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UNITED STATES DISTRICT COURT  
DISTRICT OF UTAH, CENTRAL DIVISION

<p>BONNIE JEAN MONSON, a.k.a. BONNIE HAAS, Plaintiff,</p> <p>vs.</p> <p>ALBERTSON’S INC., a Delaware Corporation, Defendant.</p>	<p><b>PROPOSED CLASS ACTION COMPLAINT (JURY DEMANDED)</b></p> <p>Civil No. _____</p> <p>Judge: _____</p>
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Plaintiff Bonnie Jean Monson (formerly Bonnie Haas, and referred herein as “Plaintiff” or “Ms. Haas”), individually and on behalf of all others similarly situated, by and through her attorney, for this class action complaint hereby complains against Defendant Albertson’s, Inc., (“Albertson’s”) as follows:

**I. NATURE OF THE CLAIMS**

1. This suit is brought by a female former employee of the Defendant on behalf of herself and all others similarly situated against Defendant for discrimination in employment by Defendant based on gender, and retaliation for engaging in protected activity, in violation of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e *et seq.* (“Title VII”).

Plaintiff alleges that Defendant created, maintained, and failed to correct a known hostile work environment at its stores managed by Store Director Kent Haslam, and permitted Mr. Haslam to make employment decisions based on gender. Plaintiff also alleges that Defendant retaliated against her and similarly situated female employees for their complaints of discrimination.

2. This suit also alleges discrimination in violation of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12101 et seq. (“ADA”), based upon Defendant’s policy of not allowing employees to work with any medical restrictions.

3. Plaintiff seeks all available equitable relief, damages, attorney fees, costs, interest, punitive damages, as well as declaratory and injunctive relief.

## **II. PARTIES**

\_\_\_\_ 4. Plaintiff is a Utah resident and was an “employee” of Defendant within the meaning of §2000e(f) of Title VII and § 12111(4) of the ADA at all relevant times.

5. Albertson’s, Inc., is a Delaware Corporation doing business in the state of Utah, and at all relevant times was an “employer” within the meaning of §2000e(b) of Title VII and § 12111(5) of the ADA.

## **III. JURISDICTION AND VENUE**

6. This action is authorized and instituted pursuant to 42 U.S.C. § 2000e-5. Jurisdiction of this Court is invoked pursuant to 27 U.S.C. §§ 1331 and 1343.

7. Venue is proper with this Court, as all employment practices alleged to be unlawful were committed within the jurisdiction of the United States District Court of the District of Utah and pursuant to 28 U.S.C. § 1391 (b) and (c).

8. Plaintiff filed three separate charges of discrimination with the Utah Antidiscrimination and Labor Division (“UALD”) and the Equal Employment Opportunity

Commission (“EEOC”). She filed the first charge (UALD No. A5-0146; EEOC No. 35C-A5-00157) on November 15, 2004, alleging discrimination based on sex and retaliation for complaining about discrimination. On or about September 8, 2005 (and amended on July 17, 2006), while her first Charge was being investigated, Ms. Haas filed a second Charge of Discrimination (EEOC No. 350-2005-05150), which made class allegations regarding discrimination and retaliation based on sex and disability. Ms. Haas then filed a third Charge of Discrimination (EEOC No. 540-2006-02352), on or about June 13, 2006, alleging retaliation based upon her impending demotion and constructive discharge. Ms. Haas has exhausted her administrative remedies within the meaning of Title VII. See Charges, attached as Exhibit 1.

9. The EEOC made a determination on the merits of the first two of Ms. Haas’ charges and found reasonable cause to believe that she and a Class of individuals has been discriminated against and retaliated against in violation of Title VII and the ADA. See Attached Determinations, Exhibit 2.

10. The EEOC issued Ms. Haas Notices of Right to Sue on January 30, 2007 (for the second Charge); February 13, 2007 (for the third Charge); and April 5, 2007 (on the first Charge). Ms. Haas has filed this complaint within ninety (90) days of the date she received the first Notice of Right to Sue. See Notices of Rights, attached as Exhibit 3.

#### **IV. GENERAL ALLEGATIONS**

11. Ms. Haas Began working for Defendant in February 1991.

12. She began working as a customer service representative, and worked her way up to Assistant Store Director in 1997. She remained in this position until her employment was terminated in 2006.

13. In September 2003, Ms. Haas was informed that in order to groom her for a Store Director position, she was going to be transferred from the store where she was working in Logan, Utah to store #388 in East Ogden, Utah, under the direction of Craig Howard.

14. Prior to her transfer, however, Mr. Howard told John Meng, Albertson's Division Sales Manager, that he was tired of training women, and that he wanted a break.

15. Albertson's therefore transferred Ms. Haas to store # 382 in Ogden, Utah, under Store Director Kent Haslam, in October 2003.

16. Mr. Haslam had been transferred as Store Director to and from several stores because of employee complaints about him.

17. Mr. Haslam, for instance, offended his female subordinates by repeatedly stating that women should not be in the workplace and making inappropriate sexual remarks. He also discriminated against women in employment decisions, such as giving men preference regarding vacation requests..

18. Based on information and belief, most women who worked for Mr. Haslam were subject to a hostile work environment based upon Mr. Haslam's pattern of discriminatory behavior towards them.

19. Ms. Haas and Mr. Haslam were moved to store #376 in East Layton, Utah in June 2004.

20. In August 2004, Ms. Haas began planning a week-long trip with friends over her birthday, during October.

21. Ms. Haas checked the schedule before requesting time off, to verify that no one else had requested that week off.

22. Because the schedule was clear, Ms. Haas went to Mr. Haslam to request the week off.

23. Mr. Haslam responded that Ms. Haas could not take the week she requested off because it was the beginning of hunting season. Even though no one had requested the week at issue off, Mr. Haslam told Ms. Haas that she needed to be considerate of the men who work for her, and anticipate that they might want it off to go hunting.

24. Ms. Haas called Albertson's hotline to complain about Mr. Haslam's gender-based comments and his refusal to allow her to take the week she requested off.

25. Albertson's management supported Mr. Haslam in his decision to deny Ms. Haas' request for vacation during hunting season.

26. Following her complaint to the hotline, Ms. Haas began to experience retaliatory treatment, both from Mr. Haslam and from Albertson's upper management.

27. For instance, Mr. Haslam would greet everyone else in the room when he entered, and ignore Ms. Haas. He would also exclude her from department head meetings and interviews with potential employees.

28. When Ms. Haas showed Albertson's management that there were emails on the computer system that supported her claim that Mr. Haslam engaged in discriminatory behavior towards women, Ms. Haas was denied access to the email system where the emails were stored. She was also denied access to the office at her store.

29. Furthermore, Albertson's launched a new investigation into a relationship Ms. Haas had previously with another Store Director, which had ended in early 2004. Management had already investigated the relationship and cleared her of any wrongdoing.

30. Over the next several months, the retaliation against Ms. Haas persisted. She was given a poor evaluation and placed on a performance plan, transferred to a store 30 miles away (and not reimbursed for mileage), denied requested days off, and written up for discussing the retaliation she was experiencing with employees.

31. In January 2005, Ms. Haas requested the week of her birthday off again (in October 2005), and her request was once again denied.

32. Ms. Haas tried to apply for several Assistant Store Director positions closer to her home, but her requests were ignored.

33. Furthermore, because she had been given a poor evaluation, Albertson's told Ms. Haas she was not qualified to apply for available Store Director positions.

34. In July 2005, Ms. Haas had surgery.

35. When she attempted to return to work after her surgery with restrictions on working overtime and lifting over 50 pounds, Albertson's refused to allow her to do so, pursuant to its policy and practice of not allowing employees to work with any medical restrictions.

36. In early 2006, Albertson's refused Ms. Haas' request to have a witness present when she had conversations with management.

37. When she was to have her performance evaluation in April 2006, Ms. Haas asked again for a witness but was denied. Therefore, Ms. Haas recorded her performance evaluation, in order to document the retaliation she was experiencing.

38. In that evaluation, Ms. Haas' supervisor, Janet Gangroth, acknowledged the retaliation that she was experiencing from upper management.

39. Ms. Haas informed Albertson's management that she had taped her evaluation

and gave Albertson's a copy of the tape.

40. Ms. Haas was then written up for taping the performance, interfering with an investigation in March 2006, making derogatory remarks about Mr. Haslam, making claims for mileage reimbursement, and failing to provide Albertson's with an audible copy of the taped performance review.

41. When Ms. Haas refused to give Albertson's another copy of the tape, Albertson's informed Ms. Haas that it had lost confidence in her, and gave her the option of two demotions to entry level positions, making approximately half of her salary as Assistant Store Manager.

42. Neither of the positions Albertson's offered Ms. Haas actually existed.

43. Ms. Haas considered Albertson's offer of a demotion to be a constructive discharge and declined them in May 2006.

44. Ms. Haas was constructively discharged from her job in retaliation for having complained about gender discrimination.

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#### **V. CLASS ALLEGATIONS**

45. Plaintiff brings the following proposed class actions pursuant to Rule 23(a), (b)(2), and (b)(3) of the Federal rules of Civil Procedure.

46. In the alternative, Plaintiff brings these proposed class actions against Defendant pursuant to Rule 23(a) and (c)(4)(A) of the Federal Rules of Civil Procedure, wherein Plaintiff will seek certification of a class solely for the purposes of determining Defendant's liability.

47. If the classes are certified, the notices to the class members will be the best notice practicable under the circumstances, including individual notice to all proposed class members who can be identified through reasonable effort.

48. Class actions are superior to other available methods for the fair and efficient adjudication of each of the claims set forth herein, as is evidenced by the following:

(a) The proposed class members have little to no interest in individually controlling the prosecution of separation actions against Defendant because of damages suffered by many individual proposed class members may be relatively small. Therefore, the expense and burden of individual litigation make it virtually impossible for proposed class members to individually seek redress for the wrongful conduct alleged herein. Indeed, the likelihood that individual proposed class members will prosecute separate actions is remote due to the time and expense necessary to conduct such litigation.

(b) Individual proposed class members are unlikely to prosecute separate actions, and upon information and belief, there is not currently nor has there been any litigation concerning the subject of this litigation.

(c) If this litigation were not concentrated in one forum, individual claims could be brought through numerous lawsuits, which would unduly burden the courts and create the possibility of inconsistent decisions.

(d) Plaintiff's counsel, which is experienced in class actions of this nature, anticipates no difficulty in the management of these actions as class actions.

**CLASS A**

      49. Ms. Haas is a member of a class of women who were discriminated against based upon their sex.

50. Ms. Haas brings this proposed class action against Defendant on behalf of herself and as a representative of a class of:



All current and former female employees of Albertson's who were discriminated against or harassed on the basis of their gender by Kent Haslam.

51. The class of women who were discriminated against potentially consists of hundreds of women. Class A members are so numerous that joinder of all members is impracticable. The disposition of their claims in a class action will provide substantial benefits to the parties and the Court. The exact number and identity of Class A members is properly determined through discovery.

52. Plaintiff will adequately represent the interests of the classes. Plaintiff is committed to pursuing this action and has retained counsel experienced in class action litigation of this nature. Plaintiff is a member of the proposed class and Plaintiff has no interests that are adverse to or in conflict with those of the proposed class. Plaintiff's claims are typical of those of the proposed class because Plaintiff and proposed class members were subject to similar acts of discrimination in the form of demeaning and inappropriate comments and employment actions from Kent Haslam. Absent a class action, proposed class members may not receive appropriate relief and will continue to suffer losses; the violations of law alleged herein will have no remedy.

53. There is a well-defined community interest in the questions of law and fact involved in this case. Questions of law and fact common to the proposed class members, which predominate over questions that may affect individual proposed class members, include, but are not limited to:

(a) Whether Mr. Haslam's conduct and language towards his female subordinates violates Title VII:

(b) Whether Mr. Haslam's behavior towards female employees constitutes a pattern and

practice;

(c) Whether Defendant knew or should have known about Mr. Haslam's discriminatory conduct and failed to stop it.

**CLASS B**

54. Ms. Haas is also a member of a subset of Class A, consisting of women who were retaliated against by Albertson's for complaining about gender-based discrimination.

55. Ms. Haas brings this proposed class action against Defendant on behalf of herself and as representative of a class of:

All current and former female employees of Albertson's who were subject to retaliation, up to and including termination, for their complaints of gender-discrimination by Kent Haslam.

56. The class of women who were discriminated against potentially consists of dozens of women. Class B members are so numerous that joinder of all members is impracticable. The disposition of their claims in a class actions will provide substantial benefits to the parties and the Court. The exact number and identity of Class B members is properly determined through discovery.

57. Plaintiff will adequately represent the interests of the class. Plaintiff is committed to pursuing this action and has retained counsel experienced in class action litigation of this nature. Plaintiff is a member of the proposed class and Plaintiff has no interests adverse to or in conflict with those of the proposed class. Plaintiff's claims are typical of those of the proposed class because Plaintiff and proposed class members were subject to similar acts of retaliation for complaining about Kent Haslam. Absent a class action, proposed class members may not receive appropriate relief and will continue to suffer losses; the violations of law alleged

herein will have no remedy.

58. There is a well-defined community interest in the questions of law and fact involved in this case. Questions of law and fact common to the proposed class members, which predominate over questions that may affect individual proposed class members, include, but are not limited to:

(a) Whether female employees' complaints about Mr. Haslam constituted protected activity.

(b) Whether female employees who complained about Mr. Haslam were subjected to retaliation by Albertson's and Mr. Haslam.

#### Class C

59. Ms. Haas is also a member of a class of employees who were discriminated against based upon their disabilities (including perceived disabilities), by being prohibited from working with any medical restrictions.

60. Ms. Haas brings this proposed class action against Defendant on behalf of herself and as representative of a class of:

All employees of Defendant who were prohibited from working due to medically-related work restrictions pursuant to Albertson's corporate policy.

61. The class of employees who were discriminated against based on their disabilities potentially consists of thousands of employees. Class C members are so numerous that joinder of all members is impracticable. The disposition of their claims in a class action will provide substantial benefits to the parties and the Court. The exact number and identity of Class C members is properly determined through discovery.

62. Plaintiff will adequately represent the interests of the class. Plaintiff is committed to pursuing this action and has retained counsel experienced in class action litigation of this nature. Plaintiff is a member of the proposed class and Plaintiff has no interests adverse to or in conflict with those of the proposed class. Plaintiff's claims are typical of those of the proposed class because Plaintiff and proposed class members were subject to similar acts of discrimination in being prohibited from working due to medical restrictions. Absent a class action, proposed class members may not receive appropriate relief and will continue to suffer losses; the violations of law alleged herein will have no remedy.

63. There is a well-defined community interest in the questions of law and fact involved in this case. Questions of law and fact common to the proposed class members, which predominate over questions that may affect individual proposed class members, include, but are not limited to:

(a) Whether Albertson's had a policy of not allowing employees to work with any medical restrictions;

(b) Whether such a policy violates the ADA.

**VI. FIRST CLASS CLAIM FOR RELIEF**  
**(Discrimination on the basis of gender in Violation of Title VII**  
**on Behalf of Bonnie Haas & Class A)**

64. Plaintiff incorporates the allegations of the above paragraphs herein.

65. Title VII prohibits employers from discriminating against employees on the basis of sex.

66. Ms. Haas, along with a class of women at Albertson's, was discriminated against by her supervisor, Kent Haslam, on the basis of her gender.

67. Ms. Haas and a class of women were harassed, subjected to a hostile work environment, and treated less favorably than men with respect to employment decisions by Mr. Haslam.

68. Defendant knew or should have known of the discrimination and hostile environment perpetrated by its supervisor and failed to take immediate and appropriate remedial action.

69. Defendant's conduct in discriminating against its female employees and subjecting them to a hostile work environment based upon their gender violates Title VII.

70. Ms. Haas and a class of women have suffered damages such as lost compensation and benefits and emotion harm. Ms. Haas and the class are entitled to lost wages and other compensatory damages, as well as attorney fees and costs. She and Class A are entitled to compensation for their damages, as well as attorneys fees and cost of litigation.

71. Defendant's unlawful conduct toward Ms. Haas and similarly situated women in violation of Title VII was done with reckless disregard for their federally protected rights, and as such the Defendant should be subjected to punitive damages as well.

**VII.. SECOND CLASS CLAIM FOR RELIEF**  
**(Retaliation in Violation of Title VII on Behalf of Bonnie Haas & Class B)**

72. Plaintiff incorporates the allegations of the above paragraphs herein.

73. Title VII provides that an employer may not take adverse employment action against an employee who engages in protected activity.

74. Ms. Haas was subject to discrimination based upon her gender.

75. Ms. Haas engaged in protected activity by opposing the discrimination to which

she was subjected, both by complaining through Albertson's hotline and by filing Charges of Discrimination.

76. Albertson's and Kent Haslam retaliated against Ms. Haas, as it did with respect to many other female employees, for her protected activities, in violation of Title VII.

77. Ms. Haas and a class of women have suffered damages, such as lost compensation and benefits and emotional harm due to Albertson's retaliatory conduct. She and Class B are entitled to compensation for their damages, as well as attorneys fees and cost of litigation.

78. Defendant's unlawful conduct toward Ms. Haas and similarly situated women in violation of Title VII was done with reckless disregard for their federally protected rights and, as such the Defendant should be subjected to punitive damages as well.

**VIII. THIRD CLASS CLAIM FOR RELIEF**

**(Violation of ADA on Behalf of Plaintiff Bonnie Haas and Class C)**

79. The ADA prohibits discrimination against individuals who have disabilities, including those who are perceived to have disabilities.

80. Albertson's has a policy and practice of not allowing disabled employees with medical restrictions to work.

81. Albertson's policy violates the ADA.

82. Ms. Haas had surgery in the summer of 2005. When she tried to request a reasonable accommodation of returning to work with restrictions on working overtime and lifting more than 50 pounds, Albertson's refused to enter into the interactive process required by the ADA because it claimed that company policy did not allow anyone to work with restrictions.

83. Like other similarly situated employees who were denied the opportunity to

work with medical restrictions, Ms. Haas has suffered and has damages, such as lost compensation and benefits and emotional harm. She and Class C are entitled to compensation for their damages, as well as attorneys fees and cost of litigation.

84. Defendant's unlawful conduct toward Ms. Haas and similarly situated employees in violation of the ADA was done with reckless disregard for their federally protected rights and, as such the Defendant should be subjected to punitive damages as well.

**WHEREFORE**, Plaintiff on behalf of herself and the classes referenced herein, respectfully prays for relief and judgment as follows:

- A. Determine that the allegations set forth herein constitute proper class actions to be certified under Rule 23 of the Federal Rule of Civil Procedure;
- B. Order Defendant to institute and implement training programs, policies, practices, and programs that provide equal treatment for women;
- C. Order Defendant to institute and implement training programs, policies, practices, and programs that promote reasonable accommodation for employees with disabilities;
- D. Order Defendant to make Plaintiff Haas and all class members whole by:
  - i) Providing them with lost wages with prejudgment interest, in amount to be determined at trial;
  - ii) Awarding compensatory damages for emotional harm;
- E. Order Defendant to remove and expunge, or cause to be removed or expunged, all negative, discriminatory, and/or defamatory memoranda and documentation from Plaintiff's and class members' records of employment;
- F. Award extraordinary, equitable and/or injunctive relief as permitted by law,

equity, and the federal statutory provisions sued hereunder;

G. Award Plaintiff and class members all restitutionary and/or remedial relief;

H. Award prejudgment and postjudgment interest at the highest lawful rate;

I. Award Plaintiff and Class members attorneys' fees and costs of this action, including expert witness fees, as appropriate; and

J. Any such further legal and equitable relief as justice allows.

**PLAINTIFF DEMANDS A JURY TRIAL ON ALL ISSUES SO TRIABLE**

Dated this 2<sup>nd</sup> day of May, 2007

**STRINDBERG & SCHOLNICK, LLC**

/s/ April L. Hollingsworth

April L. Hollingsworth

Attorney for Plaintiff

Plaintiff's Address:

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