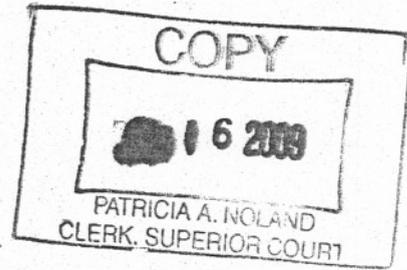


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20 IN THE SUPERIOR COURT OF THE STATE OF ARIZONA  
21 IN AND FOR THE COUNTY OF PIMA

22 THE STATE OF ARIZONA *ex rel.* TERRY  
23 GODDARD, the Attorney General, and THE  
24 CIVIL RIGHTS DIVISION OF THE ARIZONA  
25 DEPARTMENT OF LAW,

26 Plaintiff,

vs.

CEO FOODS, INC. d/b/a EEGEES; EEGEE'S,  
INC. d/b/a EEGEES,

Defendant.

No. **C20090304**

**COMPLAINT FOR DAMAGES  
AND INJUNCTIVE RELIEF**

(Nonclassified Civil)

**KENNETH LEE**

1 Plaintiff, the State of Arizona, *ex rel.*, Terry Goddard, the Attorney General, and the  
2 Civil Rights Division of the Arizona Department of Law (collectively the "State"), for its  
3 Complaint, alleges as follows:

#### 4 INTRODUCTION

5 This is an action brought pursuant to the Arizona Civil Rights Act to correct an  
6 unlawful employment practice, provide appropriate relief to an aggrieved person, and  
7 vindicate the public interest. Specifically, the State brings this action to redress injury inflicted  
8 upon aggrieved party Bernadette Grijalva (hereinafter, "Ms. Grijalva") by her former  
9 employer, Eegees, which occurred as a result of sex discrimination and retaliation in violation  
10 of Arizona Civil Rights Act, A.R.S. §§ 41-1463, 41-1464.

#### 11 JURISDICTION AND VENUE

12 3. This Court has jurisdiction of this matter pursuant to A.R.S. § 41-1481(D).

13 4. Venue is proper in Pima County pursuant to A.R.S. § 12-401.

#### 14 PARTIES

15 5. The Civil Rights Division of the Arizona Department of Law is an administrative  
16 agency established by A.R.S. § 41-1401 to enforce the provisions of the Arizona Civil Rights  
17 Act, A.R.S. § 41-1401 *et seq.*

18 6. The State brings this action on its own behalf and on behalf of Ms. Grijalva, an  
19 aggrieved person within the meaning of A.R.S. § 41-1481.

20 7. At all relevant times, CEO Foods, Inc. was an Arizona corporation with its  
21 principal place of business located at 3360 E. Ajo Way, Tucson, Arizona 85713. At all  
22 relevant times Eegees, Inc. was an Arizona corporation with its principal place of business  
23 located at 3360 E. Ajo Way, Tucson, Arizona 85713. During all relevant times, CEO Foods,  
24 Inc. and Eegees, Inc. (collectively "Defendants") owned and operated restaurants under the  
25  
26

1 trade name "Eegees" including an "Eegees" restaurant located at 3806 E. Grant Road in  
2 Tucson, Arizona (hereinafter the "Grant/Alvernon Eegees" or "restaurant").

3 8. At all relevant times, both Defendants were employers within the meaning of  
4 A.R.S. § 41-1461(4)(a).

5 9. At all relevant times, from May 8, 2007 through January 8, 2008, Ms. Grijalva was  
6 employed by Defendants within the meaning of A.R.S. § 41-1461(3)(a).

7  
8 **BACKGROUND**

9 10. Upon information and belief, Defendants own and operate twenty-one Eegees  
10 restaurants in the Tucson metropolitan area, including the Grant/Alvernon Eegees.

11 11. Ms. Grijalva began working for Defendants on May 8, 2007 and shortly thereafter  
12 was permanently assigned to work as a crew member at Defendants' Grant/Alvernon Eegees.

13 12. Upon information and belief, from June 2007 through November 2007, Ms.  
14 Grijalva was scheduled to work on several occasions with Leonard Cratic ("Cratic"), one of  
15 Defendants' Assistant Managers.

16 13. Upon information and belief, at times when Cratic and Ms. Grijalva worked  
17 together, Cratic would rub his pelvis against Ms. Grijalva.

18 14. On November 25, 2007, Ms. Grijalva was working with Cratic and another co-  
19 worker. Ms. Grijalva was ill and asked to be allowed to go home early. Cratic denied Ms.  
20 Grijalva's request to leave at that time and required her to work until, or shortly before, the  
21 restaurant closed for the evening.

22 15. Upon information and belief, on November 25, 2007, when Ms. Grijalva was  
23 clocking out in the restaurant's back room and preparing to leave, Cratic came into the  
24 restaurant's back room and cornered Ms. Grijalva.

1           16. Upon information and belief, Cratic inappropriately touched Ms. Grijalva, putting  
2 his hands on her backside and attempting to put his hands inside of her pants and shirt. Cratic  
3 also leaned in and smelled Ms. Grijalva's hair.

4           17. Upon information and belief, Ms. Grijalva rebuffed Cratic's advances, told him to  
5 stop and attempted to retrieve her scooter which was parked in the restaurant's back room in  
6 order to leave the restaurant.

7           18. Upon information and belief, Cratic blocked Ms. Grijalva from leaving, moved his  
8 apron, unzipped his pants, exposed himself and rubbed his genitalia against Ms. Grijalva's  
9 hands which were on her scooter's handlebars.

10           19. Ms. Grijalva again rebuffed Mr. Cratic telling him to just leave her alone and to let  
11 her go home, and further attempted to leave the restaurant.

12           20. When another employee looked into the backroom, Cratic dropped the apron over  
13 the front of his pants and Ms. Grijalva managed to get past him and leave the restaurant.

14           21. On November 26, 2007, Ms. Grijalva was still ill and emotionally distraught from  
15 Cratic's actions and did not report to work.

16           22. On November 27, 2007, Ms. Grijalva reported Cratic's behavior to Frances  
17 Gonzalez, another of Defendants' Assistant Managers who was on duty when Ms. Grijalva  
18 reported to work.

19           23. Eegees, upon learning of Ms. Grijalva's complaint, conducted a purported  
20 "investigation" of the incident. Rather than conducting a confidential investigation, however,  
21 Defendants interviewed employees at a dining table in the Grant/Alvernon Eegees location.

22           24. During its "investigation", Defendants asked Ms. Grijalva to take a polygraph and  
23 she agreed. Defendants later decided not to use a polygraph.

24           25. Upon completing its "investigation", Defendants advised Ms. Grijalva that it could  
25 "not find any issues (sic) to confront [Cratic], other than to make him aware of the allegations"  
26 and contending Ms. Grijalva "may have instigated part of this situation." Although originally

1 indicating Defendants intended to transfer Cratic to a different location, Defendants ultimately  
2 decided to have Cratic continue his responsibilities as an assistant manager at the  
3 Grant/Alvernon Eegees.

4 26. Upon information and belief, after Ms. Grijalva opposed Cratic's conduct,  
5 Defendants' management, including Miriam Cordova ("Cordova"), asked her to transfer to a  
6 different store farther from her home, treated Ms. Grijalva less favorably than other similarly-  
7 situated employees regarding discipline and calling in absences, and reduced Ms. Grijalva's  
8 work hours.

9 27. On January 16, 2008, Ms. Grijalva was working with Cordova when Cordova  
10 advised that she was leaving the store early and that Cratic would be filling in for Cordova to  
11 complete her shift. Ms. Grijalva protested to no avail.

12 28. In light of her being told she would have to work with Cratic despite her fears of  
13 him arising from his past conduct, Defendants' retaliatory conduct toward Ms. Grijalva  
14 including her reduced work hours, Ms. Grijalva felt compelled to not complete the shift on  
15 January 16, 2008 or appear for her scheduled work shift on January 17, 2008. Ms. Grijalva  
16 was constructively discharged from her employment with Defendants. Defendants have  
17 subsequently labeled Ms. Grijalva as "not eligible for rehire."

18 29. On January 17, 2008, Ms. Grijalva filed a Charge of Discrimination against  
19 Defendants alleging that she was subjected to sex discrimination and retaliation. The Division  
20 conducted an investigation into Ms. Grijalva's allegations.

21 30. Following its investigation, the Division found that reasonable cause existed to  
22 believe Defendants discriminated against Ms. Grijalva because of her sex in violation of  
23 A.R.S. § 41-1463 and retaliated against her when she opposed an unlawful employment action  
24 in violation of A.R.S. § 41-1464.

1 31. A timely attempt to conciliate this matter in accordance with A.R.S. § 14-1481(D)  
2 was unsuccessful. Consequently, the State brings this Complaint pursuant to A.R.S. § 14-  
3 1481(D).

4 **STATEMENT OF CLAIMS**

5 **Count I**

6 **[Sex Discrimination in Violation of the Arizona Civil Rights Act, A.R.S. § 41-1463 *et***  
7 ***seq.*]**

8 32. The State realleges and incorporates by reference the allegations contained in  
9 paragraphs 1 through 31 of this Complaint.

10 33. Arizona Revised Statutes § 41-1463 prohibits an employer from discriminating  
11 against any individual with respect to compensation, terms, conditions, or privileges of  
12 employment because of sex.

13 34. Defendants' assistant manager, Leonard Cratic, engaged in conduct toward Ms.  
14 Grijalva because of her sex which was sufficiently severe or pervasive to alter the terms and  
15 conditions of her employment.

16 35. Defendants did not take reasonable care to prevent or correct Cratic's harassing  
17 behavior.

18 36. As a result of Defendants' discrimination, upon information and belief, Ms.  
19 Grijalva suffered back pay for which she should be compensated in an amount to be  
20 determined at trial pursuant to A.R.S. § 41-1481(G).

21 37. The State also is entitled to injunctive relief, including front pay, against  
22 Defendant's actions pursuant to A.R.S. § 41-1481(G).

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**Count II**

**[Retaliation in Violation of Arizona Civil Rights Act, A.R.S. § 41-1464 *et. seq.*]**

38. The State realleges and incorporates by reference the allegations contained in paragraphs 1 through 37 of this Complaint.

39. Arizona Revised Statutes § 41-1464 prohibits an employer from discriminating against any individual who has opposed a practice that is an unlawful employment practice.

40. Defendants have unlawfully discriminated against Ms. Grijalva in violation of A.R.S. § 41-1464(A) by reducing her work hours, disciplining her and constructively discharging her in retaliation for complaining that Cratic had subjected her to a hostile work environment because of her sex.

41. As a result of Defendants' discrimination and constructive discharge of her, upon information and belief, Ms. Grijalva suffered lost wages for which she should be compensated in an amount to be determined at trial pursuant to A.R.S. § 41-1481(G).

42. The State also is entitled to injunctive relief, including front pay, against Defendants' actions pursuant to A.R.S. § 41-1481(G)

**PRAYER FOR RELIEF**

WHEREFORE, the State requests that this Court:

A. Enter judgment on behalf of the State, finding that Defendants unlawfully discriminated against and retaliated against Ms. Grijalva in violation of the Arizona Civil Rights Act.

B. Enjoin Defendants, their successors, assigns and all persons in active concert or participation with Defendants, from engaging in any unlawful employment practice, including retaliation that violates the Arizona Civil Rights Act.

1 C. Order Defendants to make Ms. Grijalva whole and award Ms. Grijalva back  
2 wages and front pay calculated from the date of her constructive discharge on January 17,  
3 2008 in amounts to be determined at trial.

4 D. Enjoin Defendants, their successors, assigns and all persons in active concert or  
5 participation with Defendants to change Ms. Grijalva's status from "not eligible for rehire" to  
6 "eligible for rehire."

7 D. Order Defendants, their successors, assigns and all persons in active concert or  
8 participation with Defendants, to create and enforce policies, practices and programs that  
9 provide equal employment opportunities for all its employees, and that eradicate the effects of  
10 its present unlawful employment practices, including but not limited to, policy changes and  
11 training.

12 E. Issue an Order authorizing the State to monitor Defendants' compliance with the  
13 Arizona Civil Rights Act and order Defendants, their successors, assigns and all persons in  
14 active concert or participation with Defendants, to pay the State a reasonable amount for such  
15 monitoring.

16 F. Award the State its taxable costs incurred in bringing this action.

17 G. Grant such other and further relief as this Court may deem just and proper in the  
18 public interest.

19 Dated this 16<sup>th</sup> day of January, 2009.

20 TERRY GODDARD  
21 Attorney General

22  
23 By Rose A. Daly-Rooney  
24 Rose A. Daly-Rooney  
25 Assistant Attorney General  
26 Civil Rights Division  
Attorneys for Plaintiff