

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF QUEENS

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LIZA FRIEDLANDER,

Plaintiff,

-against-

WAROGE MET, LTD. d/b/a/ SIZZLER
RESTAURANT 0489

and

JOHN DOES 1 to 3,

Defendants.
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: Index No. _____
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: **SUMMONS**
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: Date Index No. Purchased:
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To the above named Defendants: Waroge Met, Ltd. d/b/a Sizzler Restaurant 0489, 100-27 Metropolitan Avenue, Forest Hills, New York 11375 and John Does 1 to 3, addresses presently unknown:


You are hereby summoned and required to serve upon Plaintiff's attorney an answer to the complaint in this action within 20 days after the service of this summons, exclusive of the day of service (or within 30 days after the service is complete if this summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

The basis of venue is, pursuant to N.Y. C.P.L.R. § 503(c), Defendant Waroge Met, Ltd.'s principal office, which is in Queens, New York.

New York, New York
Dated: July 28, 2011

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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF QUEENS

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LIZA FRIEDLANDER, :
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 Plaintiff, : Index No.
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 - against - :
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 WAROGE MET, LTD. d/b/a SIZZLER :
 RESTAURANT 0489 :
 : **COMPLAINT**
 and :
 :
 JOHN DOES 1 to 3, :
 :
 Defendants. :
----- x

Plaintiff Liza Friedlander, by her attorneys Lambda Legal Defense and Education Fund, Inc. and Willkie Farr & Gallagher LLP, for her Complaint alleges as follows:

Preliminary Statement

1. Plaintiff Liza Friedlander (“Plaintiff” or “Ms. Friedlander”), a longtime Queens resident, walked with friends into the Sizzler Restaurant (“Sizzler”) in Forest Hills, Queens, on a Saturday afternoon for brunch. What was intended as a relaxing, enjoyable afternoon turned into a horrifying ordeal of discrimination, violence and degradation targeting Ms. Friedlander because of her actual or perceived sexual orientation and gender identity, and because she did not conform to Defendants’ stereotypes of how a woman should look.

2. Ms. Friedlander was denied the right to dine at Sizzler when Defendant John Doe 1 (“Doe 1”), a Sizzler restaurant manager, attacked her while spewing homophobic and hate-filled epithets and demanded that she leave the restaurant.

3. Instigated by Doe 1, the incident escalated even further when several Sizzler patrons, including Defendant John Doe 2 (“Doe 2”) and Defendant John Doe 3 (“Doe 3”), began throwing

objects at Ms. Friedlander, shouting obscenities and threatening her with physical and sexual violence based on her actual or perceived sexual orientation, gender identity or expression, and sex.

4. Doe 3 threatened to take Ms. Friedlander outside and physically attack and sexually assault her.

5. Doe 1, having instigated the discriminatory attack, did nothing to prevent Ms. Friedlander from being further victimized by Sizzler patrons.

6. The hate-filled atmosphere was fueled by homophobia and driven by anger based on Ms. Friedlander's actual or perceived sexual orientation, gender identity or expression, and sex.

7. Ms. Friedlander brings this action under New York State and City Human and Civil Rights laws, and other state statutes and common law grounds as stated herein, for redress against the Defendants who physically assaulted, victimized and discriminated against her because of her actual or perceived sexual orientation, gender identity or expression, and sex.

8. Ms. Friedlander seeks compensatory and punitive damages, and other appropriate relief, for the physical, emotional, psychological and other harms she incurred as a result of Defendants' conduct.

Jurisdiction

9. This action is brought to remedy causes of action of discrimination pursuant to the New York City Human Rights Law ("NYCHRL"), N.Y.C. Admin. Code §§ 8-107, *et. seq.* and 8-603(a); New York State Human Rights Law ("NYSHRL"), N.Y. Exec. Law § 290, *et. seq.*; and the New York State Civil Rights Law ("NYS Civil Rights Law"), N.Y. Civ. Rights Law § 40, *et. seq.*

10. This action further seeks to enforce a civil remedy for bias-related violence and intimidation under NYS Civil Rights Law § 79-n.

11. Plaintiff also asserts common law causes of action under New York law seeking damages for injuries suffered as a result of Defendants' conduct.

12. This Court has jurisdiction over Plaintiff's causes of action under the foregoing laws of the State of New York.

13. The amount of damages sought herein will be determined at trial.

Venue

14. Venue is proper in this Court pursuant to N.Y. C.P.L.R. § 503(a) because Ms. Friedlander resides in the County of Queens as of the date of this action, and the principal office of Defendant Waroge Met, Ltd. is located in the County of Queens, *see* § 503(c).

Parties

15. Ms. Friedlander is an adult female resident of the State of New York and resides in Queens, New York.

16. Waroge Met, Ltd. ("Waroge"), upon information and belief, is a New York business corporation and is organized and operates pursuant to the laws of the State of New York.

17. Waroge, upon information and belief, is doing business as Sizzler Restaurant 0489 (hereinafter "Sizzler" or "franchisee") located at 100-27 Metropolitan Avenue, Forest Hills, New York, 11375.

18. Waroge, upon information and belief, owns and operates the Sizzler located at 100-27 Metropolitan Avenue, Forest Hills, New York, 11375.

19. Sizzler is the location where the discriminatory and tortious acts against Ms. Friedlander took place.

20. Waroge is a "person" pursuant to NYCHRL § 8-102(1).

21. Waroge is a corporation and may be sued as a "natural person[]" for the discriminatory conduct and tortious acts committed by the corporation pursuant to N.Y. Bus. Corp. Law § 202(a)(2); *see also id.* at § 301(a)(1).

22. Doe 1 is a natural person and, upon information and belief, is a supervisory employee of Sizzler.

23. At all relevant times herein, Doe 1 held the position of Sizzler manager and was on duty at the time of the incident.

24. Doe 1 bears liability for discrimination against Ms. Friedlander based on her actual or perceived sexual orientation, gender identity or expression, and sex as alleged in this Complaint.

25. Doe 1 bears liability for harassment, intentional bias and intimidation, and tortious acts against Ms. Friedlander as alleged in this Complaint.

26. The identity of Doe 1 is not yet known to Plaintiff. Upon learning the identity of Doe 1, Plaintiff will seek leave to amend and substitute the true name in place of the designated Doe 1 defendant.

27. Doe 2 and Doe 3, upon information and belief, are natural persons who were patrons at Sizzler at the time of the events alleged herein.

28. Doe 2 and Doe 3, upon information and belief, bear liability for discrimination against Ms. Friedlander based on her actual or perceived sexual orientation, gender identity or expression, and sex.

29. Doe 2 and Doe 3 are further liable for harassment, intentional bias and intimidation, and tortious acts against Ms. Friedlander as alleged in this Complaint.

30. The identities of Doe 2 and 3 are not yet known to Plaintiff. Upon learning their identities, Plaintiff will seek leave to amend and substitute the true names in place of the designated Doe defendants.

31. Plaintiff has complied with the procedural requirements of NYS Civil Rights Law § 40-d by serving notice upon the State Attorney General at or before the commencement of the action.

Facts

A. The Franchisor-Franchisee Agreement

32. Sizzler USA Franchise, Inc. (“Sizzler USA”) is a corporation organized under the laws of the State of Delaware. Upon information and belief, Sizzler USA grants franchisee license rights to persons who wish to establish and operate a retail restaurant identified by the Sizzler trademark.

33. Waroge entered into a franchisee agreement with Sizzler USA (the “franchisee agreement”).

34. The franchisee agreement between Waroge and Sizzler specifies and dictates, among other things, standards for uniformity of operation and specific management training that must be followed by franchisees.

35. Under the franchisee agreement, each Sizzler must maintain the “reputation” and “goodwill” of the national Sizzler brand as a restaurant where “everyone [can] enjoy a great steak dinner at an affordable price” in a professional and safe environment.

36. The franchisee agreement requires Sizzler managers to complete the “Sizzler Certified Management Training Program” and comply with ongoing training requirements.

37. The franchisee agreement requires that at least two of Sizzler’s assistant managers attend and complete training, and it prohibits an employee from managing a Sizzler who has not completed the certified training requirements to Sizzler USA’s satisfaction.

38. As a result of the inadequacy of the training of Sizzler management, Plaintiff suffered and continues to suffer the injuries described herein.

B. The Discriminatory Attack Against Ms. Friedlander

39. Ms. Friedlander, her roommate Mark Patulski (“Mr. Patulski”) and friend Heidi Boehmar (“Ms. Boehmar”) entered Sizzler on Saturday, September 18, 2010, after noon, for the breakfast buffet.

40. After paying the cashier for the breakfast buffet, Mr. Patulski, Ms. Friedlander and Ms. Boehmar entered the dining room and found a table, and Ms. Friedlander then served herself from the buffet.

41. As Ms. Friedlander was walking back toward her table to join her companions, Doe 1 entered the dining area and aggressively approached Ms. Friedlander.

42. Doe 1 accused Ms. Friedlander of not paying for the breakfast buffet.

43. Doe 1 pushed his body against Ms. Friedlander and leaned his head close to hers – getting “into her face.”

44. In front of other restaurant patrons, Doe 1 began yelling at Ms. Friedlander.

45. Doe 1 suddenly used both hands and violently shoved Ms. Friedlander in the chest, causing her to fall backward, and kicked her in the legs.

46. While attacking Ms. Friedlander, Doe 1 yelled at her to get out of the Sizzler and called her a “fucking dyke.”

47. Shocked and in physical pain, Ms. Friedlander retreated to her table.

48. Doe 1 violently attacked and discriminated against Ms. Friedlander based on her actual or perceived sexual orientation, gender identity or expression, and sex.

49. Instigated by Doe 1, other Sizzler patrons uttered hate-filled and homophobic epithets at Ms. Friedlander based on her actual or perceived sexual orientation, gender identity or expression, and sex.

50. Other Sizzler patrons called Ms. Friedlander names including, but not limited to, “he/she freak,” “dyke” and “lesbian.”

51. Doe 2 was a patron at Sizzler at the time of the incident.

52. Prompted by the outrageous conduct of Doe 1, Doe 2, stood up by his table, pointed his finger at Ms. Friedlander, and called her a “fucking he/she freak” and demanded that she “get the fuck out of” Sizzler.

53. Doe 2 continued to scream homophobic and hate-filled epithets at Ms. Friedlander while demanding she leave Sizzler.

54. While screaming at Ms. Friedlander, Doe 2 paced back and forth toward the table where Plaintiff sat with her companions, and made threatening gestures for her to leave Sizzler.

55. Doe 3 was a patron at Sizzler at the time of the incident and dining with a woman and a child.

56. Spurred on by the discriminatory and violent actions of Doe 1 and Doe 2, Doe 3 accosted Ms. Friedlander and put his body and face up against hers.

57. Doe 3 then screamed at Ms. Friedlander and called her a “fucking dyke,” saying that she had a “pussy” and he had a “dick,” and threatened to take Ms. Friedlander outside to show her “what a dick is.”

58. Doe 3 then went back to his table, grabbed an object from the table and threw it at Ms. Friedlander.

59. Doe 3 threw a second object at Ms. Friedlander, hitting her and Ms. Boehmar.

60. Doe 3 purposefully threw objects at Ms. Friedlander while continuing to spew homophobic, sexually violent and hate-filled epithets based on Ms. Friedlander’s actual or perceived sexual orientation, gender identity or expression, and sex.

61. Incited by Doe 1, Doe 2, and Doe 3, the Sizzler dining room quickly devolved into a threatening environment with between five and ten Sizzler patrons screaming at Ms. Friedlander and hurling homophobic and hate-filled invectives at her based on her actual or perceived sexual orientation, gender identity or expression, and sex.

62. Doe 1 was aware of the escalation of the discriminatory attack against Ms. Friedlander.

63. Nevertheless, Doe 1 left the Sizzler dining room.

64. By abandoning the Sizzler dining room, Doe 1 left Ms. Friedlander to be further victimized.

65. At no time during the violent and discriminatory attacks against Ms. Friedlander by the restaurant patrons did a Sizzler manager attempt to intervene on her behalf.

66. In fact, during the relevant period, Doe 1 took no actions to maintain a professional or safe environment for the Plaintiff or any other Sizzler patron.

67. As the melee escalated, Ms. Boehmar became terrified that several of the Sizzler patrons would take Ms. Friedlander outside and kill her.

68. Ms. Friedlander screamed for someone to call 911.

69. Mr. Patulski called 911.

70. Approximately five police officers arrived at Sizzler.

71. Doe 2, upon information and belief, was at Sizzler when the police arrived.

72. Doe 3 fled the scene before the police arrived, entering a car with a woman and child.

73. Mr. Patulski wrote down the license plate number of the car that Doe 3 entered, which was New York license plate number ELN8072.

74. That car is registered to a Vanessa M. Grullon, located at 8210 91st Avenue, Woodhaven, New York 11421-2922.

75. Ms. Friedlander was in severe pain as a result of Doe 1 violently shoving her in the chest and kicking her in the legs.

76. The police directed Ms. Friedlander to enter the ambulance called to the scene of the incident.

77. Ms. Friedlander was crying and having difficulty breathing; she felt immense pain in her chest as a direct result of Doe 1 violently shoving her.

78. Ms. Friedlander had difficulty standing or even sitting up straight as a direct result of Doe 1 violently shoving and kicking her.

79. The ambulance took Ms. Friedlander to Forest Hills Hospital where she received several tests, including a CT Scan and x-rays.

80. Ms. Friedlander remained at Forest Hills Hospital for approximately six hours, where she was diagnosed with contusions as a result of the attack.

81. Ms. Friedlander does not conform to Defendants' stereotypes of how a "woman" should dress or appear.

82. Defendants targeted Ms. Friedlander calling her names including, but not limited to, "dyke," "lesbian," and "he/she freak," and threatened to sexually assault her and became physically violent towards her because of Ms. Friedlander's actual or perceived sexual orientation.

83. Defendants targeted Ms. Friedlander because she does not conform to sex and gender stereotypes, calling her names including, but not limited to, "dyke," "lesbian," and "he/she freak," and threatened to sexually assault her and became physically violent towards her.

84. Ms. Friedlander was denied the right to dine at Sizzler because of Defendants' discriminatory and tortious conduct.

C. Respondeat Superior

85. At all relevant times herein, Waroge directly employed Doe 1 as a Sizzler manager.

86. Waroge entrusted Doe 1 with the management of Sizzler, putting him in a position of authority and responsibility.

87. Upon information and belief, it is common for Doe 1 to interact with Sizzler patrons as part of his employment.

88. It is foreseeable that Doe 1 would interact with Sizzler patrons as part of his employment.

89. It is foreseeable that the job duties of Doe 1 would include ensuring that Sizzler patrons receive proper service.

90. At all relevant times herein, Doe 1 was exercising his managerial and supervisory duties as a Sizzler manager.

91. At all relevant times herein, Doe 1 was acting within the scope of his employment.

92. Doe 1 approached Ms. Friedlander and confronted her as part of his managerial duties.

93. Doe 1 violently shoved and kicked Ms. Friedlander in an effort to fulfill these managerial duties.

94. Upon information and belief, Waroge knew or should have known of the discriminatory and tortious propensities of Doe 1.

95. Waroge is liable to Ms. Friedlander for the discriminatory and tortious acts and omissions of its employee, Doe 1.

FIRST CAUSE OF ACTION
AGAINST DEFENDANTS WAROGE AND DOE 1

**Discrimination Based on Sexual Orientation
in Violation of NYCHRL § 8-107(4)(a)**

96. Plaintiff incorporates the allegations in Paragraphs 1 through 95 above as if fully set forth herein.

97. The NYCHRL prohibits discrimination in public accommodations. Section 8-107(4)(a) provides:

[i]t shall be an unlawful discriminatory practice for any person, being the owner, lessee, proprietor, manager, superintendent, agent or employee of any place or provider of public accommodation, because of the actual or perceived . . . sexual orientation . . . of any person, directly or indirectly, to refuse, withhold from or deny to such person any of the accommodations, advantages, facilities or privileges thereof . . .

98. Sizzler is a “public accommodation” under NYCHRL § 8-102(9) because it is a place where “goods” and “services” are “extended, offered[] [and] sold.”

99. Part of the “advantages” or “privileges” that Sizzler offers its patrons is the right to dine in a safe and professional environment that provides an “unwavering commitment to guest satisfaction.”

100. Under NYCHRL § 8-107(13)(a), “[a]n employer shall be liable for an unlawful discriminatory practice based upon the conduct of an employee or agent.”

101. Waroge and Doe 1 each discriminated against Ms. Friedlander by refusing, withholding from or denying her access to the advantages, facilities, and privileges offered at Sizzler, demanding that she leave the premises, spewing homophobic and hate-filled epithets, and physically and verbally attacking Ms. Friedlander because of her actual or perceived sexual orientation in violation of NYCHRL § 8-107(4).

102. As a result of the discriminatory conduct and inaction of Waroge and Doe 1, Ms. Friedlander suffered, and continues to suffer, physical injuries, mental anguish, emotional distress,

humiliation, indignity and other injuries, thereby entitling her to compensatory damages pursuant to NYCHRL § 8-502(a).

103. The discriminatory conduct and inaction of Waroge and Doe 1 were deliberate, reckless, malicious, vindictive, reprehensible, oppressive and outrageous, showing a conscious indifference and utter disregard to the safety and civil rights of Ms. Friedlander, thereby entitling her to punitive damages pursuant to NYCHRL § 8-502(a).

104. Plaintiff is also entitled to the costs of maintaining this cause of action, including reasonable attorneys' fees, pursuant to NYCHRL § 8-502(f).

SECOND CAUSE OF ACTION
AGAINST DEFENDANTS WAROGUE AND DOE 1

Discrimination Based on Gender
in Violation of NYCHRL § 8-107(4)

105. Plaintiff incorporates the allegations in Paragraphs 1 through 104 above as if fully set forth herein.

106. Waroge and Doe 1 each discriminated against Ms. Friedlander by refusing, withholding from or denying her access to the advantages, facilities, and privileges offered at Sizzler, demanding that she leave the premises, spewing homophobic and hate-filled epithets, and physically and verbally attacking Ms. Friedlander because of her actual or perceived sex, gender identity, self-image, appearance, behavior or expression in violation of NYCHRL § 8-107(4).

107. As a result of the discriminatory conduct and inaction of Waroge and Doe 1, Ms. Friedlander suffered, and continues to suffer, physical injuries, mental anguish, emotional distress, humiliation, indignity and other injuries, thereby entitling her to compensatory damages pursuant to NYCHRL § 8-502(a).

108. The discriminatory conduct and inaction of Waroge and Doe 1 were deliberate, reckless, malicious, vindictive, reprehensible, oppressive and outrageous, showing a conscious

indifference and utter disregard to the safety and civil rights of Ms. Friedlander, thereby entitling her to punitive damages pursuant to NYCHRL § 8-502(a).

109. Plaintiff is also entitled to the costs of maintaining this cause of action, including reasonable attorneys' fees, pursuant to NYCHRL § 8-502(f).

THIRD CAUSE OF ACTION
AGAINST DEFENDANTS DOE 2 AND 3

**Aiding or Inciting Discrimination Based on
Sexual Orientation in Violation of NYCHRL § 8-107(6)**

110. Plaintiff incorporates the allegations in Paragraphs 1 through 109 above as if fully set forth herein.

111. Under NYCHRL § 8-107(6), “[i]t shall be an unlawful discriminatory practice for any person to aid, abet, incite, compel or coerce” the refusal, withholding from or denial of the use of a public accommodation to a person because of actual or perceived sexual orientation, “or to attempt to do so.”

112. Doe 2 aided, abetted, incited, compelled or coerced the discriminatory conduct of Waroge, Doe 1 and Doe 3 against Ms. Friedlander by spewing homophobic and hate-filled epithets and intimidating Plaintiff because of her actual or perceived sexual orientation, resulting in Ms. Friedlander being refused, withheld and denied access to the accommodations, advantages, facilities, and privileges offered at Sizzler, in violation of NYCHRL § 8-107(4).

113. Doe 3 aided, abetted, incited, compelled or coerced the discriminatory conduct of Waroge, Doe 1 and Doe 2 against Ms. Friedlander by threatening her with physical and sexual violence, spewing homophobic and hate-filled epithets, and throwing objects at Plaintiff because of her actual or perceived sexual orientation, resulting in Ms. Friedlander being refused, withheld and denied access to the accommodations, advantages, facilities, and privileges offered at Sizzler, in violation of NYCHRL § 8-107(4).

114. As a result of the discriminatory conduct of Doe 2 and Doe 3, Ms. Friedlander suffered, and continues to suffer, physical injuries, mental anguish, emotional distress, humiliation, indignity and other injuries, thereby entitling her to compensatory damages pursuant to NYCHRL § 8-502(a).

115. The discriminatory conduct of Doe 2 and Doe 3 was deliberate, reckless, malicious, vindictive, reprehensible, oppressive and outrageous, showing a conscious indifference and utter disregard to the safety and civil rights of Ms. Friedlander, thereby entitling her to punitive damages pursuant to NYCHRL § 8-502(a).

116. Plaintiff is also entitled to the costs of maintaining this cause of action, including reasonable attorneys' fees, pursuant to NYCHRL § 8-502(f).

FOURTH CAUSE OF ACTION
AGAINST DEFENDANTS DOE 2 AND 3

Aiding or Inciting Discrimination
Based on Gender in Violation of NYCHRL § 8-107(6)

117. Plaintiff incorporates the allegations in Paragraphs 1 through 116 above as if fully set forth herein.

118. Doe 2 aided, abetted, incited, compelled or coerced the discriminatory conduct of Waroge, Doe 1 and Doe 3 against Ms. Friedlander by spewing homophobic and hate-filled epithets and intimidating Plaintiff because of her actual or perceived sex, gender, gender identity, self-image, appearance, behavior or expression, resulting in Ms. Friedlander being refused, withheld and denied access to the accommodations, advantages, facilities, and privileges offered at Sizzler in violation of NYCHRL § 8-107(4).

119. Doe 3 aided, abetted, incited, compelled or coerced the discriminatory conduct of Waroge, Doe 1 and Doe 2 against Ms. Friedlander by threatening her with physical and sexual violence, spewing homophobic and hate-filled epithets, and throwing objects at Plaintiff because of

her actual or perceived sex, gender, gender identity, self-image, appearance, behavior or expression resulting in Ms. Friedlander being refused, withheld and denied access to the accommodations, advantages, facilities, and privileges offered at Sizzler in violation of NYCHRL § 8-107(4).

120. As a result of the discriminatory conduct of Doe 2 and Doe 3, Ms. Friedlander suffered, and continues to suffer, physical injuries, mental anguish, emotional distress, humiliation, indignity and other injuries, thereby entitling her to compensatory damages pursuant to NYCHRL § 8-502(a).

121. The discriminatory conduct of Doe 2 and Doe 3 was deliberate, reckless, malicious, vindictive, reprehensible, oppressive and outrageous, showing a conscious indifference and utter disregard to the safety and civil rights of Ms. Friedlander, thereby entitling her to punitive damages pursuant to NYCHRL § 8-502(a).

122. Plaintiff is also entitled to the costs of maintaining this cause of action, including reasonable attorneys' fees, pursuant to NYCHRL § 8-502(f).

FIFTH CAUSE OF ACTION
AGAINST ALL DEFENDANTS

**Discriminatory Harassment Motivated by Ms. Friedlander's
Sexual Orientation in Violation of NYCHRL § 8-603(a)**

123. Plaintiff incorporates the allegations in Paragraphs 1 through 122 above as if fully set forth herein.

124. Defendants by force or threat of force each knowingly injured, intimidated, interfered with, oppressed or threatened Ms. Friedlander in the free exercise and enjoyment of her right or privilege to dine at Sizzler based on her actual or perceived sexual orientation, in violation of NYCHRL § 8-603(a).

125. As a result of Defendants' discriminatory harassment, Ms. Friedlander suffered, and continues to suffer, physical injuries, mental anguish, emotional distress, humiliation, indignity and

other injuries, thereby entitling her to compensatory damages pursuant to NYCHRL §§ 8-502(a) and 8-603(c).

126. Defendants' discriminatory harassment was deliberate, reckless, malicious, vindictive, reprehensible, oppressive and outrageous, showing a conscious indifference and utter disregard to the safety and civil rights of Ms. Friedlander, thereby entitling her to punitive damages pursuant to NYCHRL § 8-502(a).

127. Plaintiff is also entitled to the costs of maintaining this cause of action, including reasonable attorneys' fees, pursuant to NYCHRL § 8-502(f).

SIXTH CAUSE OF ACTION
AGAINST ALL DEFENDANTS

**Discriminatory Harassment Motivated by Ms. Friedlander's
Gender in Violation of NYCHRL § 8-603(a)**

128. Plaintiff incorporates the allegations in Paragraphs 1 through 127 above as if fully set forth herein.

129. Defendants by force or threat of force each knowingly injured, intimidated, interfered with, oppressed or threatened Ms. Friedlander in the free exercise and enjoyment of her right or privilege to dine at Sizzler based on her actual or perceived sex, gender identity, self-image, appearance, behavior or expression, in violation of NYCHRL § 8-603(a).

130. As a result of Defendants' discriminatory harassment, Ms. Friedlander suffered, and continues to suffer, physical injuries, mental anguish, emotional distress, humiliation, indignity and other injuries, thereby entitling her to compensatory damages pursuant to NYCHRL §§ 8-502(a) and 8-603(c).

131. Defendants' discriminatory harassment was deliberate, reckless, malicious, vindictive, reprehensible, oppressive and outrageous, showing a conscious indifference and utter disregard to

the safety and civil rights of Ms. Friedlander, thereby entitling her to punitive damages pursuant to NYCHRL § 8-502(a).

132. Plaintiff is also entitled to the costs of maintaining this cause of action, including reasonable attorneys' fees, pursuant to NYCHRL § 8-502(f).

SEVENTH CAUSE OF ACTION
AGAINST DEFENDANTS WAROG AND DOE 1

**Discrimination Because of Sexual Orientation
in Violation of NYSHRL § 296(2)(a)**

133. Plaintiff incorporates the allegations in Paragraphs 1 through 132 above as if fully set forth herein.

134. The NYSHRL prohibits discrimination in public accommodations. Section 296(2)(a) provides:

It shall be an unlawful discriminatory practice for any person, being the owner, lessee, proprietor, manager, superintendent, agent or employee of any place of public accommodation . . . because of the . . . sexual orientation . . . [or] sex . . . of any person, directly or indirectly, to refuse, withhold from or deny to such person any of the accommodations, advantages, facilities, or privileges thereof . . .

135. Sizzler is as a "place of public accommodation" under NYSHRL § 292(9) because it is a "restaurant[], or . . . place where food is sold for consumption on the premises . . ."

136. Waroge and Doe 1 each discriminated against Ms. Friedlander by denying her access to the advantages, facilities or privileges of Sizzler, demanding that she leave the premises, spewing homophobic and hate-filled epithets, and physically and verbally attacking Ms. Friedlander because of her actual or perceived sexual orientation in violation of NYSHRL § 296(2)(a).

137. On information and belief, Waroge encouraged, condoned or approved the unlawful discriminatory conduct of Doe 1 in violation NYSHRL § 296(2)(a).

138. As a result of the discriminatory conduct of Waroge and Doe 1, Ms. Friedlander suffered, and continues to suffer, physical injuries, mental anguish, emotional distress, humiliation,

indignity and other injuries, thereby entitling her to compensatory damages pursuant to NYSHRL § 297(9).

EIGHTH CAUSE OF ACTION
AGAINST DEFENDANTS WAROGE AND DOE 1

**Discrimination Because of Sex
in Violation of NYSHRL § 296(2)(a)**

139. Plaintiff incorporates the allegations in Paragraphs 1 through 138 above as if fully set forth herein.

140. Waroge and Doe 1 each discriminated against Ms. Friedlander by denying her access to the advantages, facilities or privileges of Sizzler, demanding that she leave the premises, spewing homophobic and hate-filled epithets, and physically and verbally attacking Ms. Friedlander because of her sex in violation of NYSHRL § 296(2)(a).

141. Upon information and belief, Waroge encouraged, condoned or approved the unlawful discriminatory conduct of Doe 1 in violation of NYSHRL § 296(2)(a).

142. As a result of the discriminatory conduct of Waroge and Doe 1, Ms. Friedlander suffered, and continues to suffer, physical injuries, mental anguish, emotional distress, humiliation, indignity and other injuries, thereby entitling her to compensatory damages pursuant to NYSHRL § 297(9).

NINTH CAUSE OF ACTION
AGAINST DEFENDANTS DOE 2 AND 3

**Aiding or Inciting Discrimination
Because of Sexual Orientation
in Violation of NYSHRL § 296(6)**

143. Plaintiff incorporates the allegations in Paragraphs 1 through 142 above as if fully set forth herein.

144. Section 296(6) of the NYSHRL provides that “[i]t shall be an unlawful discriminatory practice for any person to aid, abet, incite, compel or coerce” the refusal, withholding

or denial of the use of a public accommodation to a person because of sexual orientation, “or to attempt to do so.”

145. Doe 2 aided, abetted, incited, compelled or coerced the discriminatory conduct of Waroge, Doe 1 and Doe 3 against Ms. Friedlander by spewing homophobic and hate-filled epithets and intimidating Plaintiff because of her actual or perceived sexual orientation, resulting in Ms. Friedlander being refused, withheld and denied the right to dine at Sizzler in violation of NYSHRL § 296(6).

146. Doe 3 aided, abetted, incited, compelled or coerced the discriminatory conduct of Waroge, Doe 1 and Doe 2 against Ms. Friedlander by threatening her with physical and sexual violence, spewing homophobic and hate-filled epithets, and throwing objects at Plaintiff because of her actual or perceived sexual orientation, resulting in Ms. Friedlander being refused, withheld and denied the right to dine at Sizzler in violation of NYSHRL § 296(6).

147. As a result of the discriminatory conduct of Doe 2 and 3, Ms. Friedlander suffered, and continues to suffer, physical injuries, mental anguish, emotional distress, humiliation, indignity and other injuries, thereby entitling her to compensatory damages pursuant to NYSHRL § 297(9).

TENTH CAUSE OF ACTION
AGAINST DEFENDANTS DOE 2 AND 3

**Aiding or Inciting Discrimination Because of Sex
in Violation of NYSHRL § 296(6)**

148. Plaintiff incorporates the allegations in Paragraphs 1 through 147 above as if fully set forth herein.

149. Doe 2 aided, abetted, incited, compelled or coerced the discriminatory conduct of Waroge, Doe 1 and Doe 3 against Ms. Friedlander by spewing homophobic and hate-filled epithets and intimidating Plaintiff because of her sex, resulting in Ms. Friedlander being refused, withheld and denied the right to dine at Sizzler in violation of NYSHRL § 296(6).

150. Doe 3 aided, abetted, incited, compelled or coerced the discriminatory conduct of Waroge, Doe 1 and Doe 2 against Ms. Friedlander by threatening her with physical and sexual violence, spewing homophobic and hate-filled epithets and throwing objects at Plaintiff because of her sex, resulting in Ms. Friedlander being refused, withheld and denied the right to dine at Sizzler, in violation of NYSHRL § 296(6).

151. As a result of Defendants' discriminatory conduct, Ms. Friedlander suffered, and continues to suffer, physical injuries, mental anguish, emotional distress, humiliation, indignity and other injuries, thereby entitling her to compensatory damages pursuant to NYSHRL § 297(9).

ELEVENTH CAUSE OF ACTION
AGAINST ALL DEFENDANTS

Discrimination in the Exercise of a Civil Right
Because of Sexual Orientation
in Violation of NYS Civil Rights Law §§ 40-c and 40-d

152. Plaintiff incorporates the allegations in Paragraphs 1 through 151 above as if fully set forth herein.

153. NYS Civil Rights Law § 40-c(2) provides that “[n]o person shall [] because of . . . sex [] [or] sexual orientation . . . be subjected to any discrimination in his or her civil rights”

154. Waroge and Doe 1 each violated Ms. Friedlander's rights under NYS Civil Rights Law § 40-c(2) by denying her access to the advantages, facilities or privileges of Sizzler, demanding that she leave the premises, spewing homophobic and hate-filled epithets, and physically and verbally attacking her because of her actual or perceived sexual orientation, resulting in Ms. Friedlander being discriminated against in the exercise of her civil right to equal access to Sizzler.

155. Doe 2 violated Ms. Friedlander's rights under NYS Civil Rights Law § 40-c(2) by spewing homophobic and hate-filled epithets and intimidating Plaintiff because of her actual or perceived sexual orientation, resulting in Ms. Friedlander being discriminated against in the exercise of her civil right to equal access to Sizzler.

156. Doe 3 violated Ms. Friedlander's rights under NYS Civil Rights Law § 40-c(2) by threatening her with physical and sexual violence, spewing homophobic and hate-filled epithets, and throwing objects at Plaintiff because of her actual or perceived sexual orientation, resulting in Ms. Friedlander being discriminated against in the exercise of her civil right to equal access Sizzler.

157. As a result of the violations of Ms. Friedlander's rights under NYS Civil Rights Law § 40-c(2) Ms. Friedlander suffered, and continues to suffer physical injuries, mental anguish, emotional distress, humiliation, indignity and other injuries.

158. Plaintiff is entitled to statutory penalties to the extent provided by law under NYS Civil Rights Law § 40-d.

TWELFTH CAUSE OF ACTION
AGAINST ALL DEFENDANTS

Discrimination in the Exercise of a Civil Right
Because of Sex in Violation of NYS Civil Rights Law §§ 40-c and 40-d

159. Plaintiff incorporates the allegations in Paragraphs 1 through 158 above as if fully set forth herein.

160. Waroge and Doe 1 each violated Ms. Friedlander's rights under NYS Civil Rights Law § 40-c(2) by denying her access to the advantages, facilities or privileges of Sizzler, demanding that she leave the premises, spewing homophobic and hate-filled epithets, and physically and verbally attacking her because of her sex, resulting in Ms. Friedlander being discriminated against in the exercise of her civil right to equal access to Sizzler.

161. Doe 2 violated Ms. Friedlander's rights under NYS Civil Rights Law § 40-c(2) by spewing homophobic and hate-filled epithets and intimidating Plaintiff because of her sex, resulting in Ms. Friedlander being discriminated against in the exercise of her civil right to equal access to Sizzler.

162. Doe 3 violated Ms. Friedlander's rights under NYS Civil Rights Law § 40-c(2) by threatening her with physical and sexual violence, spewing homophobic and hate-filled epithets, and throwing objects at Plaintiff because of her sex resulting in Ms. Friedlander being discriminated against in the exercise of her civil right to equal access to Sizzler.

163. As a result of the violations of Ms. Friedlander's rights under NYS Civil Rights Law § 40-c, Ms. Friedlander suffered, and continues to suffer physical injuries, mental anguish, emotional distress, humiliation, indignity and other injuries.

164. Plaintiff is entitled to statutory penalties to the extent provided by law under NYS Civil Rights Law § 40-d.

THIRTEENTH CAUSE OF ACTION
AGAINST DEFENDANTS DOE 2 AND 3

Aiding or Inciting Discrimination
in the Exercise of a Civil Right Because of Sexual Orientation
in Violation of NYS Civil Rights Law §§ 40-c and 40-d

165. Plaintiff incorporates the allegations in Paragraphs 1 through 164 above as if fully set forth herein.

166. Any person who aids or incites a violation under NYS Civil Rights Law § 40-c shall be liable under NYS Civil Rights Law § 40-d for aiding or inciting discrimination.

167. Doe 2 aided or incited the discriminatory conduct of Waroge, Doe 1 and Doe 3 against Ms. Friedlander by spewing homophobic and hate-filled epithets and intimidating Plaintiff because of her actual or perceived sexual orientation, resulting in Ms. Friedlander being discriminated against in the exercise of her civil right to equal access to Sizzler in violation of NYS Civil Rights Law §§ 40-c and 40-d.

168. Doe 3 aided or incited the discriminatory conduct of Waroge, Doe 1 and Doe 2 against Ms. Friedlander by threatening her with physical and sexual violence, spewing homophobic and hate-filled epithets, and throwing objects at Plaintiff because of her actual or perceived sexual

orientation, resulting in Ms. Friedlander being discriminated against in the exercise of her civil right to equal access to Sizzler in violation of NYS Civil Rights Law §§ 40-c and 40-d.

169. As a result of the violations of Ms. Friedlander's rights under NYS Civil Rights Law §§ 40-c and 40-d, Ms. Friedlander suffered, and continues to suffer physical injuries, mental anguish, emotional distress, humiliation, indignity and other injuries.

170. Plaintiff is entitled to statutory penalties to the extent provided by law under NYS Civil Rights Law § 40-d.

FOURTEENTH CAUSE OF ACTION
AGAINST DEFENDANTS DOE 2 AND 3

**Aiding or Inciting Discrimination
in the Exercise of a Civil Right Because of Sex
in Violation of NYS Civil Rights Law §§ 40-c and 40-d**

171. Plaintiff incorporates the allegations in Paragraphs 1 through 170 above as if fully set forth herein.

172. Doe 2 aided or incited the discriminatory conduct of Waroge, Doe 1 and Doe 3 against Ms. Friedlander by spewing homophobic and hate-filled epithets and intimidating Plaintiff because of her sex, resulting in Ms. Friedlander being discriminated against in the exercise of her civil right to equal access to Sizzler in violation of NYS Civil Rights Law §§ 40-c and 40-d.

173. Doe 3 aided or incited the discriminatory conduct of Waroge, Doe 1 and Doe 2 against Ms. Friedlander by threatening her with physical and sexual violence, spewing homophobic and hate-filled epithets, and throwing objects at Plaintiff because of her sex, resulting in Ms. Friedlander being discriminated against in the exercise of her civil right to equal access to Sizzler in violation of NYS Civil Rights Law §§ 40-c and 40-d.

174. As a result of the violations of Ms. Friedlander's rights under NYS Civil Rights Law §§ 40-c and 40-d, Ms. Friedlander suffered, and continues to suffer physical injuries, mental anguish, emotional distress, humiliation, indignity and other injuries.

175. Plaintiff is entitled to statutory penalties to the extent provided by law under NYS Civil Rights Law § 40-d.

FIFTEENTH CAUSE OF ACTION
AGAINST ALL DEFENDANTS

**Bias-related Violence or Intimidation Because of Sexual Orientation
in Violation of NYS Civil Rights Law §§ 79-n(1)(c) and 79-n(2)**

176. Plaintiff incorporates the allegations in Paragraphs 1 through 175 above as if fully set forth herein.

177. Defendants each intentionally selected Ms. Friedlander to cause her harm because of a belief or perception regarding Ms. Friedlander's actual or perceived sexual orientation in violation of NYS Civil Rights Law §§ 79-n(1)(c) and 79-n(2).

178. Defendants each intimidated Ms. Friedlander and caused her harm because of a belief or perception regarding her actual or perceived sexual orientation in violation of NYS Civil Rights Law §§ 79-n(1)(c) and 79-n(2).

179. As a result of Defendants' bias-related violence against and intimidation of Ms. Friedlander, Ms. Friedlander suffered, and continues to suffer, physical injuries, mental anguish, emotional distress, humiliation, indignity and other injuries, thereby entitling her to compensatory damages pursuant to NYS Civil Rights Law § 79-n(2).

180. Defendants' bias-related violence against and intimidation of Ms. Friedlander was deliberate, reckless, malicious, vindictive, reprehensible, oppressive and outrageous, showing a conscious indifference and utter disregard to the safety and civil rights of Ms. Friedlander, thereby entitling her to punitive damages pursuant to NYS Civil Rights Law § 79-n(2).

181. Plaintiff is also entitled to the costs of maintaining this cause of action, including reasonable attorneys' fees, pursuant to NYS Civil Rights Law § 79-n(4).

SIXTEENTH CAUSE OF ACTION
AGAINST ALL DEFENDANTS

**Bias-related Violence or Intimidation Because of Gender
in Violation of NYS Civil Rights Law-§§ 79-n(1)(d) and 79-n(2)**

182. Plaintiff incorporates the allegations in Paragraphs 1 through 181 above as if fully set forth herein.

183. Defendants each intentionally selected Ms. Friedlander to cause her harm because of a belief or perception regarding Ms. Friedlander's actual or perceived gender in violation of NYS Civil Rights Law §§ 79-n(1)(d) and 79-n(2).

184. Defendants each intimidated Ms. Friedlander and caused her harm because of a belief or perception regarding her actual or perceived gender in violation of NYS Civil Rights Law §§ 79-n(1)(d) and 79-n(2).

185. As a result of Defendants' bias-related violence against and intimidation of Ms. Friedlander, Ms. Friedlander suffered, and continues to suffer, physical injuries, mental anguish, emotional distress, humiliation, indignity and other injuries, thereby entitling her to compensatory damages pursuant to NYS Civil Rights Law § 79-n(2).

186. Defendants' bias-related violence against and intimidation of Ms. Friedlander was deliberate, reckless, malicious, vindictive, reprehensible, oppressive and outrageous, showing a conscious indifference and utter disregard to the safety and civil rights of Ms. Friedlander, thereby entitling her to punitive damages pursuant to NYS Civil Rights Law § 79-n(2).

187. Plaintiff is also entitled to the costs of maintaining this cause of action, including reasonable attorneys' fees, pursuant to NYS Civil Rights Law § 79-n(4).

SEVENTEENTH CAUSE OF ACTION
AGAINST ALL DEFENDANTS

Assault

188. Plaintiff incorporates the allegations in Paragraphs 1 through 187 above as if fully set forth herein.

189. Through threatening statements, gestures, and other physical conduct, each of the Defendants acted intentionally to place Ms. Friedlander in imminent apprehension of harmful bodily contact.

190. Defendants' conduct was the actual, direct and proximate cause of the physical injuries, mental anguish, emotional distress, humiliation, indignity and other injuries Ms. Friedlander suffered, and continues to suffer, thereby entitling her to compensatory damages.

191. The conduct and inaction of Waroge and Doe 1 were deliberate, reckless, malicious, vindictive, reprehensible, oppressive and outrageous, showing a conscious indifference and utter disregard to the safety and civil rights of Ms. Friedlander, thereby entitling her to punitive damages.

192. The conduct of Does 2 and 3 was deliberate, reckless, malicious, vindictive, reprehensible, oppressive and outrageous, showing a conscious indifference and utter disregard to the safety and civil rights of Ms. Friedlander, thereby entitling her to punitive damages.

193. Plaintiff is also entitled to the costs of maintaining this cause of action, including reasonable attorneys' fees.

EIGHTEENTH CAUSE OF ACTION
AGAINST DEFENDANTS WAROG, DOE 1 AND DOE 3

Battery

194. Plaintiff incorporates the allegations in Paragraphs 1 through 193 above as if fully set forth herein.

195. Warog, Doe 1 and Doe 3 each intentionally made bodily contact with Ms. Friedlander and had knowledge that a bodily contact was substantially certain to result from Defendants' conduct. Warog and Doe 1 violently shoved and kicked Ms. Friedlander.

196. Doe 3 intentionally hit Plaintiff with objects.

197. The conduct of Warog, Doe 1 and Doe 3 was offensive in nature.

198. Ms. Friedlander sustained physical impairment, physical pain and bodily harm as a result of the offensive conduct of Warog, Doe 1 and Doe 3.

199. The conduct of Warog, Doe 1 and Doe 3 was the actual, direct and proximate cause of the physical injuries, mental anguish, emotional distress, humiliation, indignity and other injuries Ms. Friedlander suffered, and continues to suffer, thereby entitling her to compensatory damages.

200. The conduct and inaction of Warog and Doe 1 was deliberate, reckless, malicious, vindictive, reprehensible, oppressive and outrageous, showing a conscious indifference and utter disregard to the safety and civil rights of Ms. Friedlander, thereby entitling her to punitive damages.

201. The conduct of Doe 3 was deliberate, reckless, malicious, vindictive, reprehensible, oppressive and outrageous, showing a conscious indifference and utter disregard to the safety and civil rights of Ms. Friedlander, thereby entitling her to punitive damages.

202. Plaintiff is also entitled to the costs of maintaining this cause of action, including reasonable attorneys' fees.

NINETEENTH CAUSE OF ACTION
AGAINST ALL DEFENDANTS

Intentional Infliction of Emotional Distress

203. Plaintiff incorporates the allegations in Paragraphs 1 through 202 above as if fully set forth herein.

204. Defendants each engaged in extreme and outrageous conduct.

205. Defendants each acted with the intent to cause Ms. Friedlander severe emotional distress, or disregarded the substantial probability that their actions would cause Ms. Friedlander severe emotional distress.

206. Defendants' conduct and inaction was the actual, direct and proximate cause of the physical injuries, mental anguish, emotional distress, humiliation, indignity and other injuries Ms. Friedlander suffered, and continues to suffer, thereby entitling her to compensatory damages.

207. The conduct and inaction of Waroge and Doe 1 were deliberate, reckless, malicious, vindictive, reprehensible, oppressive and outrageous, showing a conscious indifference and utter disregard to the safety and civil rights of Ms. Friedlander, thereby entitling her to punitive damages.

208. The conduct of Does 2 and 3 was deliberate, reckless, malicious, vindictive, reprehensible, oppressive and outrageous, showing a conscious indifference and utter disregard to the safety and civil rights of Ms. Friedlander, thereby entitling her to punitive damages.

209. Plaintiff is also entitled to the costs of maintaining this cause of action, including reasonable attorneys' fees.

TWENTIETH CAUSE OF ACTION
AGAINST DEFENDANT WAROGÉ

Negligent Training and Supervision

210. Plaintiff incorporates the allegations in Paragraphs 1 through 84 above as if fully set forth herein.

211. In the alternative, Doe 1 was acting outside the scope of his employment when he discriminated against, harassed, intimidated, assaulted and battered Ms. Friedlander on the day of the incident.

212. Upon information and belief, Warogé knew or should have known of the discriminatory and tortious propensities of Doe 1.

213. The training of Doe 1 was inadequate.

214. The inadequacy of the training was the actual, direct and proximate cause of Plaintiff's injuries.

215. The conduct and inaction of Warogé was the actual, direct and proximate cause of the physical injuries, mental anguish, emotional distress, humiliation, indignity and other injuries Ms. Friedlander suffered, and continues to suffer, thereby entitling her to compensatory damages.

216. The conduct and inaction of Warogé were deliberate, reckless, malicious, vindictive, reprehensible, oppressive and outrageous showing a conscious indifference and utter disregard to the safety and civil rights of Plaintiff, thereby entitling Ms. Friedlander to punitive damages.

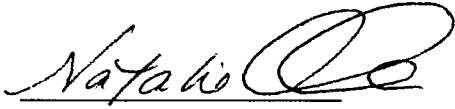
217. Plaintiff is also entitled to the costs of maintaining this cause of action, including reasonable attorneys' fees.

Prayer For Relief

WHEREFORE, Plaintiff respectfully requests that this Court grant the following relief:

- (a) declare that the acts and practices complained of herein are in violation of the New York State and New York City Human and Civil Rights laws;
- (b) grant a permanent injunction restraining and enjoining Sizzler and Sizzler employees, managers and staff, and all other persons or entities in active concert, privity, or participation with them from directly or indirectly denying any person because of their actual or perceived sexual orientation, gender identity or expression, and sex, including Ms. Friedlander, full and non-discriminatory access to and use of Sizzler facilities, benefits, rights, and privileges;
- (c) award Plaintiff statutory and compensatory damages;
- (d) award Plaintiff punitive damages;
- (e) award Plaintiff her costs, including attorney's fees and other costs of the investigation and litigation incurred by her; and
- (f) grant such further and additional legal and equitable relief this Court deems to be just and proper.

Dated: July 28, 2011
New York, NY



Natalie Chin
Susan Sommer

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STATE OF NEW YORK, COUNTY OF NEW YORK

ATTORNEY'S VERIFICATION

NATALIE CHIN, an attorney duly admitted to practice law before the Courts of the State of New York, hereby affirms the following, under penalty of perjury:

I am an attorney with LAMBDA LEGAL DEFENSE AND EDUCATION FUND, INC., attorneys for the Plaintiff in the within action.

I have read the foregoing COMPLAINT and know the contents thereof; that the same is true to my own knowledge, except as to the matters therein stated to be upon information and belief and that as to those matters I believe to be true.

The reason this verification is made by your Affirmant and not by the Plaintiff is that Plaintiff does not reside in the county where your Affirmant maintains her office.

The grounds for Affirmant's belief as to all matters not stated upon my knowledge are as follows: Records, reports, facts and documents contained in Plaintiff's file maintained by your Affirmant's office.

DATED: July 28, 2011
New York, New York



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