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FILED
LOS ANGELES SUPERIOR COURT

JAN 03 2008

John A. Clarke, Executive Officer/Clerk

A. Caballero
By A. Caballero, Deputy

9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
10 **FOR THE COUNTY OF LOS ANGELES**

11 MARY NELSON)

12 Plaintiff,)

13 v.)

14 AMERICAN APPAREL, INC., a California)
15 corporation; DOV CHARNEY, an individual;)
16 MARTIN BAILEY, an individual; and DOES 1)
17 to 100, inclusive,)

18 Defendants.)
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CASE NO. BC 333028

[Assigned for all purposes to Judge John
P. Shook, Dept. 53]

**PLAINTIFF MARY NELSON'S
TRIAL BRIEF**

Trial Date: January 9, 2007

TO ALL PARTIES AND THEIR COUNSEL OF RECORD:

PLEASE TAKE NOTICE that Plaintiff Mary Nelson hereby submits her Trial Brief.

DATED: January 3, 2008

KEITH A. FINK & ASSOCIATES

By: _____

Keith A. Fink
Keith A. Fink
Sarah Hernandez
Attorneys for Plaintiff Mary Nelson

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 This emperor literally has no clothes. Dov Charney, CEO of AA, openly operates his company
4 as a despot wearing nothing but his underpants. In his sexually-permissive kingdom/company, Mr.
5 Charney's female subjects/employees are openly referred to as "cunts," "bitches," "whores," and
6 "sluts" by Mr. Charney, AA management, and AA workers. Mr. Charney "can fuck whomever he
7 wants" at work, which he does whenever the mood strikes him. Besides openly engaging in sexual
8 relations and masturbating at work and encouraging his subjects/employees to do the same, Mr.
9 Charney has gone so far as to engage in oral sex with an AA employee in front of a journalist reporting
10 on work conditions at AA.

11 Unfortunately for this emperor, Mr. Charney's actions, as well as those of his management and
12 certain of his employees, are in blatant violation of both state and federal law. Under both state and
13 federal case-law and statutes, the California Fair Employment and Housing Act and Title VII of the
14 Civil Rights Act of 1964 in particular, AA's workplace under Dov Charney's reign is and has been a
15 hostile work environment based on sex. As such, this emperor's reign of sexual terror must end.

16 **II. STATEMENT OF FACTS**

17 In or around September 2003, Ms. Nelson started working for AA as a Music and
18 Entertainment Sales Manager, which job duties included working in AA's sales and marketing
19 department. From September 2003 to November 2004, she was supervised by Tony Augustine.

20 In or around September 2003, Mr. Charney asked Ms. Nelson to meet him at his home in to
21 discuss work, as he commonly did with other AA employees. When Ms. Nelson showed up at Mr.
22 Charney's house, Mr. Charney greeted her wearing nothing but his underwear.

23 In or around November 2003, Mr. Charney again asked Ms. Nelson to meet with him at his
24 house to discuss work issues. During their meeting, Mr. Charney changed out of his underwear into an
25 even more revealing outfit, a "cock sock," in which he conducted the rest of their meeting. Ms. Nelson
26 was extremely offended and considered Mr. Charney's "outfit," in which his buttocks and pubic hair
27 were exposed, completely inappropriate.

28 For the duration of Ms. Nelson's employment with AA, Mr. Charney repeatedly made

1 unwelcome and inappropriate sexual comments and suggestive non-verbal signals to Ms. Nelson. Mr.
2 Charney repeatedly referred to women as "sluts," "bitches," and "cunts," and frequently told particular
3 women to "grow a dick." He repeatedly used the term "pussy" in the workplace and frequently
4 exposed himself to Ms. Nelson while in his underwear. Mr. Charney even distributed images of
5 himself with his penis exposed at work and distributed magazine articles describing him masturbating
6 and receiving oral sex from an AA employee at work and at AA trade shows.

7 The final straw for Ms. Nelson came in or about January 2005, when Ms. Nelson and several
8 AA co-workers attended a trade show in Las Vegas on behalf of AA. During the show, a male AA
9 employee raped a female AA employee who subsequently came to Ms. Nelson for help. Ms. Nelson
10 attended to the rape victim, called the police on her behalf, and helped her report this awful crime. Ms.
11 Nelson then called Mr. Bailey, AA's Vice President of Operations, to inform him of the rape. She was
12 shocked by Mr. Bailey's and AA's response to this incident, however.

13 Mr. Bailey and AA's management completely ignored this incident and pretended as if it never
14 happened. They conducted no investigation and instead tried to sweep the whole thing under the rug.
15 Mr. Bailey spoke with the rape victim only briefly, asking her "how she was doing," but he did not
16 inquire into the circumstances of her rape. They did not extend any special counseling or other
17 employee services for the rape victim, nor did they inquire as to Ms. Nelson's emotional health
18 following this incident.

19 Shocked by AA's reaction and afraid for her own safety, Ms. Nelson decided to consult with an
20 attorney. On or about January 13, 2005, Ms. Nelson informed a co-worker of her decision, which was
21 immediately passed along to Mr. Charney. On or about January 20, 2005, Ms. Nelson spoke to an
22 attorney about her situation at AA and was fired by Mr. Charney later that same day. Mr. Charney has
23 admitted that he knew Ms. Nelson consulted an attorney before he fired her. The following day on or
24 about January 21, 2005, Mr. Bailey sent Ms. Nelson a termination letter along with her final paycheck.

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1 After Ms. Nelson was terminated, Mr. Charney defamed Ms. Nelson when he stated to
2 members of the international press that she was a "poor sales performer" and that she performed
3 "substandard work."

4 DATED: January 3, 2008

KEITH A. FINK & ASSOCIATES

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7 By: _____

8 Keith A. Fink
9 Sarah Hernandez
10 Attorneys for Plaintiff Mary Nelson
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1 **PROOF OF SERVICE**

2 **STATE OF CALIFORNIA, COUNTY OF LOS ANGELES**

3 I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a
4 party to the within action; my business address is: 11500 W. Olympic Boulevard, Suite 316, Los
Angeles, California, 90064.

5 On January 3, 2008, I served the document described as **PLAINTIFF MARY NELSON'S TRIAL**
6 **BRIEF** on all interested parties in this action as follows:

7 by placing the original true copies thereof enclosed in sealed envelopes addressed as
follows:

8 Joyce E. Crucillo
9 General Counsel
10 American Apparel, Inc.
747 Warehouse Street
Los Angeles, CA 90021

Lucia Coyoca, Esq.
Aaron Wais, Esq.
Mitchell Silberberg & Knupp LLP
11377 West Olympic Boulevard
Los Angeles, CA 90064

11
12 **BY MAIL** As follows: I am "readily familiar" with the firm's practice for collection and
13 processing correspondence for mailing. Under that practice it would be
14 deposited with the U.S. Postal Service on that same day with postage thereon
15 fully prepaid at Los Angeles, California in the ordinary course of business. I am
aware that on motion of the party served, service is presumed invalid if postal
16 cancellation date or postage meter date is more than one day after date of deposit
for mailing in affidavit: to **Joyce Crucillo**

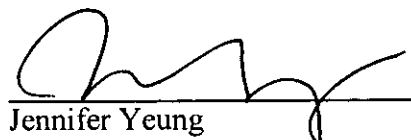
17 **(BY PERSONAL SERVICE)** I delivered such envelope by hand to the offices of the addressee
to **Mitchell Silberberg & Knupp LLP**.

18 **BY FACSIMILE**

19
20 **(STATE)** I declare under penalty of perjury under the laws of the State of California that
the above is true and correct.

21 **(FEDERAL)** I declare that I am employed in the office of a member of the bar of this court at
22 whose direction the service was made.

23
24 Dated: January 3, 2008


Jennifer Yeung

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