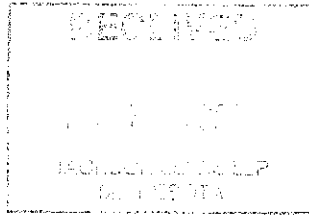


STATE OF MINNESOTA  
COUNTY OF HENNEPIN



DISTRICT COURT  
FOURTH JUDICIAL DISTRICT

Case Type: Employment  
Court File No.:

Deborah Smith,

Plaintiffs,

vs.

**SECOND AMENDED COMPLAINT**  
**JURY TRIAL DEMANDED**

Hilton Hotels Corporation d/b/a HHC-Hilton Minneapolis H & T,

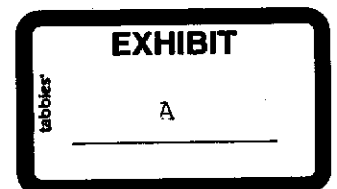
Defendant.

Plaintiff Deborah Smith, for her Complaint against Defendant above-named, states and alleges as follows:

**PARTIES**

1. Plaintiff Deborah Smith is a 43 year-old female residing in Coon Rapids, Minnesota. She was employed with Defendant from April 4, 2006, through December 19, 2007 as Night Manager of Skywater Restaurant and Lounge.
2. Plaintiff Smith was praised for her job performance, received raises and was entrusted to train other employees.
3. Defendant Hilton Hotels Corporation d/b/a HHC-Hilton Minneapolis H & T, ("Defendant Hilton"), is a Delaware corporation. Its agent for service of process is Prentice-Hall Corp System Inc at 380 Jackson Street, #700, St. Paul, MN 55104.
4. Other persons employed during the period of Plaintiffs' employment include, but are not limited to: Beverage Manager James Vennewitz, cocktail server April

**SCANNED**  
NOV 26 2008  
U.S. DISTRICT COURT MPLS



Bezdichek, bartender Harley Gayle, bartender/cocktail server Tom Anderson, Assistant Beverage Manager David Bullerman, cocktail server Koa Combs, Finance Director Paul Downing, Union Representative Nancy Goldman, Assistant Beverage Manager Mo Hassan, Room Service Manager Heather Huggins, Resident Manager Gordon Humbert, bartender Debbie Jahnke, Assistant Manager room service/Skywater Restaurant Gretchen Jorgenson, bartender Dawn Kenyon, cocktail server Kristin Lessard, Resident Manager Michael B. Loftus, General Manager John E. Luke, Resident Manager George E. Prine III, Beverage Manager Aaron Schulte, Beverage Manager Kim Thompson, Human Resources Director Traci Schultz, Food and Beverage Director Victor Salamone, Director of Property Operations Dale I/n/u, Assistant Director of Human Resources Kristen Erdmann, Skywater chef Julian Granger, Assistant Beverage Manager Nakeela Wright, Hannah I/n/u and others.

**FACTS**

5. Plaintiff Smith was fired after she opened the door to a banquet room at the Hilton. Inside this room, she discovered an orgy involving Hilton upper management.
6. Specifically, when Plaintiff Smith opened the door to the banquet room, she saw various Hilton executives inebriated and engaging in sexual acts. In fact, she observed Hilton executives on top of a table engaging in sexual activity.
7. After Plaintiff Smith walked away from the orgy, Defendant Manager Vennewitz said she would be fired, and he would make sure of it.
8. Shortly after she showed disapproval for this orgy and complained to Human

Resources Director Traci Schultz, among others, a campaign of harassment and retaliation ensued against her.

9. Finally, Plaintiff Smith was set up for retaliatory termination and fired.
11. Plaintiff objected to the sexual harassment and other misconduct and made complaints. No prompt remedial action was taken and retaliation ensued.
12. Defendant's conduct was egregious, oppressive, and characterized by recklessness or malice or wantonness.
13. As a direct and proximate result of the above-described acts, Plaintiff has suffered and continues to suffer severe emotional, physical and economic damages.

**COUNT ONE**

**(Sex Discrimination/Sexual Harassment)**

Plaintiff realleges every paragraph of the Complaint.

14. Plaintiff was subjected to unwelcome sexual conduct directed at her on the basis of her sex. These actions constitute differential treatment because of sex.
15. This conduct was hostile, oppressive, severe, pervasive, abusive and intimidating.
16. The hostile environment pervading Defendant Hilton's workplace altered the terms and conditions of Plaintiff's employment, and resulted in tangible adverse employment actions including, but not limited to, those described herein.
17. Defendant Hilton failed to take prompt, appropriate remedial action in response to the repeated actual and constructive notice of sexual harassment, with the result that the misconduct continued and escalated.
18. Defendant Hilton failed to maintain adequate measures to prevent and promptly

correct sexual harassment.

19. Plaintiff reasonably used any complaint procedures available.
20. The above-described conduct was within the scope of employment, and Defendant Hilton is responsible for it.
21. Defendant Hilton is responsible and liable as an employer for its actions and for the actions of its management in ignoring, condoning and contributing to the discrimination against Plaintiff.
22. At all relevant times, Plaintiff was an "employee" and Defendant Hilton was an "employer" under the MHRA, Minn. Stat. § 363A and other pertinent law.
23. Defendant Hilton knew or should have known about the conduct described herein toward Plaintiff.
24. Defendant Hilton accepted and ratified the conduct described herein toward Plaintiff.
25. Plaintiff was subjected to unlawful discrimination and sexual harassment under the MHRA and other pertinent law.
26. As a direct and proximate result of the acts alleged above, Plaintiff has been and continue to be damaged and suffer losses including, but not limited to, emotional distress, physical and mental anguish, bodily injury, physical sickness, pain and suffering, lost income, lost benefits, and lost earning capacity, past and future, in excess of \$50,000.00.

**COUNT TWO**

**(Retaliation/Reprisal)**

Plaintiff realleges every paragraph of the Complaint.

27. Plaintiff engaged in protected activity, resisting sexual harassment and other illegal conduct.
28. Defendant Hilton responded with adverse employment actions including, but not limited to, those described herein.
29. Defendant Hilton's conduct constitutes unlawful reprisal under the MHRA, Minn. Stat. § 363A and other pertinent law.
30. As a direct and proximate result of the acts alleged above, Plaintiff has been and continues to be damaged and suffer losses including, but not limited to, emotional distress, physical and mental anguish, bodily injury, physical sickness, pain and suffering, lost income, lost benefits, and lost earning capacity, past and future, in excess of \$50,000.00.

WHEREFORE, Plaintiff pray that she be granted the following relief:

1. A declaratory judgment that the practices complained of herein are unlawful and violative of the MHRA and other pertinent law.
2. An Order permanently restraining and enjoining Defendant from discriminating against Plaintiff, or any other individual, on any basis forbidden by the MHRA and other pertinent law.
3. An Order requiring Defendant to compensate, reimburse and make whole Plaintiff for her losses attributable to Defendant's misconduct including but not limited to, pay, benefits, training, promotions and seniority.
4. An award to compensate Plaintiff for the pain and suffering and for the humiliation

caused by Defendant's unlawful treatment in an amount in excess of Fifty Thousand and No/100 (\$50,000.00) Dollars, per Count.

5. Plaintiff hereby gives notice of their intent to seek Punitive Damages under the MHRA and other pertinent law.
6. Actual damages for doctor, hospital and other medical expenses incurred as a result of Defendant's liability arising from the misconduct alleged herein.
7. A civil penalty payable to the State of Minnesota.
8. Treble compensatory damages as provided in the MHRA, Minn. Stat. § 363A.
9. The Court to award Plaintiff costs, disbursements and expenses of this action, including reasonable attorney's fees as provided in the MHRA and other applicable law.
10. All other remedies available at law.

**Plaintiff demands a trial by jury on issues triable to a jury.**

Dated: 11-21-08

**LORI PETERSON & ASSOCIATES**



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