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20 UNITED STATES DISTRICT COURT
21 EASTERN DISTRICT OF CALIFORNIA

22 U.S. EQUAL EMPLOYMENT
23 OPPORTUNITY COMMISSION,

24 Plaintiff,

25 vs.

26 DASH DREAM PLANT, INC., and Does 1-10
27 Inclusive,

28 Defendants.

) Case No.:

) COMPLAINT—TITLE VII

-) • Sex Discrimination (Failure to Rehire,
) Discharge)

) JURY TRIAL DEMAND

29 NATURE OF THE ACTION

30 This is an action under Title VII of the Civil Rights Act of 1964 (“Title VII”), as
31 amended by the Pregnancy Discrimination Act of 1978 (“PDA”), and Title I of the Civil Rights
32

1 Act of 1991 to correct unlawful employment practices on the basis sex (female-pregnancy), and
2 to provide appropriate relief to Charging Party Yanet Perez and other similarly aggrieved
3 individuals who were adversely affected by such practices. As set forth with greater particularity
4 in paragraphs 11 to 17 of this Complaint, Plaintiff United States Equal Employment Opportunity
5 Commission (“Plaintiff” or “Commission”) alleges that Defendant Dash Dream Plant Inc.
6 (“Defendant” or “Dash Dream”) and Does 1-10 (collectively referred to herein as “Defendants”),
7 unlawfully discriminated against Charging Party Perez and similarly aggrieved individuals when
8 Defendant discharged and failed to rehire them due to their pregnancy, a condition of their sex
9 (female).

10 JURISDICTION AND VENUE

11 1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 451, 1331, 1337,
12 1343 and 1345.

13 2. This action is authorized and instituted pursuant to Section 706(f)(1) and (3) of
14 Title VII, as amended, 42 U.S.C. § 2000e-5(f)(1) and (3), and Section 102 of the Civil Rights
15 Act of 1991, 42 U.S.C. § 1981a.

16 3. The employment practices alleged to be unlawful were now being committed
17 within the jurisdiction of the United States District Court for the Eastern District of California.

18 PARTIES

19 4. The Commission is an agency of the United States of America, charged with the
20 administration, interpretation and enforcement of Title VII and the PDA, and is expressly
21 authorized to bring this action by Section 706(f)(1) and (3) Title VII, 42 U.S.C. § 2000e 5(f)(1)
22 and (3), the PDA, 42 U.S.C. § 2000e(k), and Section 102 of the Civil Rights Act of 1991,
23 42 U.S.C. § 1981a

24 5. At all relevant times, Defendant Dash Dream has been a corporation doing
25 business in Merced County.

26 6. At all relevant times, Defendant Dash Dream has continuously been a corporation
27 doing business in the State of California, and has continuously had at least 15 employees.

28 7. At all relevant times, Defendant Dash Dream has continuously been an employer

1 engaged in an industry affecting commerce within the meaning of Section 701(b), (g), and (h) of
2 Title VII, 42 U.S.C. § 2000e-1(b), (g), (h).

3 8. Plaintiff is ignorant of the true names and capacities of each Defendant sued as
4 DOES 1 through 10, inclusively, and therefore Plaintiff sues said defendant(s) by fictitious
5 names. Plaintiff reserves the right to amend the complaint to name each DOE defendant
6 individually or collectively as they become known. Plaintiff alleges that each DOE defendant
7 was in some manner responsible for the acts and omissions alleged herein and Plaintiff will
8 amend the complaint to allege such responsibility when the same shall have been ascertained by
9 Plaintiff.

10 9. All of the acts and failures to act alleged herein were duly performed by and
11 attributable to all Defendants, each acting as a successor, agent, alter ego, employee, indirect
12 employer, joint employer, integrated enterprise and/or or under the direction and control of the
13 others, except as specifically alleged otherwise. The alleged acts and failures to act were within
14 the scope of such agency and/or employment, and each Defendant participated in, approved
15 and/or ratified the unlawful acts and omissions alleged in this complaint. Whenever and
16 wherever reference is made in this Complaint to any act by a Defendant or Defendants, such
17 allegations and reference shall also be deemed to mean the acts and failures to act of each
18 Defendant acting individually, jointly, and/or severally.

19 **STATEMENT OF CLAIMS**

20 10. More than thirty days prior to the institution of this lawsuit, Charging Party Yanet
21 Perez filed a charge with the Commission alleging violations of Title VII by Defendant.

22 11. On June 30, 2016, the Commission issued to Defendant a Letter of Determination
23 finding reasonable cause to believe that Defendant had violated Title VII and PDA as the
24 Charging Party and similarly situated female employees. The letter further invited Defendant to
25 join with the Commission in informal methods of conciliation to endeavor to eliminate the
26 discriminatory practices and provide appropriate relief.

27 12. The Commission engaged in communications with Defendants to provide
28 Defendants the opportunity to remedy the discriminatory practices describe in the Letter of

1 Determination.

2 13. The Commission was unable to secure from Defendants a conciliation agreement
3 acceptable to the Commission.

4 14. On August 12, 2016, the Commission issued to Defendant a Notice of Failure of
5 Conciliation.

6 15. All conditions precedent to the institution of this lawsuit have been fulfilled.

7 16. Since in or about January 2014, Defendant has engaged in unlawful employment
8 practices in violation of Section 703(a) and 706 of Title VII. Specifically, Defendant unlawfully
9 discharged and failed to rehire Charging Party and similarly aggrieved individuals on the basis of
10 their pregnancy, a condition of their sex (female).

11 a. In January 2014, Charging Party informed Defendant's General Manager
12 Boram Jung that she was pregnant. The next day Mr. Jung transferred her
13 to a different position and told her not to lift heavy items despite that
14 Charging Party had not requested any modifications to her job.

15 b. In early 2014, Defendant held a staff meeting in which General Manager
16 Jung told female employees not to get pregnant. At this staff meeting,
17 Dash Dream President and part-owner Tae-bin Jung also made comments
18 to pregnant females, including but not limited to telling employees not to
19 get pregnant, "no more babies," and "there are too many babies coming."
20 General Manager Jung and President Jung also made comments to
21 pregnant employees outside of staff meetings, including, "pregnant, bye,"
22 and telling employees that if workers wanted to work, they should not get
23 pregnant because it was too complicated and that pregnant employees
24 were problematic employees.

25 c. In February 2014, Defendant forced Charging Party to go on leave even
26 though Charging Party wanted and was able to continue to work.

27 d. After the birth of her child, Charging Party made multiple attempts to
28 return to work for Defendant from August 2014 until December 2014.

1 Each time, Defendant refused to allow Charging Party to return to work,
2 telling her that there was no work available despite hiring other employees
3 who based on information and belief were not pregnant during this same
4 time period.

5 e. Alternatively, Defendant discharged Charging Party in December 2014.

6 17. Defendant also failed to rehire and discharged similarly situated female
7 employees after they attempted to return to work after taking leave for their pregnancy.

8 18. Defendant hired non-pregnant individuals during the time period when Charging
9 Party and similarly situated female employees were repeatedly attempting to return to work.

10 19. The effect of the practices complained of, as described above, has been to deprive
11 Charging Party and similarly aggrieved individuals of equal employment opportunities and
12 otherwise adversely affects their status as employees because of their pregnancy, a condition of
13 their sex (female).

14 20. The unlawful employment practices complained of in paragraphs 11 to 19 above
15 were intentional and caused Charging Party and similarly aggrieved individuals to suffer
16 emotional distress.

17 21. The unlawful employment practices complained of in paragraphs 11 to 19 above
18 were done with malice or with reckless indifference to the federally protected rights Charging
19 Party and similarly aggrieved individuals.

20 **PRAYER FOR RELIEF**

21 Wherefore, the Commission respectfully requests that this Court:

22 A. Grant a permanent injunction enjoining Defendant, its officers, successors,
23 assigns, and all persons in active concert or participation with them, from engaging in
24 employment practices which discriminate on the basis of sex, female (pregnancy).

25 B. Order Defendant to institute and carry out policies, practices, and programs to
26 ensure that they would not engage in further unlawful employment practices which discriminate
27 on the basis of sex, female (pregnancy) and which eradicate the effects of its past and present
28 unlawful employment practices;

1 C. Order Defendant to make whole Charging Party and similarly aggrieved
2 individuals by providing appropriate back pay with prejudgment interest, in amounts to be
3 determined at trial, and other affirmative relief necessary to eradicate the effects of its unlawful
4 employment practices, including but not limited to rightful place reinstatement or front pay.

5 D. Order Defendant to make whole Charging Party and similarly aggrieved
6 individuals by providing compensation for past and future pecuniary losses, including but not
7 limited to out-of-pocket expenses suffered by her which resulted from the unlawful employment
8 practices described above in amounts to be determined at trial.

9 E. Order Defendant to make whole Charging Party and similarly aggrieved
10 individuals by providing compensation for non-pecuniary losses resulting from the unlawful
11 employment practices described above in amounts to be determined at trial. The non-pecuniary
12 losses include, but are not limited to, emotional pain, suffering, inconvenience, mental anguish,
13 humiliation, and loss of enjoyment of life, in amounts to be determined at trial.

14 F. Order Defendant to pay Charging Party and similarly aggrieved individuals
15 punitive damages for its intentional, malicious and/or reckless conduct as described above, in an
16 amount to be determined at trial.

17 G. Award the Commission its costs of this action.

18 H. Grant such further relief as the Court deems necessary and proper in the public
19 interest.

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JURY TRIAL DEMAND

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

Dated: September 20, 2016

Respectfully Submitted

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General Counsel

JAMES LEE,
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GWENDOLYN YOUNG REAMS,
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