

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

Daymari Negron Rosado,

Plaintiff,

v.

MicDavis LLC and Giovanni Pillco,

Defendants.

Civ. No. 22-CV-2241

COMPLAINT

Plaintiff Daymari Negron Rosado (“Ms. Negron” or “Plaintiff”), by and through her attorneys Kakalec Law PLLC, as and for her Complaint, alleges as follows:

Preliminary Statement

1. Plaintiff Daymari Negron Rosado worked earning the minimum wage at a McDonald’s restaurant in the Chelsea neighborhood of Manhattan for approximately a year and a half, between 2019 and 2021. For more than a year of that time, Ms. Negron was constantly sexually harassed by the store manager of the McDonald’s, Defendant Giovanni Pillco.
2. Mr. Pillco regularly made offensive sexual and personal comments to Ms. Negron, made unwelcome sexual advances on her, requested sexual favors from her, and touched her on her buttocks. Despite Ms. Negron’s objections, he failed to stop with this harassing behavior. Then, after making the workplace intolerable for Ms. Negron and leaving her no option but to leave her job, Mr. Pillco tried to bribe Ms. Negron (using her personal banking information obtained through his

- position as general manager) to return to work and to be silent about his harassment.
3. To remedy the sex discrimination and sexual harassment that she endured, Plaintiff brings this action under Title VII of the Civil Rights Act of 1964 (as amended), 42 U.S.C. § 2000e *et seq.* (“Title VII”); the New York State Human Rights Law, NY Exec. Law § 290 *et seq.* (“NYSHRL”); and the New York City Human Rights Law, N.Y.C. Admin. Code § 8-107 *et seq.* (“NYCHRL”) for discrimination based upon sex against Defendants MicDavis LLC (“MicDavis”), the owner of the McDonald’s where Ms. Negron worked, and Giovanni Pillco, the store manager of that McDonalds.

Jurisdiction and Venue

4. The Court has jurisdiction over this action pursuant to 28 U.S.C. § 1331 (federal question jurisdiction) and 42 U.S.C. § 2000e *et seq.* (Title VII).
5. The Court has jurisdiction over Plaintiff’s pendant state and NYCHRL claims under 28 U.S.C. § 1367 (supplemental jurisdiction). Plaintiff’s state and NYCHRL claims are parts of the same case or controversy as Plaintiff’s federal claim.
6. Venue is proper in this district pursuant to 28 U.S.C. § 1391. A substantial part of the acts and/or omissions giving rise to the claims alleged in this Complaint occurred within this district.
7. Defendants reside and/or do business in this district.

Parties

8. Plaintiff Daymari Negron is a resident of New York State who was employed by Defendants between August 2019 and February 2021.
9. At all times relevant to this action, Plaintiff was an “employee” of Defendants within the meaning of Title VII, the NYSHRL, and the NYCHRL.
10. MicDavis LLC is an active Delaware limited liability company which owns and operates the McDonald’s restaurant (“the restaurant” or “the McDonald’s”) located at 335 8th Avenue, New York, New York 10001.
11. MicDavis has a business address in Westchester County at 4 Front Street, Croton Falls, New York 10519.
12. 4 Front Street, Croton Falls, New York 10519 is also the address of the Colley Group LLC. Upon information and belief, the Colley Group LLC owns MicDavis.
13. At all times relevant to this action, Giovanni Pillco was an employee of MicDavis and was the store manager of the McDonald’s located at 335 8th Avenue in Manhattan.
14. Mr. Pillco speaks Spanish and at times throughout Ms. Negron’s employment at the McDonald’s, he spoke to her in Spanish.
15. At all times relevant to this action, Defendants were employers of Plaintiff within the meaning of the Title VII, NYSHRL, and the NYCHRL.
16. Specifically, Defendants were employers within the meaning of Title VII, 42 U.S.C. §2000e-(b), based on their engagement in an industry affecting commerce

and their employment of fifteen (15) or more employees for each workday in each of twenty (20) or more calendar weeks in the current or preceding calendar year.

17. At all times relevant to this action, Defendants employed Plaintiff within the meaning of the Title VII, NYSHRL, and the NYCHRL.

Factual Allegations

18. Plaintiff Daymari Negron is a 28-year-old woman whose primary language is Spanish.
19. Ms. Negron was employed by MicDavis and Pillco at the McDonald's restaurant located at 335 8th Avenue, New York, New York between August 2019 and February 2021, working as a "crew member" stationed in the kitchen.
20. Her responsibilities as a crew member included food preparation, food handling, and other kitchen-related tasks.
21. Ms. Negron was hired and supervised by Giovanni Pillco, the store manager, who was responsible for oversight of the whole restaurant. Mr. Pillco controlled which hours Ms. Negron worked at the restaurant.
22. During the first couple of months that Ms. Negron worked at the restaurant, Mr. Pillco did not harass her.
23. However, in or around October 2019, Pillco changed his demeanor towards Ms. Negron and began to sexually harass her.
24. From October 2019 until she was forced to leave the McDonald's because of Pillco's harassment, Ms. Negron was regularly subjected to unwelcome and offensive conduct by Mr. Pillco.
25. Pillco's harassment of Ms. Negron was severe and pervasive.

26. For example, one day in October 2019, Pillco followed Ms. Negron into the McDonald's kitchen while she was doing dishes. He whispered into Ms. Negron's ear and said how beautiful she was and made explicit comments about her body.
27. Shortly thereafter, every day before she left work, Pillco would call Ms. Negron into his office, close the door, and ask her personal and inappropriate questions.
28. Pillco asked Ms. Negron, in Spanish, whether she had children or a spouse, what she did for fun, how she paid her rent, and whether she had a romantic partner, among other things.
29. Pillco used a variety of excuses to get Ms. Negron alone in his office.
30. Pillco regularly told Ms. Negron, in Spanish, that he wanted to have sex with her, and would try to convince her to have sexual relations with him. He frequently made lewd remarks about Ms. Negron's body and aggressively pursued a sexual relationship with her.
31. Ms. Negron felt extremely uncomfortable at these comments and these advances, but thought that ignoring him would make him stop.
32. Instead, Mr. Pillco became more persistent and aggressive. Mr. Pillco told Ms. Negron, in Spanish, that if she would not have sex with him, he could make her life difficult at work. He told Ms. Negron that if she did not "cooperate" with him, he would cut her work hours.
33. Additionally, Mr. Pillco would attempt to manipulate Ms. Negron by saying that he would recommend her for work at another McDonald's restaurant or give her preferential hours if she gave into his demands.

34. Because she desperately needed the work, especially during the height of the COVID-19 pandemic, Ms. Negron felt at first that she could not quit her job at the restaurant, even though the persistent and severe conduct of Mr. Pillco made it nearly impossible for her to work at the restaurant.
35. Mr. Pillco's harassing conduct persisted and escalated for over a year while Ms. Negron worked at the restaurant.
36. Ms. Negron tried looking for other work during this period of harassment but was unable to locate another job, again in part because of the pandemic.
37. Ms. Negron was not aware of a way to complain to MicDavis LLC or McDonald's about the harassment she experienced at the restaurant except by complaining to the store manager, who was Mr. Pillco. Ms. Negron did not know any managers above Pillco.
38. On three separate occasions from January 2020 through April 2021, Pillco deposited money directly into Ms. Negron's bank account. Ms. Negron did not give Pillco her account information, so she believes that he must have obtained this information from the restaurant's records.
39. The money deposited by Mr. Pillco was from him personally, was not from the restaurant bank account, and was not wages for work Ms. Negron had performed.
40. The first time Pillco deposited money into Ms. Negron's account – a deposit of \$200 around January 2020 – he told her, in sum and substance, that he made the deposit so that she would give him sexual favors.
41. Ms. Negron did not know how to respond to this deposit, and told Pillco that she would return the money. In response, Pillco told Ms. Negron that if she tried to

- return it, he would make things difficult for her in the workplace or he would fire her.
42. On a second occasion, Mr. Pillco deposited \$400 into her account. Ms. Negron understood that the purpose of this deposit was also to try to convince her to have sexual relations with him.
43. On or around February 21, 2021, when Ms. Negron was going up the stairs from the bathroom in the restaurant, Pillco grabbed Ms. Negron's buttocks in a sexual manner. Ms. Negron immediately told him that this was inappropriate behavior and that he had no right to touch her like that. That day, Ms. Negron left work early because the work environment had become unbearable.
44. After the incident in which Mr. Pillco touched her buttocks, Ms. Negron did not return to work because she could not take the harassment anymore. The work situation deliberately created by Pillco had become so intolerable that she was compelled to leave the job.
45. Pillco then began to call Ms. Negron's personal cell phone number. The first time, Ms. Negron answered his call. Ms. Negron told him that she would not return to McDonald's and conveyed the amount of emotional distress he had caused her. After that, Ms. Negron stopped answering Pillco's calls.
46. Mr. Pillco then began to send Ms. Negron messages on WhatsApp asking her to return to work. He told her that he would get her a job at another McDonald's location or give her any hours she wanted. Pillco tried to placate Ms. Negron so that she would not tell anyone about the harassment.

47. Ms. Negron never gave Pillco her phone number or bank account information for his personal use.
48. On or around April 2021, Mr. Pillco made a third – again, unsolicited – deposit into Ms. Negron’s bank account, this time for \$250.
49. Defendants: (1) shared the services of the Plaintiff, (2) shared direct or indirect control over Plaintiff, (3) acted in the interest of one another, and (4) constitute joint employers of Plaintiff as defined by federal, state, and city law.
50. Defendants collectively had the power to establish, and did establish – directly or through their agent(s) – the terms of Plaintiff’s employment.
51. Defendants, directly or indirectly, determined the rate and method of payment to be paid to Plaintiff.
52. Defendants had the power to hire and fire Plaintiff, and each exercised that power, whether directly or indirectly through their agent(s).
53. Defendants maintained employment records for Plaintiff.
54. As a result of Defendants’ discriminatory conduct toward Plaintiff, Plaintiff has suffered economic harm including loss of past and future income, as well as mental anguish and emotional distress.
55. Because of Defendants’ malicious, willful and outrageous conduct, which was undertaken with knowledge that such actions were illegal, Plaintiff seeks, and is entitled to, punitive damages from the Defendants.
56. On July 6, 2021, Plaintiff filed a charge with the Equal Employment Opportunity Commission (“EEOC”), charge number 520-2021-03756, alleging violations of

Title VII of the Civil Rights Act of 1964, including sex discrimination and sexual harassment.

57. On January 19, 2022, after 180 days had elapsed from the date she filed her charge with the EEOC, Plaintiff through counsel requested a “right to sue” letter.
58. On February 1, 2022, Plaintiff received a “right to sue” letter from the EEOC.
See Ex. A, attached.
59. Within 10 days of the commencement of this action, a copy of Plaintiff’s Complaint will be served upon the New York City Commission of Human Rights and the Office of Corporation Counsel, thus satisfying the notice requirement of § 8-502(c) of the New York City Administrative Code.

FIRST CAUSE OF ACTION
(Title VII of the Civil Rights Act of 1964, as amended)

60. Plaintiff realleges and incorporates by reference the foregoing allegations as if set forth fully here.
61. Plaintiff was sexually harassed by Giovanni Pillco, her supervisor, as set forth above.
62. Defendants’ actions, and the actions of Defendants’ agents and employees, as set forth above created a hostile work environment for Plaintiff.
63. Defendants’ actions, and the actions of Defendants’ agents and employees, as set forth above were so severe and pervasive that they altered the terms and conditions of Plaintiff’s employment and ultimately resulted in her constructive discharge.
64. Defendants discriminated against the Plaintiff, subjected the Plaintiff to a hostile work environment, and constructively terminated Plaintiff because of her sex.

65. Defendants' actions were unlawful employment practices under 42 U.S.C. § 2000e-2(a)(1).
66. By reason of the foregoing, Plaintiff has suffered damages in an amount to be determined at trial.
67. Plaintiff is entitled to an award of front pay, compensatory damages (including damages for emotional distress, suffering, inconvenience, loss of enjoyment of life, and humiliation) and punitive damages, in accordance with 42 U.S.C. § 2000e-5(g)(1).
68. Plaintiff also seeks, and is entitled to, attorneys' fees and costs, in accordance with 42 U.S.C. § 2000e-5(k), and interest.

SECOND CAUSE OF ACTION
(New York State Human Rights Law)

69. Plaintiff realleges and incorporates by reference the foregoing allegations as if set forth fully here.
70. By the actions set forth above, among others, Defendants have discriminated against the Plaintiff in violation of the New York State Human Rights Law. Defendants discriminated against the Plaintiff, subjected the Plaintiff to a hostile work environment, and constructively terminated Plaintiff because of her sex.
71. Defendants' actions were in violation of the New York State Human Rights Law, Executive Law § 296.
72. As a consequence of Defendants' willful and illegal actions, Plaintiff has suffered damages in an amount to be determined at trial. Plaintiff is entitled to an award of damages, including front pay and compensatory damages (including damages for

emotional distress, suffering, inconvenience, loss of enjoyment of life, and humiliation).

73. In their actions alleged in violation of the New York State Human Rights Law, Defendants have acted with malice or deliberate indifference to the rights of Plaintiff, thereby entitling her to an award of punitive damages.
74. Plaintiff also seeks, and is entitled to, attorneys' fees, costs, and interest.

THIRD CAUSE OF ACTION
(New York City Human Rights Law)

75. Plaintiff realleges and incorporates by reference the foregoing allegations as if set forth fully here.
76. By the actions set forth above, among others, Defendants have discriminated against the Plaintiff in violation of the New York City Human Rights Law. Defendants discriminated against the Plaintiff, subjected the Plaintiff to a hostile work environment, and constructively terminated the Plaintiff because of her sex.
77. Defendants' actions violated the New York City Administrative Code Title 8, Section 8-107(1).
78. As a result of Defendants' willful and illegal actions, Plaintiff has suffered damages in an amount to be determined at trial. Plaintiff is entitled to an award of front pay and compensatory damages (including damages for emotional distress, suffering, inconvenience, loss of enjoyment of life, and humiliation).
79. In their actions alleged in violation of the New York City Human Rights Law, Defendants have acted with malice or deliberate indifference to the rights of Plaintiff, thereby entitling her to an award of punitive damages.

80. Plaintiff also seeks, and is entitled to, attorneys' fees incurred by her counsel, costs of Court, and interest.

Demand for Jury Trial

Pursuant to Federal Rule of Civil Procedure 38, Plaintiff demands a trial by jury as to all issues so triable.

WHEREFORE, Plaintiff requests that this Court enter an Order:

- a. assuming jurisdiction over this action;
- b. declaring Defendants violated Title VII, the NYHRL, and NYCHRL;
- c. permanently enjoining Defendants from further violations of Title VII, the NYHRL, and NYCHRL;
- d. granting judgment to Plaintiff on her Title VII, NYHRL, and NYCHRL claims against Defendants in amounts to be determined at trial;
- e. awarding Plaintiff punitive damages;
- f. awarding Plaintiff prejudgment and postjudgment interest as allowed by law;
- g. awarding Plaintiff her costs and reasonable attorneys' fees; and
- h. granting such further relief as the Court deems just and proper.

DATED: Brooklyn, NY
March 18, 2022

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