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13 IN THE UNITED STATES DISTRICT COURT  
14 FOR THE DISTRICT OF ARIZONA

15 Equal Employment Opportunity  
16 Commission,  
17 Plaintiff,

18 vs.

19 Evening Entertainment Group, LLC  
20 dba Sandbar Mexican Grill,  
21 Defendant.

22 **COMPLAINT**  
23 **(JURY TRIAL DEMANDED)**

24 **NATURE OF THE ACTION**

25 This is an action under Title VII of the Civil Rights Act of 1964, as amended, and  
26 Title I of the Civil Rights Act of 1991 to correct unlawful employment practices on the  
27 basis of sex, and to provide appropriate relief to Keli Kozup who was adversely affected  
28 by such practices during her employment by Evening Entertainment Group, LLC dba  
Sandbar Mexican Grill (“Sandbar”). The Equal Employment Opportunity Commission  
alleges that Sandbar removed Ms. Kozup from lucrative Sunday shifts because of her sex,  
female, and pregnancy, causing her damage and monetary loss.

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**JURISDICTION AND VENUE**

1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 451, 1331, 1337, 1343 and 1345. This action is authorized and instituted pursuant to Section 706(f)(1) and (3) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e-5(f)(1) and (3) (“Title VII”) and Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981a.

2. The employment practices alleged to be unlawful were committed within the jurisdiction of the United States District Court for the District of Arizona.

**PARTIES**

3. Plaintiff, the Equal Employment Opportunity Commission (“Commission”), is the agency of the United States of America charged with the administration, interpretation, and enforcement of Title VII, and is expressly authorized to bring this action by Sections 706(f)(1) and (3) of Title VII, 42 U.S.C. § 2000e-5(f)(1) and (3).

4. At all relevant times Defendant Evening Entertainment Group, LLC dba Sandbar Mexican Grill, an Arizona corporation, has continuously been doing business in the State of Arizona, including in Peoria, Arizona, and has continuously had at least fifteen employees.

5. At all relevant times Defendant Sandbar has continuously been and is now an employer engaged in an industry affecting commerce within the meaning of Sections 701(b), (g), and (h) of Title VII, 42 U.S.C. 2000e(b), (g), and (h).

**STATEMENT OF CLAIMS**

6. More than thirty days prior to the institution of this lawsuit, Keli Kozup filed a charge with the Commission alleging violations of Title VII by Defendant Sandbar Mexican Restaurants, Inc. (“Sandbar”). All conditions precedent to the institution of this lawsuit have been fulfilled.

1           7.       Since at least October 2008, Defendant Sandbar has engaged in unlawful  
2 employment practices at its Peoria facility in violation of Section 703(a) of Title VII, 42  
3 U.S.C. 2000e-2(a). These unlawful employment practices include removing Keli Kozup  
4 from the Sunday schedule because of sex, female, and her pregnancy, which caused a  
5 decrease in Ms. Kozup's pay. The facts supporting this claim include, but are not limited  
6 to:

- 7           a. Ms. Kozup was employed by Sandbar as a bartender and server and was  
8 satisfactorily performing her job duties during all relevant times.
- 9           b. Ms. Kozup became pregnant in approximately February 2008.
- 10          c. In October 2008 Sandbar's management instituted a policy of removing  
11 pregnant women from the Sunday schedule.
- 12          d. Sandbar's management instituted the policy of removing pregnant women  
13 from the Sunday schedule because of a perception that customers did not  
14 want to see pregnant women while watching football.
- 15          e. Sunday shifts during football season were the most or one of the most  
16 lucrative shifts of the week.
- 17          f. Ms. Kozup was removed from the Sunday schedule because she was  
18 pregnant and Defendant did not give Ms. Kozup another shift in its place.
- 19          g. Removing Ms. Kozup from the Sunday schedule caused Ms. Kozup's pay  
20 to significantly decrease because she worked less hours and worked during  
21 less lucrative shifts.

22           8.       The effect of the practices complained of in Paragraph 7 above has been to  
23 deprive Ms. Kozup of equal employment opportunities and otherwise adversely affect the  
24 terms and conditions of her employment because of her sex, female, and her pregnancy.

25           9.       The unlawful employment practices complained of in Paragraphs 7 and 8  
26 were intentional.

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1 F. Grant such further relief as the Court deems necessary and proper in the  
2 public interest.

3 G. Award the Commission its costs of this action.  
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5 **JURY DEMAND**

6 The Commission requests a jury trial on all questions of fact raised by its  
7 Complaint.

8 Dated this 22nd day of September, 2011.

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