in this Complaint are unlawful under the New York City Victims of Gender-Motivated Violence Protection Act, pursuant to N.Y.C. Admin. Code § 8-904.

B. An injunction requiring Defendant Palacci to refrain from committing crimes of violence motivated by gender;

C. Compensatory damages for the emotional distress and pain and suffering caused to Plaintiffs Espinal and Peralta by Defendant Palacci as provided by the New York City Victims of Gender-Motivated Violence Protection Act, N.Y.C. Admin. Code § 8-904;

D. Punitive damages sufficient to punish and deter Defendant Palacci from committing crimes of violence motivated by gender, as provided by the New York City Victims of Gender-Motivated Violence Protection Act, N.Y.C. Admin. Code § 8-904;

E. Attorneys' fees and costs, as provided by the New York City Victims of Gender-Motivated Violence Protection Act, N.Y.C. Admin. Code § 8-904; and

F. Such other relief as this Court deems just and proper.

SEVENTH CAUSE OF ACTION
(Assault and Battery)

**(Brought by Plaintiffs)
(Against Defendant Palacci)**

113. Plaintiffs reallege and incorporate by reference all allegations in all preceding paragraphs.

114. Defendant Palacci's actions as alleged herein constitute assault and battery under the laws of the State of New York.

115. Defendant Palacci's actions as alleged herein were all perpetrated without cause, provocation, or justification.

116. Defendant Palacci's actions as alleged herein were all willful, intentional, and unwarranted.

117. As a result of Defendant Palacci's actions as alleged herein, Plaintiffs feared that Palacci would cause them physical injury.

118. Plaintiffs' fear of injury was reasonable in the circumstances.

119. As a result of the assaults and batteries committed against them by Defendant Palacci, Plaintiffs have suffered physical injury and emotional distress.

WHEREFORE, Plaintiffs pray for the following relief:

A. Issuance of a Declaratory Judgment that the practices complained of in this Complaint are unlawful under the laws of the State of New York;

B. Compensatory damages for the emotional distress, pain, and suffering caused them by Defendant Palacci's conduct in an amount to be determined at trial;

C. Punitive damages sufficient to punish and deter continuation of Defendant Palacci's unlawful conduct, in an amount to be determined at trial;

D. Attorneys' fees and costs in an amount to be determined at trial; and

E. Such other relief as this Court deems just and proper.

EIGHTH CAUSE OF ACTION
(Assault and Battery)
(Brought by Plaintiffs)
(Against Corporate Defendants)

120. Plaintiffs reallege and incorporate by reference all allegations in all preceding paragraphs.

121. Corporate Defendants are vicariously liable to Plaintiffs for the assaults and batteries of their servant Palacci in the scope of his employment.

WHEREFORE, Plaintiffs pray for the following relief:

A. Issuance of a Declaratory Judgment that the practices complained of in this Complaint are unlawful under the laws of the State of New York;

B. Compensatory damages for the emotional distress, pain, and suffering caused to them by Defendants' conduct in an amount to be determined at trial;

C. Punitive damages sufficient to punish and deter continuation of Defendants' unlawful conduct, in an amount to be determined at trial;

D. Attorneys' fees and costs in an amount to be determined at trial; and

E. Such other relief as this Court deems just and proper.

NINTH CAUSE OF ACTION
(Negligent Hiring, Retention, and Supervision)
(Brought by Plaintiffs)
(Against Corporate Defendants)

122. Plaintiffs reallege and incorporate by reference all allegations in all preceding paragraphs.

123. The actions of Corporate Defendants as alleged herein constitute negligent hiring, retention, and supervision under the laws of the State of New York.

124. As a result of Corporate Defendants' negligence, Plaintiffs have suffered

physical injury and emotional distress.

WHEREFORE, Plaintiffs pray for the following relief:

A. Issuance of a Declaratory Judgment that the practices complained of in this Complaint are unlawful under the laws of the State of New York;

B. Compensatory damages for the emotional distress, pain, and suffering caused to them by Corporate Defendants' conduct in an amount to be determined at trial;

C. Punitive damages sufficient to punish and deter continuation of Corporate Defendants' unlawful employment practices, in an amount to be determined at trial;

D. Reasonable attorneys' fees and costs in an amount to be determined at trial; and

E. Such other relief as this Court deems just and proper.

TENTH CAUSE OF ACTION
(False Imprisonment)
(Brought by Plaintiffs Espinal and Peralta)
(Against Defendant Palacci)

125. Plaintiffs reallege and incorporate by reference all allegations in all preceding paragraphs.

126. Defendant Palacci's actions as alleged herein constitute false imprisonment under the laws of the State of New York.

127. Defendant Palacci locked the door in view of Espinal and Peralta, intended to confine them without their consent, and did in fact confine them without their consent.

128. Defendant Palacci's false imprisonment of Espinal and Peralta was willful, intentional, malicious, and unwarranted.

129. As a result of the false imprisonment committed against Espinal and Peralta by Defendant Palacci, Plaintiffs have suffered emotional distress.

WHEREFORE, Plaintiffs Espinal and Peralta pray for the following relief:

A. Issuance of a Declaratory Judgment that the practices complained of in this Complaint are unlawful under the laws of the State of New York;

B. Compensatory damages for the emotional distress, pain, and suffering caused to Plaintiffs Espinal and Peralta by Defendant Palacci's conduct in an amount to be determined at trial;

C. Punitive damages sufficient to punish and deter continuation of Defendant Palacci's unlawful conduct, in an amount to be determined at trial;

D. Attorneys' fees and costs in an amount to be determined at trial; and

E. Such other relief as this Court deems just and proper.

ELEVENTH CAUSE OF ACTION
(False Imprisonment)
(Brought by Plaintiffs Espinal and Peralta)
(Against Corporate Defendants)

130. Plaintiffs reallege and incorporate by reference all allegations in all preceding paragraphs.

131. Corporate Defendants are vicariously liable to Plaintiffs Espinal and Peralta for the false imprisonment of Espinal and Peralta by Palacci in the scope of his employment as a servant of Corporate Defendants.

WHEREFORE, Plaintiffs Espinal and Peralta pray for the following relief:

A. Issuance of a Declaratory Judgment that the practices complained of in this Complaint are unlawful under the laws of the State of New York;

B. Compensatory damages for the emotional distress, pain, and suffering caused to Plaintiffs Espinal and Peralta by Corporate Defendants' conduct in an amount to be determined at trial;

C. Punitive damages sufficient to punish and deter continuation of Corporate Defendant's unlawful conduct, in an amount to be determined at trial;

D. Attorneys' fees and costs in an amount to be determined at trial; and

E. Such other relief as this Court deems just and proper.

DEMAND FOR TRIAL BY JURY

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiffs demand a trial by jury on all questions of fact raised by the complaint.

Dated: New York, New York
May 12, 2004

Respectfully submitted,

By: _____
Lenora M. Lapidus (LL 6592)

Lenora M. Lapidus (LL 6592)
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