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8 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 COUNTY OF LOS ANGELES

10 ANN JONES

11 Plaintiff,

12 vs.

13 ACME APPAREL, FRANK DESNACK, and
14 Does 1 through 20, inclusive

15 Defendants

Case No.:

GENERAL CIVIL

**COMPLAINT FOR DAMAGES:
SEXUAL HARASSMENT; TORTIOUS
CONSTRUCTIVE DISCHARGE IN
VIOLATION OF PUBLIC POLICY;
SEXUAL ASSAULT/BATTERY;
PUNITIVE DAMAGES**

JURY TRIAL DEMANDED

16 **COMES NOW** plaintiff ANN JONES and alleges as follows:

17 1. Defendants Doe 1 through Doe 20, inclusive, are sued herein under fictitious names.
18 Their true names and capacities are unknown to plaintiff. When their true names and capacities
19 are ascertained, plaintiff will amend this complaint by inserting their true names and capacities
20 herein. Plaintiff is informed and believes and thereon alleges that each of the fictitiously named
21 defendants is responsible in some manner for the occurrences herein alleged, and that plaintiff's
22 damages as herein alleged were proximately caused by those defendants. Each reference in this
23 complaint to "defendant," "defendants," or a specifically named defendant refers also to all
24 defendants sued under fictitious names.

25 2. Plaintiff is informed and believes, and alleges on the basis of that information and

1 belief, that defendant ACME APPAREL is a business entity whose exact form is unknown to
2 plaintiff, doing business in the City and County of Los Angeles, State of California.

3 3. Plaintiff is informed and believes and thereon alleges that defendant FRANK
4 DESNACK was at all times herein mentioned the CEO of ACME APPAREL, and possessed
5 and/or exercised supervisory control over plaintiff in the performance of her job duties.

6 4. Plaintiff is informed and believes and thereon alleges that FRANK DESNACK also is
7 and was at all times herein mentioned the owner, or an owner, of defendant ACME APPAREL.

8 5. Plaintiff is informed and believes and thereon alleges that at all times herein mentioned
9 defendants, and each of them, were the agents, servants and employees each of the other, acting
10 within the course and scope of said agency and employment.

11 6. At all pertinent times mentioned herein, defendant ACME APPAREL regularly
12 employed 1 or more persons, bringing defendant employer within the provisions of §12940
13 (h)(1)(3)(a) of the Government Code, which prohibits employers or their agents from harassing
14 employees on the basis of their sex.

15 7. Plaintiff further alleges that the employment relationship that gave rise to the
16 allegations set forth herein was entered into in California, and that the subject of said
17 employment relationship was performed in the City of Los Angeles, County of Los Angeles.

18
19 **FIRST CAUSE OF ACTION**

20 (Sexual Harassment)

21 [Against All Defendants]

22 8. Plaintiff realleges and incorporates the allegations of Paragraphs 1 through 7 of this
23 complaint, as though fully set forth herein.

24 9. On or about November 3, 2000, plaintiff began what was to be a four day modeling
25 assignment for defendants at the California Mart located at 110 East 9th Street, Los Angeles,
26 California. At the time she began this assignment, plaintiff had just turned nineteen years of age.

27 10. Almost immediately upon commencing her employment, defendant FRANK
28 DESNACK initiated a series of inappropriate comments and sexually oriented conduct towards

1 plaintiff.

2 11. This conduct began with defendant Desnack making a series of sexually explicit jokes
3 to plaintiff including, but not limited to, a joke whose punch line involving the inability of a
4 “Chinese” lady to “get it in the right hole.”

5 12. Defendant Desnack’s conduct then escalated to inappropriate, and sexually oriented
6 physical contact. This occurred after plaintiff was asked to put on one of defendant’s tank tops
7 and a pair of boxer shorts. After plaintiff dressed in these items Desnack, telling plaintiff that he
8 needed to “measure” her, proceeded to pull down the boxer shorts being worn by plaintiff so far
9 that plaintiff’s entire genital region was exposed.

10 13. After completing the “measuring” process, defendant Desnack showed plaintiff some
11 Polaroid photographs he had taken of previous models which depicted these women in topless
12 poses.

13 14. Although quite disturbed by defendant’s conduct, plaintiff was determined to finish the
14 remaining days of her employment, and later that day made a phone call to a friend to arrange
15 lodging in the Los Angeles area for the night so that she would not have to return to her home in
16 San Diego, California.

17 15. Overhearing this phone conversation, defendant Desnack told plaintiff that it would be
18 cheaper for her to stay in Pasadena, and he offered to get a room for her there. He also
19 convinced her that if she stayed in Pasadena where he himself was staying, she could follow him
20 back to the California Mart the next day.

21 16. Plaintiff agreed to defendant’s proposal, and followed him to a Pasadena where upon
22 arrival Desnack told her to stay in her car while he booked a room for her at the Pasadena Inn.

23 17. DESNACK returned to plaintiff’s car after booking the room and, despite her protests,
24 insisted on carrying her bags to her room.

25 18. When they arrived at plaintiff’s room, DESNACK pushed himself into the room, and
26 locked the door behind him. Becoming alarmed, plaintiff told DESNACK to leave and tried to
27 pay him for the room.

28 19. Responding to plaintiff’s request for the amount to be reimbursed for the room,

1 DESNACK stated that he would cover the cost of the room himself provided that plaintiff gave
2 him a massage. He then immediately proceeded to the bathroom, only to emerge a short time
3 later wearing only a towel around his waist. He then walked towards plaintiff and dropped the
4 towel, thereby indecently exposing himself to her.

5 20. After this exhibition, DESNACK lay down on the bed and again asked plaintiff to give
6 him a massage. This time he also suggested that she strip down to her panties since that would
7 “make it easier” for her to give him the massage.

8 21. It was only after plaintiff made it clear to defendant DESNACK that she had no
9 intention of participating in his sexual fantasies that he finally exited her hotel room, leaving
10 plaintiff in a hysterical condition.

11 22. The laws of the State of California, as declared by its constitution and statutory
12 schemes, prohibits, among other things, the sexual harassment of employees.

13 23. The comments and conduct directed at plaintiff by defendant DESNACK were
14 disparaging, mean-spirited, and calculated to embarrass and humiliate plaintiff to such an extent
15 as to constitute a hostile working environment.

16 24. After suffering this harassment, plaintiff filed complaints against the named defendants
17 with the Department of Fair Employment and Housing and subsequently was issued Right-to-
18 Sue letters as to each defendant. True and correct copies of said letters are attached hereto,
19 collectively marked as Exhibit "A," and incorporated herein by reference.

20 25. As a direct, foreseeable and proximate result of defendants’ wrongful acts, plaintiff has
21 suffered a loss of earnings, as well as severe humiliation, embarrassment, mental and emotional
22 distress and discomfort, all to her damage in an amount according to proof.

23 26. Defendants’ acts as herein before described were committed maliciously, fraudulently
24 or oppressively with the intent of injuring plaintiff, and/or with a willful and conscious disregard
25 of plaintiff’s right to work in an environment free from unlawful sexual harassment. Because
26 these acts were carried out by a managerial employee in a despicable, deliberate and intentional
27 manner, plaintiff is entitled to recover punitive damages in a sum sufficient to punish and deter
28 future such conduct.

1 27. Pursuant to Government Code §12965(b) plaintiff requests an award of attorney fees
2 against defendants, and each of them.

3
4 **SECOND CAUSE OF ACTION**

5 (Constructive Tortious Discharge in Violation of Public Policy)

6 [Against All Defendants]

7 28. Plaintiff realleges and incorporates the allegations of Paragraphs 1 through 7 of this
8 complaint, as well as plaintiff's First Cause of Action as if set forth fully herein.

9 29. In the face of the intolerable working conditions created by defendant DESNACK's
10 sexual harassment of her, plaintiff had no reasonable choice but to resign the remainder of her
11 job assignment, and therefore was constructively terminated.

12 30. Plaintiff's constructive discharge was in contravention of the substantial public policy
13 embodied in those codes, statutes and regulations prohibiting an employer from sexually
14 harassing an employee. Government Code §12940 et seq.

15 31. As a direct, foreseeable and proximate result of defendants' wrongful acts, plaintiff has
16 suffered a loss of earnings, as well as severe humiliation, embarrassment, mental and emotional
17 distress and discomfort, all to her damage in an amount according to proof.

18 32. Defendants' acts as herein before described were committed maliciously, fraudulently
19 or oppressively with the intent of injuring plaintiff, and/or with a willful and conscious disregard
20 of plaintiff's right to work in an environment free from sexual harassment. Because these acts
21 were carried out by a managerial employee in a despicable, deliberate and intentional manner,
22 plaintiff is entitled to recover punitive damages in a sum sufficient to punish and deter future
23 such conduct.

24 **THIRD CAUSE OF ACTION**

25 (Sexual Assault/Battery)

26 [Against all defendants]

27 33. Plaintiff realleges and incorporates the allegations of Paragraphs 1 through 7 of this
28 complaint as well as plaintiff's First and Second Causes of Action as if set forth fully herein.

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7. For punitive damages in a sum sufficient to deter;

AS TO ALL CAUSES OF ACTION

8. For costs of suit incurred;

9. For prejudgment interest:

10. For such other and further relief as this court may deem just and proper, including attorney fees as authorized by law.

Dated: February 8, 2001

JAMES W. JOHNSTON
Attorney for Plaintiff,
ANN JONES

Plaintiff hereby demands a jury trial on all issues.

Dated: February 8, 2001

JAMES W. JOHNSTON
Attorney for Plaintiff,
ANN JONES