



## **I. A SUMMARY OF PLAINTIFFS' SEXUAL HARASSMENT AND GENDER DISCRIMINATION SUIT AGAINST DEFENDANTS**

1. The Class Representatives and class members in this sexual harassment, gender discrimination and hostile work environment lawsuit are all current or former female employees of Fairfield, one of the largest vacation ownership companies in the world.

2. Female employees at Fairfield's Nashville, Tennessee facility have been and continue to be subjected to a gauntlet of sexual harassment, verbal abuse, physical violence, and gender discrimination Torquemadian in intensity. As one of Fairfield's victimized female employees described Fairfield's Nashville facility: "Every day was Sexual Harassment Day."

3. Sexual harassment and gender discrimination are deeply ingrained in Fairfield's corporate culture. Fairfield's top officials are aware of this sexual harassment and gender discrimination against the company's female employees but have done virtually nothing to stop it. Fairfield's President and Chief Executive Officer has insisted in sworn deposition testimony that even a thousand witnesses may not be enough to convince him that sexual harassment has taken place at Fairfield's Facilities.

4. Fairfield Nashville's almost all-male-managerial staff, led by ace salesman Mickey Ruggiero ("Defendant Manager Ruggiero" or "Defendant Ruggiero"), who recently pled guilty to the statutory rape of a thirteen year old girl, formed a brotherhood of predators who bonded by terrorizing, intimidating and victimizing female employees at Fairfield's facilities. Their conduct includes, but is not limited to, the following:

a. Fairfield's male employees physically abused female employees at Fairfield's Nashville facility. They groped female employees' breasts and buttocks. These assaults were neither rare nor deviant happenstance, but occurred with such regularity that they became routine.

b. Fairfield's male-managerial and other male employees demanded sexual favors from female employees and solicited female employees for sex.

c. Defendant Manager Ruggiero – whom Fairfield's higher-ups appreciated as an excellent business developer and salesman – had sex with Fairfield's employees in a variety of locations at Fairfield's Nashville premises, including the nursery, the bathroom, under the stairwells and on his desk.

d. On numerous occasions, Fairfield's male-managerial and other male employees exposed themselves to female employees.

e. Fairfield's male-managerial employees and other male employees often called female employees obscene names such as "bitch" and threatened female employees both physically and sexually.

f. Fairfield's male-managerial employees and other male employees discussed pornographic films within earshot of female employees and/or showed such films on company premises.

g. Fairfield's male-managerial employees openly told female employees at the company that the females would not advance and warned females not to ask for promotions.

h. Female or male employees of Fairfield who complained about the sexually hostile work atmosphere and/or the practices of gender discrimination were rewarded with retaliatory treatment and denials of promotions. By contrast, Fairfield promoted a number of male harassers even though they had a documented history of active anti-woman animus.

i. Fairfield's male-managerial and other male employees on a number of instances threatened to physically harm Fairfield's female employees and on some occasions stated they would kill such employees.

5. None of the conduct listed above is a surprise to Fairfield's top officials. Fairfield's executives and Human Resources ("HR") officials knew what was happening in Fairfield's Nashville facility but did nothing. The company tolerated Ruggiero's predations because, as one high ranking manager at Fairfield testified, Defendant Manager Ruggiero did well at sales.

6. Fairfield's employment discrimination training materials state that the company is liable when it knows or should have known about harassment and does not take prompt remedial action. One of Fairfield's HR employees was personally familiar with 20-30 complaints against Defendant Ruggiero alone. But Fairfield covered up the illegal activities.

7. Fairfield Chief Executive Officer and President Franz Hanning ("CEO Hanning") has testified in a deposition that Fairfield's sexual harassment is related to the individual choices people make and the high energy employees Fairfield attracts. CEO Hanning further testified that 1,000 witnesses may not be sufficient to corroborate allegations of sexual harassment. CEO Hanning testified that as many as ten written warnings for sexual harassment in an employee's file do not preclude promotional opportunities with Fairfield. Moreover, CEO Hanning testified that he was unsure if having pornographic material at Fairfield's facilities is a violation of company policy.

8. Regional Vice President of Marketing Hal Cliff ("Vice President Cliff") testified in a deposition that he believed Defendant Manager Ruggiero should have been terminated because Defendant Manager Ruggiero harassed, threatened and stalked one of Fairfield's female employees, Tiffany Aga. Vice President Cliff testified that he recommended to Fairfield Nashville Sales Vice Presidents Defendant Dave LaBelle ("Defendant Vice President LaBelle") and Defendant Danny Higdon ("Defendant Vice President Higdon") that Defendant Ruggiero be fired. In response, both Defendant Vice President LaBelle and Defendant Vice President Higdon

said Defendant Ruggiero was good at sales and that, instead of firing Ruggiero, each would counsel him. Vice President Cliff also testified that Fairfield should have taken prompt remedial action but failed to do so.

9. Former Director of In-House Sales at Fairfield's Nashville facility, Defendant Tim Hurley ("Defendant Director Hurley"), testified in a deposition that he hugged everyone at Fairfield and that he believed that it was convenient that the "girls" in this lawsuit now allege that they find hugging to be offensive. Defendant Director Hurley also testified that he recommended on more than two occasions to a Vice President of Fairfield and to Sharon Barnes ("HR Director Barnes"), the Mid-South Regional Director of Human Resources, that Defendant Manager Ruggiero be fired. The Vice President responded each time that Ruggiero was a talented guy, that Fairfield Nashville needed his expertise and that Hurley should continue working with Ruggiero.

10. When an anonymous letter was sent by Fairfield employees regarding concerns about Defendant Director Hurley's verbal and emotional abuse in the workplace, Vice President of HR Paul Tocash ("Vice President Tocash") said to Defendant Director Hurley at the beginning of the investigation that not a great deal of weight would be given to the letter, that he believed in Hurley, and that Hurley should keep doing what he was doing.

11. Defendant Director Hurley testified that a female employee at Fairfield, Carol Jarrett ("Jarrett"), had a "bitchy" personality, but that Hurley considered that description of Jarrett to be a compliment. Defendant Director Hurley testified that he did not remember many details about the sexual harassment training at Fairfield's Nashville facility, but did remember the lesson that it is "probably" better to keep sexual harassment out of the workplace. Defendant Director Hurley also testified that the sexual harassment video used in the sexual harassment

training at Fairfield's Nashville facility elicited chuckles from many participants in the training, as the sexual harassment video was light hearted and comical.

12. Defendant Director Hurley initially testified that he was not surprised by Defendant Manager Ruggiero's statutory rape of 13-year old girl, later qualifying his lack of surprise that he was "blown away" by the statutory rape.

13. Defendant Director Hurley further testified that Tashe Boone, a female HR Representative, embarrassed him by making a sexually suggestive comment about him.

14. Finally, Defendant Director Hurley testified that all the "girls" alleging sexual harassment against Fairfield are lying.

15. Vice President Tocash testified in a deposition that if an employee engages in unwanted physical conduct by, for example, touching another employee's private parts, the offending employee could receive a final written warning.

16. Vice President Tocash testified that the policy and procedure manual was revised in March 2004 to clarify confusion "in the field" regarding whether HR needed to be involved in the investigation of sexual harassment complaints.

17. Vice President Tocash also acknowledged in his deposition that Fairfield's "zero tolerance" policy needed to be clarified due to confusion about its meaning.

18. Vice President Tocash testified that while an Operations Manager has authority to fire an employee, HR does not have that authority. HR can make recommendations only. Vice President Tocash testified that HR recommended that Fairfield fire Defendant Manager Ruggiero, but the Operations Manager disagreed. Vice President Tocash acknowledged that Defendant Ruggiero should have been fired earlier than he was.

19. Vice President Tocash also testified that, relative to the Nashville facility, there have been comparable numbers of sexual harassment complaints at other facilities, including

Williamsburg, Daytona and Las Vegas. Vice President Tocash received reports of hugging, inappropriate touching, unwelcome sexual advances, suggestive comments about body and dress and sexually degrading words at the Nashville facility.

## **II. NATURE OF THIS ACTION**

20. Patricia Wilson, Renita Chadwell, Teresa Faw, and Tamara Pacwa bring this action against Corporate Defendant Fairfield Resorts, Inc., and Individual Defendants Mickey Ruggiero, John “Dave” Labelle, Tim Hurley, Danny Higdon, Todd Griffin, Devon Boyd, Pat Doyle, Rob Crawford, Scott Roberson, James Graves, Ray Moore, Mike Pierce, Mike Thompson and Daric Fail, under Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e et seq., as amended by the Civil Rights Act of 1991 (“Title VII”), and the common law to redress Defendants’ employment discrimination against the Class Representatives and class members. Defendants have engaged in unlawful gender discrimination, sexual harassment, harassment on the basis of gender and unlawful retaliation as well as assault, battery, invasion of privacy, intentional or reckless infliction of emotional distress, negligent infliction of emotional distress, negligent and/or wanton supervision, training and retention and negligent and/or wanton hiring. The Class Representatives, all of whom are present or former Fairfield employees, bring this class action against Fairfield and Individual Defendants, on behalf of themselves and all other female employees of Fairfield, who are similarly situated pursuant to Title VII and the common law.

21. The Class Representatives seek to represent all of the female employees described above who have been subjected to one or more aspects of the systemic gender discrimination described in this Complaint, including, but not limited to: a hostile work environment resulting from severe pervasive sexual harassment in the workplace; discriminatory policies, practices and/or procedures in promotion, advancement and compensation; differential treatment on the

basis of gender; and other forms of gender hostility in the workplace. The systemic gender discrimination and sexual harassment described in this Complaint has been, and is, continuing in nature.

22. The Class Representatives are seeking, on behalf of themselves and the class they seek to represent, equitable and legal remedies, including declaratory and injunctive relief; back pay; front pay; compensatory, punitive and nominal damages; an award of attorneys' fees, costs and expenses; and other incidental monetary and non-monetary remedies necessary to redress Fairfield's pervasive and discriminatory work environment, employment policies, retaliatory practices and/or procedures.

23. Individual Plaintiff George "Chip" Pennington ("Pennington") brings this action against Fairfield under Title VII and against Fairfield and Individual Defendants under the common law to redress Defendants' employment discrimination against him through unlawful retaliation, intentional or reckless infliction of emotional distress, negligent and/or wanton supervision, training and retention and negligent and/or wanton hiring. Pennington seeks equitable and legal remedies, including declaratory and injunctive relief; back pay; front pay; compensatory, punitive and nominal damages; an award of attorneys' fees, costs and expenses; and other incidental monetary and non-monetary remedies necessary to redress Defendants' retaliation against him.

24. Individual Plaintiff Shannon Matthews ("Matthews") brings this action against Fairfield under Title VII and against Fairfield and Individual Defendants under the common law, to redress Defendants' discrimination against her in her employment through unlawful gender discrimination, sexual harassment, harassment on the basis of gender and unlawful retaliation as well as invasion of privacy, intentional or reckless infliction of emotional distress, negligent and/or wanton supervision, training and retention and negligent and/or wanton hiring. Matthews

seeks equitable and legal remedies, including declaratory and injunctive relief; back pay; front pay; compensatory, punitive and nominal damages; an award of attorneys' fees, costs and expenses; and other incidental monetary and non-monetary remedies necessary to redress Defendants' retaliation against her.

### **III. JURISDICTION AND VENUE**

25. This Court has jurisdiction pursuant to 28 U.S.C. §§ 1331, 1343(a)(4), 2201, and 2202; Title VII of the 1964 Civil Rights Act, 42 U.S.C. §§ 2000e et seq., and supplemental jurisdiction under 28 U.S.C. § 1367.

26. Venue is proper in this Court in the Middle District of Tennessee because Fairfield transacts business in the State of Tennessee and the events giving rise to this claim occurred in the State of Tennessee. Class Representatives and Individual Plaintiffs reside in Tennessee and are working, or have worked, for Fairfield, and, absent the violations of federal and state law complained of herein, would have continued to work for Fairfield in Tennessee. Most of the records pertaining to the Class Representatives' and Individual Plaintiffs' employment are or were maintained in Tennessee.

### **IV. CONDITIONS PRECEDENT TO SUIT UNDER TITLE VII**

27. The Class Representatives and Individual Plaintiffs have fulfilled all conditions precedent to the institution of this action under Title VII. Class Representatives, Individual Plaintiff Pennington and Individual Plaintiff Matthews have filed timely charges with the United States Equal Employment Opportunity Commission ("EEOC"). Class Representatives Patricia Wilson, Renita Chadwell, Teresa Faw and Tamara Pacwa and Individual Plaintiffs Pennington and Matthews have obtained Notices of Right to Sue, and hereby timely file suit within ninety (90) days of receipt of their Notices of Right to Sue. Class Representatives Patricia Wilson,

Renita Chadwell, Tamara Pacwa, and Individual Plaintiff Shannon Matthews each received Notices of Rights to Sue with Reasonable Cause.

## **V. PARTIES**

### **A. Class Representatives / Plaintiffs**

28. **Class Representative Patricia Wilson** (“Wilson”) is a female citizen of the United States and a resident of Antioch in the State of Tennessee. Wilson began her employment with Fairfield on or about December 1997 in the capacity of Tour Receptionist. During the next two years, she worked as a Contract Supervisor, Verification Loan Officer and Officer Manager. Since approximately September 2001, Wilson has been employed by Fairfield in the capacity of Director of Administration. Wilson is a “person aggrieved” under Title VII. During her employment with Fairfield, Wilson was subjected to gender discrimination, sexual harassment, a hostile work environment and retaliation.

29. **Class Representative Renita Chadwell** (“Chadwell”) is a female citizen of the United States and a resident of Goodlettsville in the State of Tennessee. Chadwell was hired by Fairfield in approximately November 2002 in the capacity of Community Marketing Agent, and she continued to hold this position until her constructive discharge on or about May 2003. Chadwell is a “person aggrieved” under Title VII. During her employment with Fairfield, Chadwell was subjected to gender discrimination, sexual harassment, a hostile work environment and retaliation.

30. **Class Representative Teresa “Reese” Faw** (“Faw”) is a female citizen of the United States and a resident of Nashville in the State of Tennessee. Faw was hired by Fairfield as a Front Line salesperson in approximately May 2003. She was constructively discharged on or about October 2003. Faw is a “person aggrieved” under Title VII. During her employment

with Fairfield, Faw was subjected to gender discrimination, sexual harassment, a hostile work environment and retaliation.

31. **Class Representative Tamara Pacwa** (“Pacwa”) is a female citizen of the United States and a resident of Nashville in the State of Tennessee. Pacwa was employed by Fairfield from approximately January 2002 in the Front-Line Sales division. She moved to In-House Sales on or about October 2002, and returned to Front-Line Sales in approximately July 2003. In approximately October 2003, Pacwa resigned. Pacwa is a “person aggrieved” under Title VII. During her employment with Fairfield, Pacwa was subjected to gender discrimination, sexual harassment, a hostile work environment and retaliation.

32. **Individual Plaintiff George “Chip” Pennington** (“Pennington”) is a male citizen of the United States and a resident of Nashville in the State of Tennessee. He has been employed by Fairfield in the capacities of Sales Representative, Sales Manager, Senior Sales Manager and Director of Sales from approximately June 1996 to the present. Pennington is a “person aggrieved” under Title VII. During his employment with Fairfield, Pennington was subjected to retaliation by Defendants.

33. **Individual Plaintiff Shannon Matthews** (“Matthews”) is a female citizen of the United States and a resident of Nashville in the State of Tennessee. Matthews was hired by Fairfield as a salesperson in the Front-Line Sales division in approximately September 2002. She then moved to In-House Sales in approximately April 2003, and continued to work in In-House Sales until her termination on or about September 2003. Matthews is a “person aggrieved” under Title VII. During her employment with Fairfield, Matthews was subjected to gender discrimination, sexual harassment, a hostile work environment and retaliation.

**B. Defendants**

34. **Defendant Fairfield Resorts, Inc.** (“Fairfield” or “Corporate Defendant”) is a wholly owned subsidiary of Cendant Corporation. Fairfield Resorts is one of the leading resort and vacation product companies in the world, specializing in the development, marketing and sales of innovative vacation ownership and leisure products. Fairfield Resorts transacts business in the State of Tennessee, has multiple facilities throughout the State of Tennessee and its national corporate headquarters are located at 8427 South Park Circle, Orlando, Florida 32819. Fairfield Resorts is an employer under 42 U.S.C. § 2000e(b).

35. Fairfield’s facility in Nashville, Tennessee, where the Class Representatives and Individual Plaintiffs work or have worked, is part of Fairfield’s “Mid-South” business unit. Fairfield has five additional business units: West, Pacific, Southeast, Mid Atlantic and Northeast.

36. **Defendant Mickey Ruggiero** (“Defendant Manager Ruggiero” or “Defendant Ruggiero”) worked for Fairfield from approximately April 2000 to August 2003 in the capacities of In-House Sales Representative and In-House RCI Sales Manager.

37. **Defendant John “Dave” LaBelle** (“Defendant Vice President LaBelle”) has worked for Fairfield from approximately 1995 to present in the capacities of Front-Line Sales Representative, Director of Front-Line Sales and Vice President of Sales and Marketing.

38. **Defendant Tim Hurley** (“Defendant Director Hurley”) has worked for Fairfield from at least 2001 to present in the capacities of In-House Director and Sales Representative.

39. **Defendant Danny Higdon** (“Defendant Vice President Higdon”) worked for Fairfield from at least 1995 until at least 2002 in the capacities of Front-Line Sales Manager, Vice President of Sales and Marketing and National Recruiter/Trainer.

40. **Defendant Pat Doyle** (“Defendant Manager Doyle” or “Defendant Doyle”) has worked for Fairfield from at least 2000 in the capacities of In-House Sales Representative, Manager, Trainer and Director.

41. **Defendant Todd Griffin** (“Defendant Manager Griffin” or “Defendant Griffin”) worked for Fairfield from at least 2000 to 2004 in the capacities of In-House Sales Representative and Front-Line Sales Manager.

43. **Defendant Devon Boyd** (“Defendant Director Boyd” or “Defendant Boyd”) has worked for Fairfield from at least 2002 to present in the capacities of In-House and Front-Line Director.

44. **Defendant Rob Crawford** (“Defendant Manager Crawford” or “Defendant Crawford”) worked for Fairfield from at least 2002 to 2003 in the capacities of Community Marketing Manager and Director of Community Marketing.

45. **Defendant Scott Roberson** (“Defendant Manager Roberson” or “Defendant Roberson”) has worked for Fairfield from at least 2002 in the capacity of Community Marketing Agent/OPC Manager.

46. **Defendant James Graves** (“Defendant Graves” or “Defendant Marketing Agent Graves”) has worked for Fairfield from at least 2003 in the capacities of Front-Line Sales Representative and Community Marketing Broker.

47. **Defendant Ray Moore** (“Defendant Moore”) has worked for Fairfield from at least 2003 to present in the capacity of Front-Line Sales Representative.

48. **Defendant Mike Pierce** (“Defendant Manager Pierce” or “Defendant Pierce”) worked for Fairfield from approximately 2002 to 2003 in the capacities of Front-Line Sales Representative and Front-Line Manager.

49. **Defendant Mike Thompson** (“Defendant Manager Thompson” or “Defendant Thompson”) worked for Fairfield from approximately 2000 to 2003 in the capacities of Front-Line Sales Representative and Front-Line Manager.

50. **Defendant Daric Fail** (“Defendant Manager Fail” or “Defendant Fail”) worked for Fairfield from approximately 2000 to 2003 in the capacities of Discovery Manager, Trainer/Recruiter, Verification Loan Officer and Exit Sales Manager.

## **VI. FACTUAL BACKGROUND**

### **Class Representatives**

#### **A. Patricia Wilson**

51. **Class Representative Patricia Wilson** (“Wilson”) began working for Fairfield on or about December 1997. She began her employment as a Tour Receptionist in Fairfield’s Cincinnati, Ohio facility and worked in the capacities of Contract Supervisor, Verification Loan Officer and office Manager. Since approximately September 2001, Wilson has worked in Fairfield’s facility in Nashville, Tennessee in the capacity of Director of Administration.

52. Throughout her employment with Fairfield, Wilson has been subjected to a systemic pattern and practice of sexual harassment, gender hostility and gender discrimination.

53. In approximately March 2003, Wilson emailed Dave LaBelle (“Defendant Vice President LaBelle”), Fairfield Nashville’s Vice President of Sales and Marketing, regarding the Front-Line Manager position at Fairfield’s Nashville facility. This position is a higher-level job with a higher salary. Defendant Vice President LaBelle replied to her e-mail with a message asking, “Are you kidding?”

54. Defendant Vice President LaBelle later asked Wilson whether she was serious about the job.

55. At that time, Defendant Vice President LaBelle told Wilson she would have an opportunity to interview for the Front-Line Manager position. However, LaBelle also told Wilson that she would not receive the promotion.

56. Wilson was never given the opportunity to interview for the position. Two male Sales Representatives, Frank Gilmore (“Manager Gilmore”) and Todd Griffin (“Defendant Manager Griffin”) were both granted interviews and later both hired for the Front-Line Manager positions.

58. Wilson was equally or more qualified than both Manager Gilmore and Defendant Manager Griffin.

59. During a meeting with corporate officers on or about January 2003 in which Wilson was the only female employee, she was not permitted to sit at the conference table where all the male employees were seated. Wilson was relegated to a wooden bench across from the table.

60. Wilson was treated differently than male employees. On several occasions she was ordered to do tasks not outlined in her job description, such as cleaning the women’s and men’s restrooms. When Wilson did not follow their orders, male managers cursed at her.

61. In approximately August 2003, a male manager made explicit and degrading comments about Wilson’s body as she walked in front of him.

62. In approximately December 2002 Wilson was encouraged to maintain the sexually charged atmosphere when Devon Boyd (“Defendant Director Boyd”), the Director of Sales, instructed her to hire only young, good-looking women.

63. Throughout her employment, Wilson heard reports that videotapes depicting sexual acts of employees were being distributed around Fairfield’s Nashville facility.

64. Wilson also heard that employees were engaging in sexual acts on the premises of Fairfield's Nashville facility.

65. Defendant Director Boyd also made sexually suggestive comments to Wilson about another female employee, Nicole Morneault ("Morneault"), when he explicitly described what he wanted to do to Morneault's body.

66. Although Wilson asked Defendant Director Boyd to stop making sexually explicit comments around her, he continued doing so.

67. During Wilson's employment with Fairfield, Defendant Vice President LaBelle frequently hugged her in a sexual manner by placing his hands under her armpits and feeling her breasts.

68. On one occasion, Defendant Vice President LaBelle smacked Wilson's behind with a file folder in the main lobby. Defendant Vice President LaBelle also told Wilson on a regular basis that she looked and smelled good.

69. Defendant Vice President LaBelle often treated Wilson unprofessionally by speaking to her in a disrespectful manner and yelling at her from his office.

70. Further, Defendant Vice President LaBelle made his Administrative Assistant, Linda O'Neal ("O'Neal"), responsible for accounting, a task that formerly fell within Wilson's duties and responsibilities.

71. Defendant Vice President LaBelle made the above changes without informing Wilson.

72. On numerous occasions, Hector Resendez ("Resendez"), a male Discovery Sales Representative, hugged Wilson inappropriately and rubbed his body against hers. Wilson told Resendez to stop this behavior and she spoke to his manager about the inappropriate hugs.

Resendez, however, continued to give her these hugs and no remedial action was taken to address his hugging.

73. George “Ross” Schneider (“Manager Schneider”) and Mike Thompson (“Defendant Manager Thompson”), male Sales Managers, used profanity when speaking to Wilson. Managers Schneider and Thompson also referred Wilson’s body in a derogatory manner on multiple occasions.

74. Rob Crawford (“Defendant Manager Crawford”), a male Marketing Manager made comments about Wilson’s body in her presence and also described sexual acts to her.

75. On multiple occasions, Defendant Director Hurley, Director of In-House Sales, directed sexual gestures toward Wilson.

76. Defendant Director Hurley once told Wilson that he would like female Human Resource Representative Jamie Russell’s (“Russell”) legs wrapped around him.

77. Additionally, Wilson saw Mickey Ruggiero (“Defendant Manager Ruggiero”), a male In-House RCI Sales Manager, push Russell onto a desk and mimic a sexual act with her, while Russell struggled to push him off.

78. Spencer Ruggiero, a male Front-Line Sales Manager, told Wilson that he wanted to engage in a sexual act with her. Spencer Ruggiero also informed Wilson that he had sexual dreams about her and told Wilson to notify him if she left her husband.

79. Wilson and other members of Fairfield’s Nashville front desk staff witnessed Brian Kemp (“Kemp”), a Front-Line Sales Representative, discuss the size of his penis and describe how women typically responded to his penis.

80. Furthermore, Dawn Griswold, a female Front Desk employee and Shay Gunn, a female Exit Sales Representative, complained to Wilson that Kemp regularly bragged to them about the size of his penis.

81. Beth Kinder (“Kinder”), a female Quality Assurance employee, complained to Wilson that Kemp entered her office and asked her if she wanted to see his penis. Kemp then shut the door, forcing Kinder to push her way out.

82. Wilson was also subjected to degrading comments from male employees regarding her weight. On one occasion, Danny Higdon (“Defendant Vice President Higdon”), Vice President of Marketing and Sales, told Wilson to stop eating candy because it would make her fat; he told her this was an image that he did not want Fairfield Resorts to represent.

83. Wilson heard male managers frequently referring to female employees as “bitches.” She also heard male managers making sexual comments about female employees.

84. Female employees at Fairfield’s Nashville facility frequently reported sexual harassment and gender discrimination to Wilson. Among others, Wilson received the following complaints:

a. Tiffany Aga, (“Aga”) a female Member Services Coordinator, complained to Wilson that Defendant Manager Ruggiero abused her both on and off Fairfield’s Nashville premises. Aga stated that Defendant Manager Ruggiero grabbed her when she was trying to leave the Fairfield Nashville facility and bruised her arm.

b. Bridged Brown (“Brown”), a female Contracts Processor, complained to Wilson that Todd Griffin (“Defendant Griffin”), a male employee, had made a comment to her about a sex act, lifted up her dress and touched her private parts.

c. Nicole Morneault (“Morneault”), a female Front-Desk employee, complained to Wilson that Defendant Vice President LaBelle grabbed her and started dancing with her in front of other employees. Morneault stated that LaBelle squeezed her very tightly and did not permit her to stop dancing with him.

d. On multiple occasions, Kelly Cortner (“Cortner”), Andrea Wessells Brichant (“Brichant”) and Lisa Thompson (“Thompson”), female employees, complained to Wilson that Defendant Manager Ruggiero would regularly make sexual comments in their presence.

e. Thompson and Cortner specifically complained to Wilson that Defendant Manager Ruggiero expressed to them his desire to observe Thompson and Cortner engage in sexual activities with each other.

f. Brichant also complained to Wilson that no actions were taken to stop Defendant Manager Ruggiero from making sexual comments at her.

85. After hearing numerous complaints about Defendant Manager Ruggiero and Kemp, including, but not limited to, the complaints listed above, Wilson told Defendant Vice President LaBelle that Defendant Manager Ruggiero and Kemp should be fired.

86. During a meeting with John Dempsey (“Attorney Dempsey”), Fairfield’s In-House counsel, Wilson stated that women were not being treated fairly on the floor.

87. During the course of her employment at Fairfield’s Nashville facility, Wilson complained about sexual harassment to Russell more than 20 times, to HR Director Barnes between ten and 20 times, to Defendant Vice President LaBelle at least three times, to Attorney Dempsey once, and to Teresa Van Haughton, Regional Director, more than 10 times.

88. In approximately September 2003, Wilson took a disability leave brought on by the pervasive sexual harassment and gender discrimination.

89. Class Representative Patricia Wilson suffered emotional distress and emotional injury as a result of the sexual harassment, gender discrimination and retaliation that she experienced and witnessed at Fairfield.

**B. Renita Chadwell**

90. **Class Representative Renita Chadwell** (“Chadwell”) began working in Fairfield’s Nashville facility on or about November 2002 in the capacity of Community Marketing Agent. In approximately May 2003, Chadwell was constructively discharged.

91. Throughout her employment with Fairfield, Chadwell was subjected to a systemic and ongoing pattern and practice of sexual harassment, gender hostility and gender discrimination.

92. When Chadwell began her employment with Fairfield, she was led to believe that she would receive real estate “On the Job Training.” Despite her numerous requests for additional training, she was denied any real estate training.

93. In approximately November 2002, Chadwell began working with Scott Roberson (“Defendant Manager Roberson”), a male Community Marketing Manager; Rob Crawford (“Defendant Manager Crawford”), a male Community Marketing Supervisor; James Graves (“Defendant Marketing Broker Graves” or “Defendant Graves”), a male Community Marketing Broker; and Damon Hawks (“Marketing Agent Hawks”), a male Marketing Agent.

94. Defendant Marketing Broker Graves told Chadwell that she could advance her career with Fairfield if she engaged in sexual acts with him.

95. Defendant Marketing Broker Graves stated that Chadwell had a lot of potential and that he wanted to help her move up in the company. Defendant Graves also instructed her to touch his body.

96. On multiple occasions Defendant Manager Roberson, Defendant Manager Crawford, Defendant Marketing Broker Graves and Marketing Agent Hawks expressed to Chadwell their desire for Chadwell to be their “wench” and wait on their guests at parties.

97. Defendant Manager Roberson, Defendant Manager Crawford, Defendant Marketing Broker Graves and Marketing Agent Hawks routinely discussed sexual acts and body parts in the workplace.

98. On several occasions Defendant Manager Roberson told Chadwell that he wanted to make pornographic movies of her, another female employee, Marketing Agent Hawks and himself.

99. Defendant Manager Roberson also asked Chadwell to arrange a date for him with her daughter.

100. Also during her employment with Fairfield, Defendant Manager Crawford berated Chadwell and used abusive language when she was at the Nashville facility. Chadwell was humiliated and disturbed by Manager Crawford's inappropriate conduct.

101. Beginning on or about March 2003, Defendant Marketing Broker Graves began calling Chadwell's mobile phone throughout the day, including during the late night and early morning hours. During these phone calls, Defendant Marketing Broker Graves often asked Chadwell if she needed money, and informed her that he was a rich man.

102. Defendant Marketing Broker Graves would also often refer to Chadwell as "Baby" without her consent

103. Moreover, Defendant Marketing Broker Graves both asked for and gave Chadwell inappropriate hugs.

104. Defendant Marketing Broker Graves also asked Chadwell to dine with him on multiple occasions. Chadwell declined Defendant Graves' invitations.

105. Defendant Marketing Broker Graves subjected Chadwell to sexual advances throughout her employment. Marketing Broker Graves regularly made lewd comments to

Chadwell about her body and explicitly described various sexual acts he wanted to perform with her.

106. Defendant Marketing Broker Graves told Chadwell that his marriage was loveless and that he wanted to make love to her.

107. On multiple occasions, Defendant Marketing Broker Graves pursued Chadwell beyond Fairfield's Nashville premises and showed up at a salon where Chadwell worked part-time. During these visits, he helped her clean and offered to take her out to lunch or dinner.

108. On one occasion, Defendant Marketing Broker Graves came to the salon for a pedicure with Chadwell. During the pedicure, Defendant Graves exposed his private parts to Chadwell.

109. Chadwell reported these incidents concerning Defendant Marketing Broker Graves to HR Director Barnes and to Ernest Henderson and Jonathan Parrish, male marketing agents.

110. On or about April 2003, Defendant Marketing Broker Graves drove Chadwell to Fairfield's Opryland location. During the ride, Defendant Graves unfastened his pants, exposing himself to Chadwell and touched his genitalia in front of her.

111. Defendant Marketing Broker Graves also instructed Chadwell not to tell anyone about his sexual comments, and informed her that he was a drug task force agent.

112. On or about February 2003, Chadwell was diagnosed with shingles, a condition exacerbated by the harassment to which she was subjected at Fairfield's Nashville facility. Because of the harassment she was experiencing at work, Chadwell's physician advised her to take time off from work.

113. In May 2003, when Chadwell was no longer able to tolerate the sexual harassment at Fairfield, she was constructively discharged.

114. Class Representative Renita Chadwell suffered emotional distress and emotional injury as a result of the sexual harassment, gender discrimination and, retaliation that she experienced and witnessed at Fairfield.

**C. Teresa Faw**

115. **Class Representative Teresa Faw** (“Faw”) began working in Fairfield’s Nashville facility on or about May 2003 in the capacity of Front-Line Sales Representative. She was constructively discharged in approximately October 2003.

116. Throughout her employment with Fairfield, Faw has been subjected to systemic and ongoing pattern and practice of sexual harassment, gender hostility and gender discrimination.

117. During her initial interview, Defendant Vice President LaBelle asked Faw whether she had children, whether the job would demand excessive time apart from her family and whether her husband would approve of her working.

118. On her first day on the sales floor, Defendant Vice President LaBelle hugged Faw in a manner that made her uncomfortable.

119. On a routine basis, Defendant Vice President LaBelle hugged Faw by placing his hands under her armpits near her breasts and using his hands to press her body against his groin area. Faw was concerned that Defendant Vice President LaBelle would retaliate against her if she did not allow him to hug her.

120. In addition, Defendant Vice President LaBelle would put his arm around Faw and refer to her as his “favorite” in a demeaning manner. Likewise, Faw believed that if she did not allow him to put his arm around her and to refer to her as his “favorite”, then Defendant Vice President LaBelle would retaliate against her.

121. Defendant Vice President LaBelle kissed Faw on the cheek and told her that he believed in her when discussing her sales performance.

122. In an effort to avoid Defendant Vice President LaBelle's inappropriate and unwelcome hugs, Faw avoided eye contact with him.

123. Faw also regularly observed Defendant Vice President LaBelle touching, kissing, and hugging other female employees. Defendant Vice President LaBelle smiled, winked, leered and/or smirked when female employees walked by and frequently referred to female employees as "girls."

124. Additionally, when a female employee or guest would walk by, Faw often saw Defendant Vice President LaBelle swing a golf club towards her rear end.

125. On multiple occasions, Faw often noticed Defendant Manager Griffin fondling himself while they were speaking.

126. Faw heard male employees tell sexually explicit and pornographic jokes on an ongoing basis at Fairfield's Nashville facility.

127. Hector Resendez ("Resendez"), a male Discovery Sales Representative, told Faw on several occasions that he had an affair in high school with a woman her age. Resendez also repeatedly asked Faw when she would have an affair with him.

128. Male employees, including Ray Moore ("Defendant Moore"), a male Front-Line Sales Representative, inappropriately touched Faw.

129. In addition, Faw was subjected to sexual harassment when Defendant Moore and Defendant Mike Pierce ("Defendant Pierce"), a male Front-Line Sales Representative, discussed a pornographic movie in her presence. Defendant Pierce also offered to participate in the reenactment of a sexually explicit scene from that movie with her.

130. Defendant Pierce and his brother, Jesse Pierce, a Front-Line Sales Representative, made an unwelcome sexual advance to Faw by inviting her to join them in a “Pierce sandwich.”

131. Pierce and Charity Sergeant (“Sergeant”), a female Front-Line Sales Representative, discussed a pornographic movie in Faw’s presence.

132. Faw heard Sergeant expressing her interest in engaging in a sexual act with Andrea Brichant Wessells (“Brichant”), a female Front-Line Sales Representative.

133. In Faw’s presence Defendant Pierce used lewd and offensive language to inform Brichant of Sergeant’s desire.

134. At sales meetings Faw often overheard other male employees discussing Brichant’s physical appearance, including her hair and clothing.

135. Faw witnessed employees treat Brichant without respect and frequently refer to Brichant as a “bitch.”

136. Faw later witnessed Brichant being retaliated against after she filed a lawsuit against Fairfield for sexual harassment and gender discrimination.

137. Because of her stressful work environment, Faw became physically ill at work and vomited in the bathroom. However, Mike Thompson (“Defendant Manager Thompson”), her Front-Line Sales Team Manager, denied her request to leave work early.

138. Defendant Manager Thompson was critical of female employees and intimidated other female Sales Representatives on his team.

139. Further Defendant Manager Thompson aggressively hugged Faw and forcefully slapped her on the back

140. Additionally, if Faw arrived five minutes late for work, Defendant Manager Thompson would often discipline Faw by putting her on “overage.” Fairfield’s overage policy

allowed Defendant Manager Thompson to deny Faw regular breaks, access to sales opportunities, and demand that she work later evening hours.

141. By contrast, if Faw's male counterparts in her division arrived late, they were not put on "overtime" and were not disciplined at all.

142. Faw noticed that male employees were given better sales opportunities than female employees, and therefore, male employees had the potential to earn much more money than female employees.

143. Even though Faw had successfully managed her bipolar mood disorder for the previous four years, she suffered a relapse in 2003 triggered by the ongoing sexual harassment and hostile environment to which she was subjected at Fairfield's Nashville facility.

144. In approximately 2003, Faw was unable to tolerate the continuing harassment and she constructively discharged.

145. Class Representative Teresa Faw suffered emotional distress and emotional injury as a result of the sexual harassment, gender discrimination and retaliation that she experienced and witnessed at Fairfield.

#### **D. Tamara Pacwa**

146. **Class Representative Tamara Pacwa** ("Pacwa") began working for Fairfield on or about January 2002. She began her employment in the capacity of Front-Line Sales Representative in Fairfield's Nashville facility. In approximately October 2002, Pacwa began working for Fairfield in the capacity of In-House Sales Representative.

147. Throughout her employment with Fairfield, Pacwa was subjected to a systemic and ongoing pattern and practice of sexual harassment, gender hostility and gender discrimination.

148. Pacwa often heard male employees make sexually suggestive comments at Fairfield's Nashville facility.

149. In-House Sales Team Manager, Daric Fail ("Defendant Manager Fail"), repeatedly asked Pacwa if she had or needed a boyfriend. Defendant Manager Fail also told Pacwa that she should go out with him and have fun.

150. In addition, Defendant Manager Fail said that he would help Pacwa at the company if they became intimately involved.

151. When she began her employment with Fairfield, Pacwa was told that the selection process for assigning tours was based on an employee's average sales per guest.

152. While working at Fairfield, however, female employees were either assigned the tours which were likely to be less successful, or they were only allowed to make their tour selections after the male employees.

153. This practice resulted in female employees receiving less profitable tours and earning less than male employees.

154. In-House Sales Manager John Tallman ("Manager Tallman") frequently ignored Pacwa when she called to him, insulted her intelligence, referred to her as a "bitch," made other derogatory remarks to and about her and treated her in a hostile and harassing manner.

155. On one occasion in approximately April 2003, when Pacwa attempted to speak during a meeting, Manager Tallman cursed at her and did not allow her to speak. Manager Tallman did not subject his male subordinates to this same treatment.

156. In addition, when Pacwa arrived to work late by five minutes or less, Manager Tallman put her on "overtime." Fairfield's overtime policy allowed Manager Tallman to deny Pacwa regular breaks and access to sales opportunities, and he also would demand that she work

later evening hours. However, when Pacwa's male counterparts in the same division arrived late, they were not put on "overtime" or disciplined in any manner.

157. Pacwa complained to Defendant Director Hurley and to HR Director Barnes about the sexual harassment, hostile work environment and gender discrimination that she was experiencing.

158. In approximately April 2003, HR Director Barnes told Pacwa that she had not investigated Pacwa's complaints. Upon information and belief, no action was ever taken against Manager Tallman for his abusive treatment of Pacwa.

159. Throughout her employment with Fairfield Pacwa was regularly touched by her male supervisors in inappropriate ways. For example, Defendant Vice President Dave LaBelle often grabbed and hugged her while rubbing his chest against hers.

160. As she could no longer tolerate Fairfield's sexual harassment, gender discrimination practices and the hostile work environment, Pacwa was constructively discharged in approximately October 2003.

161. Class Representative Tamara Pacwa suffered emotional distress and emotional injury as a result of the sexual harassment, gender discrimination and, retaliation that she experienced and witnessed at Fairfield.

## **VII. INDIVIDUAL ALLEGATIONS**

### **A. George "Chip" Pennington**

162. **Plaintiff George Pennington** ("Pennington") began working in Fairfield's Nashville facility on or about June 1996 in the capacity of Sales Representative in Nashville, Tennessee. During his career, Pennington worked in the capacities of Sales Manager, Senior Sales Manager, Director of Front-Line Sales and In-House Sales Manager.

163. During his employment with Fairfield, Pennington was subjected to retaliation resulting from his opposition to sexual harassment and gender discrimination at Fairfield.

164. Beginning on or around April 2003, Pennington saw Defendant Vice President LaBelle hugging female employees in a sexual manner.

165. Several women complained to Pennington about Defendant Vice President LaBelle's hugs.

166. In addition, Pennington was present during sales meetings in which Defendant Vice President LaBelle made inappropriate statements about female employees.

167. Pennington reported Vice President LaBelle's behavior to HR Director Barnes.

168. In approximately April 2003, Defendant Vice President Labelle told Pennington to promote Mickey Ruggiero ("Defendant Ruggiero"), who worked at that time as an In-House Sales Representative, to a Sales Manager position.

169. Pennington told Defendant Vice President LaBelle he did not want to promote Defendant Ruggiero because he felt it would create additional legal problems for the company. Pennington added that he had also personally witnessed Defendant Ruggiero's questionable work ethics, unmanaged temper and sexually threatening behavior.

170. Pennington had also witnessed Defendant Ruggiero lie to customers to make sales.

171. Further, Defendant Ruggiero threatened Pennington and told Pennington how to do his job even though Pennington was Defendant Ruggiero's superior.

172. After objecting to Ruggiero's promotion, Defendant Vice President LaBelle began retaliating against Pennington by decreasing managerial and decision-making support for which Defendant Vice President LaBelle was responsible for providing to managers.

173. On or about April 2003, Defendant Ruggiero began continually harassing a female employee, Andrea Brichant Wessells. Pennington reported this and subsequent harassment matters to HR Director Barnes.

174. On at least one occasion, Brichant complained to Pennington that Defendant Ruggiero would stand near her desk and stare at her, tell her that he loved her and try to hug her.

175. However, instead of disciplining Defendant Ruggiero, Defendant Vice President LaBelle instructed Pennington to write up Brichant for being “negative” and causing trouble.

176. Pennington refused to write Brichant up because he had not witnessed her causing any trouble. Pennington also told Defendant Vice President LaBelle that Brichant was no more negative than the male Sales Representatives.

177. Vice President LaBelle told Pennington that he should not trust Brichant and he should get rid of her because she was “nothing but trouble.” Pennington stated that there was no reason to fire Brichant and he had not observed her doing anything wrong.

178. After Pennington refused to fire Brichant, Defendant Vice President LaBelle’s retaliation against Pennington continued.

179. After refusing to fire Brichant, Defendant Vice President LaBelle did not assist Pennington in disciplining Rob Crawford (“Defendant Manager Crawford”), a male Marketing Manager, for failing to follow sales procedures.

180. Pennington contacted HR Director Barnes on multiple occasions regarding Defendant Vice President LaBelle’s lack of support, and she told him to discuss his concerns directly with Defendant Vice President LaBelle. Pennington’s concerns were never addressed.

181. LaBelle, however, continued ignoring Pennington’s requests and suggestions.

182. In addition, Defendant Vice President LaBelle refused to address and discuss Pennington's salary and pay issues, even though HR Director Barnes told Pennington that LaBelle would handle it.

183. Despite Pennington telling Defendant Vice President LaBelle on a previous occasion that he would never want to work as an In-House Sales Representative, Defendant Vice President LaBelle demoted Pennington to an In-House Sales Representative position in approximately December 2003. Further, Defendant Vice President LaBelle did not provide Pennington with any other options.

184. Throughout his employment at Fairfield's Nashville facility, Pennington continued witnessing gender discrimination against female employees and sexual hostility of the workplace. For example:

a. Pennington regularly heard sexually suggestive comments at Fairfield's Nashville facility;

b. Pennington heard jokes being made during sexual harassment training sessions;

c. Pennington heard reports that Fairfield employees engaged in sex acts at Fairfield's Nashville facility;

d. Pennington overheard Defendant Pierce make sexually suggestive comments;

e. Pennington heard Pat Doyle ("Defendant Doyle"), a male In-House Sales Representative and later Sales Manager, make degrading comments towards women, blacks and Jews at sales meetings;

f. Jennifer Rodriguez, a female employee, complained to Pennington that Doyle repeatedly asked her out on dates even though she always declined;

g. Pennington heard Brian Kemp, a male Front-Line Sales Representative, brag about and show a sexually explicit videotape at Fairfield's Nashville facility; and

h. Pennington heard that Kevin Meehan, a male In-House Sales Manager, played sexually explicit videos in his office.

185. Despite Pennington's repeated complaints of sexual harassment and retaliation to HR Director Barnes regarding sexual harassment of female employees and retaliation, no remedial action was taken.

186. Plaintiff Chip Pennington suffered emotional distress and emotional injury as a result of the sexual harassment and gender discrimination he witnessed and the retaliation he experienced at Fairfield.

**B. Shannon Matthews**

187. **Plaintiff Shannon Matthews** ("Matthews") began working in Fairfield's Nashville facility on or about September 2002. She began her employment with Fairfield as a Front-Line Sales Representative and later worked in the capacity of In-House Sales Representative. Matthews' employment with Fairfield was terminated in approximately September 2003.

188. During her employment with Fairfield, Matthews was subjected to a systemic and ongoing pattern and practice of sexual harassment, gender hostility and gender discrimination and was unlawfully terminated in retaliation for reporting the sexual harassment she experienced.

189. In approximately November 2002, Defendant Manager Ruggiero requested that Matthews be transferred from Front-Line Sales to his In-House Sales RCI team. Matthews objected to this transfer because she had heard numerous complaints about Defendant Manager Ruggiero, and so she was permitted to stay in Front-Line Sales.

190. In approximately April 2003, Defendant Manager Ruggiero again requested to have Matthews transferred to his team. Although Matthews still objected to this transfer, she was involuntarily transferred to Defendant Manager Ruggiero's team.

191. Later in 2003, Defendant Manager Ruggiero announced to Matthews that the In-House RCI sales team had to attend a mandatory meeting in Crossville, Tennessee.

192. Matthews asked Defendant Director Hurley and HR Director Barnes whether she could be excused from the meeting, but she was told it was mandatory.

193. When Matthews arrived in Crossville for the meeting on or about July 4, 2003, she and Defendant Manager Ruggiero were the only Fairfield employees from the Nashville facility present and Matthews became aware that Defendant Manager Ruggiero had arranged his hotel room to be directly next to hers.

194. Defendant Manager Ruggiero proceeded to invite Matthews to his room for drinks, but she declined his offer.

195. The next evening, Matthews went to a restaurant with several employees of Fairfield's Crossville facility.

196. Matthews had planned for Defendant Manager Ruggiero to drive her back to the hotel from the restaurant. However, a bartender at the restaurant, Steven Crook ("Crook"), overheard Defendant Manager Ruggiero discussing his plans for that night, which included doing drugs and performing sexual activities with Matthews. Crook advised Matthews to call a friend to take her home.

197. Matthews called a co-worker, who agreed to drive to Crossville that night and bring her home. Crook then drove Matthews to her hotel, and Matthews went to sleep while waiting for her co-worker to arrive.

198. While Matthews was sleeping, Defendant Manager Ruggiero and a male friend entered her room using a key, which Defendant Manager Ruggiero had received when they checked in. Matthews was not aware that Defendant Manager Ruggiero had a key to her room, nor was she aware that the men were in her room until her co-worker arrived and knocked on her door.

199. Matthew's co-worker arrived at her hotel room to find Defendant Manager Ruggiero and his friend in the room with a six pack of beer. Both men had their pants down.

200. Upon her return to the Fairfield Nashville facility, she reported the incident to HR Director Barnes. HR Director Barnes assured Matthews that she would handle her complaints about the situation.

201. Matthews then went to Defendant Director Hurley and Defendant Vice President LaBelle to request a leave of absence to care for her father, who was in the hospital. Her request was granted and Matthews returned to work on or about August 2003 as agreed.

202. Approximately two days after returning to work, Defendant Director Hurley accused Matthews of failing to follow the proper procedures for taking a leave of absence. Because Matthews had in fact followed proper procedures, she complained to Defendant Vice President Labelle about Defendant Director Hurley's harassing behavior. Defendant Vice President LaBelle then spoke to Defendant Director Hurley and Hurley apologized to Matthews.

203. In approximately September 2003, Matthews met with Vice President Tocash, Vice President of HR at Fairfield's corporate headquarters in Orlando, informing him that HR Director Barnes had done nothing in response to Matthews' sexual harassment complaint against Defendant Manager Ruggiero.

204. Matthews also told Vice President Tocash that she was experiencing severe depression because of the sexual harassment.

205. In response, Vice President Tocash told her that she had mental problems and suggested that she had fabricated the incident with Defendant Manager Ruggiero.

206. While Defendant Manager Ruggiero remained Matthews' direct supervisor, Matthews became extremely depressed and began to suffer medical problems because of Defendant Manager Ruggiero's sexual harassment of her. In approximately July 2003, Matthews consulted a neurologist and was scheduled for hospital tests in September.

207. Matthews requested and was granted a leave of absence for her medical problems. HR Representative Jamie Russell and Vice President Tocash assured her that she could continue working for Fairfield while her health condition improved.

208. Additionally, while on leave Matthews continued to check in with Jamie Russell and Defendant Director Hurley to keep them updated on her condition.

209. However, in September 2003, while in the hospital, Matthews received a letter of termination from Fairfield. The stated reason for her termination was that she was working another job at a mortgage company. Matthews, however, had not been working anywhere else.

210. Matthews subsequently attempted to contact HR Director Barnes multiple times about her termination. In her messages to HR Director Barnes, she explained that she had not been working at a mortgage company as Fairfield had alleged.

211. Matthews was then removed from Fairfield's health insurance plan before 30 days had elapsed since her termination. As a result, she was not able to complete her medical treatment.

212. Plaintiff Shannon Matthews suffered emotional distress and emotional injury as a result of the sexual harassment, gender discrimination and retaliation that she experienced and witnessed at Fairfield.

## **VIII. FAILURE TO DISCIPLINE FOR SERIOUS SEXUAL HARASSMENT**

### **A. Bridged Brown and Todd Griffin**

213. From approximately August 2002 through September 2002, while working at Fairfield's Nashville facility in the capacity of a Contracts Processor, Bridged Brown ("Brown") accused Defendant Griffin, who at that time worked in the capacity of a Member Services Sales Representative, of sexual harassment. On or about September 4, 2002, HR Director Barnes investigated Brown's allegations.

214. Based on HR Director Barnes' investigation and information that she received from other Fairfield employees, HR Director Barnes concluded that Defendant Griffin would receive a formal warning for this incident of sexual harassment. The warning indicated that future infractions of this type could lead to his termination. Upon information and belief, approximately one month after receiving the warning regarding sexual harassment, Defendant Griffin was promoted to a Sales Manager position.

### **B. Kelly Cortner and Mike Pierce**

215. On or about September 23, 2002, Kelly Cortner ("Cortner"), a Front-line Sales Representative at Fairfield's Nashville facility, accused Defendant Mike Pierce ("Defendant Pierce"), Front-line Sales Representative, of sexual harassment. HR Director Barnes investigated Cortner's allegations.

216. Based on HR Director Barnes' investigation and information that Barnes received from other Fairfield employees, HR Director Barnes concluded that Pierce would receive a formal warning for this incident of sexual harassment. HR Director Barnes also indicated that future infractions of this type could lead to Defendant Pierce's termination. Upon information and belief, approximately three weeks after receiving the warning regarding sexual harassment, Defendant Pierce was promoted to a Sales Manager position.

## **IX. WITNESS ALLEGATIONS**

217. During their depositions, Fairfield employees discussed their experiences with sexual harassment and a hostile work environment at Fairfield's Nashville facility.

218. Defendant Manager Ruggiero worked for Fairfield from approximately April 2000 through August 2003 in the capacities of Sales Representative and In-House RCI Sales Manager. Defendant Manager Ruggiero testified under oath as follows:

a. Defendant Manager Ruggiero pled guilty to the statutory rape of a 13-year old girl in 2003.

b. Defendant Manager Ruggiero had sex with at least four female Fairfield employees on the premises of Fairfield's Nashville facility.

c. Defendant Manager Ruggiero also knows of other male employees who had sex in a stairwell at Fairfield's Nashville facility.

d. During various conversations with female employees, including Andrea Brichant ("Brichant") and Tiffany Aga ("Aga"), Defendant Manager Ruggiero made sexual comments and described sexual acts in graphic detail.

e. Defendant Manager Ruggiero heard Chuck Dale, a male In-House Sales Representative, describe Brichant's body in a sexual manner.

f. While in the workplace at Fairfield's Nashville facility, Defendant Manager Ruggiero described and discussed graphic sexual acts while speaking with various employees, including Brichant, Dale, Todd Shellnut, Aga, Heather Moore, Kevin Meehan, Linda O'Neal ("O'Neal"), Brian Kemp ("Kemp"), Defendant Griffin and Defendant Daric Fail ("Defendant Fail").

219. Andrea Brichant Wessells worked for Fairfield from approximately February 2000 through January 2004 in the capacity of Sales Representative. Brichant testified under oath as follows:

a. During several managers' meetings in front of the entire sales staff, including Brichant, Rochelle McGilpin, Teresa Faw, Shelly Lorentz ("Lorentz") and Kenny Adair ("Adair"), Defendant Griffin described the movement of his genitalia.

b. Brichant also stated that Defendant Vice President LaBelle, in addition to hugging and kissing her inappropriately, picked her up and spun her around.

c. One of Brichant's male supervisors at Fairfield's Nashville facility, Eric Ventling ("Supervisor Ventling"), touched Brichant in an inappropriate manner and also made sexually suggestive comments to her.

d. In addition to Supervisor Venting, Brichant often heard other male employees such as, David Ruff, Defendant Fail, Defendant Director Hurley, Defendant Griffin, Sam Daie, Defendant Ruggiero, Lee Acker, Spencer Ruggiero, Bob Ruff, Defendant Pierce, Jessie Pierce, Defendant Moore and Charles Simerka, make sexual comments and act inappropriately around female Fairfield employees.

e. Defendant Pierce proposed a threesome to Brichant which would involve his brother Jesse Pierce, also a male employee at Fairfield's Nashville facility.

f. While in the workplace, Defendant Moore asked Brichant whether she had ever engaged in a sex act with an African American man.

g. Defendant Manager Ruggiero described his sexual relations with female employees, including Aga, in graphic detail to Brichant.

h. Defendant Manager Ruggiero also made many vulgar comments regarding Brichant's body and used graphic and offensive language to describe sexual acts he wanted to commit with her.

i. Brichant stated that Defendant Manager Ruggiero acted inappropriately around her, even in front of clients. Defendant Manager Ruggiero would sometimes introduce Brichant as his wife to clients, would claim during team meetings that he was engaged to be married to her, and would attempt to hug her inappropriately.

j. On several occasions, Defendant Manager Ruggiero cursed at Brichant, screamed at and threatened her.

k. Defendant Manager Ruggiero also screamed at Brichant as she was leaving the Fairfield Nashville facility and entered her car in order to prevent her from driving off of the premises.

l. During a conversation in front of Kevin Meehan, who was Brichant's supervisor at the time, Defendant Manager Ruggiero used explicit language to describe a sexual act he wanted to perform with her.

m. When Defendant Director Hurley invited Brichant to visit his boat, he used sexually explicit words to describe her body

n. Brichant also complained to Defendant Director Hurley about the harassment to which she was being subjected by Defendant Manager Ruggiero and other male employees.

o. Shortly after complaining to Defendant Director Hurley about Defendant Manager Ruggiero's behavior, Brichant changed sales teams. Defendant Manager Ruggiero later threatened Brichant, saying, "[y]ou like that bitch, you're getting what you wanted you

fucking prima donna...[y]ou got what you wanted, bitch, I hope you fail and I'll see to it that you do fail.”

p. Brichant observed Patricia Wilson, become visibly upset while discussing the pervasive sexual harassment at Fairfield's Nashville facility during a telephone conversation with Attorney Dempsey, legal counsel for Fairfield Resorts.

q. Brichant reported the harassment she was experiencing to Russell and HR Director Barnes, both employees in HR, on a regular basis.

r. Brichant also contacted several Fairfield Corporate officers, including Vice President Cliff, CEO Hanning and Senior Vice President of Operations Wilson Moore (“Senior Vice President Moore”), about the harassment she was experiencing at Fairfield's Nashville facility, but there was no response.

220. Tiffany Aga worked for Fairfield from approximately December 2000 through approximately February 2003. Aga testified under oath as follows:

a. “Every day was ‘Sexual Harassment Day.’ Every other male that worked there was always throwing comments and doing things and saying things.”

b. Sam Daie, a male employee, continually tried hugging Aga, and made graphic sexual comments about her body.

c. Other male employees at Fairfield's Nashville facility, including Bob Ruff, Defendant Griffin and Defendant Director Hurley, also made inappropriate comments about Aga's body.

d. Aga also overheard Defendant Director Hurley discussing the sexual orientation of a female employee, Heather Moore.

e. Aga knew of other female employees at Fairfield's Nashville facility who had complained about Defendant Director Hurley's inappropriate comments.

f. During her relationship with Defendant Manager Ruggiero, Aga had oral sex with him at Fairfield's Nashville facility.

g. Aga also stated that she discussed her relationship with Defendant Manager Ruggiero with at least two female employees at Fairfield's Nashville facility, Kate Taylor ("Taylor") and Kim Sylvestri.

h. While at Fairfield's Nashville facility, Defendant Manager Ruggiero told other employees about his relationship with Aga in a very graphic and sexually explicit manner.

i. When she was working at Fairfield's Nashville facility, Defendant Manager Ruggiero repeatedly called Aga's extension, cornered her in hallways and tried to hug and kiss her.

j. In addition, when Aga was working at Fairfield's Glade facility, Defendant Manager Ruggiero placed approximately 100 phone calls to Aga's room and threatened to show up there.

k. Aga stated that during the sexual harassment training sessions at Fairfield's Nashville facility, several male employees, including Defendant Griffin, Kevin Meehan and Charles Guy, made jokes and comments throughout the presentations and did not take them seriously at all.

l. When she complained to HR about sexual harassment, Aga stated "It didn't matter if you complained or not. Nothing ever got done. It was a joke around Fairfield. If you were going to complain, you'd just get in trouble for it because HR would never do anything."

m. On several occasions, Aga complained to Russell, HR Director Barnes and Vice President Hal Cliff regarding the sexual harassment she was experiencing and witnessing at Fairfield.

221. Kate Taylor worked for Fairfield from approximately October 2000 through April 2003. Taylor testified under oath as follows:

a. During Taylor's pregnancy, several male employees made sexual comments about her body.

b. On one occasion, a male employee at Fairfield's Nashville facility grabbed Taylor's hair, pulling her head back, then blew in her ear and made sexual comments to her.

c. Two male Fairfield Nashville employees, Defendant Manager Ruggiero and Defendant Director Hurley, made derogatory comments about the race of Taylor's baby.

d. On more than one occasion during Taylor's pregnancy, Defendant Manager Ruggiero touched Taylor's stomach and breasts in a sexual manner. Fairfield employees Lora Moreland and Chuck Dale also overheard Ruggiero make a sexual comment about Taylor's breasts.

e. Defendant Manager Ruggiero told Taylor that he found pregnant women to be very attractive and that he wanted to have sex with her.

f. Other female employees told Taylor about various threats Defendant Manager Ruggiero made to them.

g. During several telephone conversations, Defendant Manager Ruggiero screamed, cursed and used derogatory and profane language while speaking with both Aga and Taylor.

h. On a regular basis, Defendant Manager Ruggiero inappropriately touched and sexually harassed many other female employees at Fairfield's Nashville facility.

i. Taylor witnessed incidences of Defendant Manager Ruggiero's inappropriate behavior towards Aga. For example, Taylor saw Defendant Manager Ruggiero

touch Aga's body inappropriately; Taylor overheard Ruggiero's threatening phone calls and messages to Aga; and Taylor witnessed Ruggiero yell at Aga.

j. Taylor heard a message left by Defendant Ruggiero for Aga in which he threatened her job and threatened to kill her. Taylor also heard a threatening message for Aga from Defendant Manager Ruggiero's mother for Aga in which she threatened to kill Aga.

k. On at least one occasion, Defendant Manager Ruggiero used derogatory language to refer to Andrea Brichant.

l. Defendant Manager Ruggiero also grabbed the breasts of a female Member Services Coordinator.

m. Defendant Manager Ruggiero used harsh language to describe a religious, female employee at Fairfield's Nashville facility.

n. Defendant Director Hurley told Taylor she would lose her job if she complained about Defendant Manager Ruggiero's behavior.

222. Defendant Dave LaBelle has worked for Fairfield since 1995 and is currently employed in the capacity of Vice President of Sales and Marketing at Fairfield's Nashville facility. LaBelle testified under oath as follows:

a. Defendant Vice President LaBelle hugged many female Fairfield employees on a regular basis.

b. Tamara Pacwa complained about Defendant Vice President LaBelle's hugs.

c. Defendant Vice President LaBelle was aware that Defendant Ruggiero, a male manager, was making threats to Aga.

d. Defendant Vice President LaBelle further stated that Aga, along with her boyfriend at the time, came to Defendant Vice President LaBelle to complain about Defendant Ruggiero's behavior towards Aga.

e. Kate Taylor complained to Defendant Vice President LaBelle about being touched inappropriately while working at Fairfield's Nashville facility.

f. Defendant Vice President LaBelle saw Defendant Manager Ruggiero lose his temper and yell in the workplace.

g. Defendant Vice President LaBelle discussed with Kevin Meehan the existence of a tape at Fairfield's Nashville facility showing employees engaging in sexual acts.

223. Sharon Barnes has worked for Fairfield since 1999 and is currently employed in the capacity of Mid-South Regional Director of Human Resources. HR Director Barnes testified under oath as follows:

a. Tiffany Aga, a former employee at Fairfield's Nashville facility, told HR Director Barnes that she wanted Defendant Manager Ruggiero to stay away from her because she was being subjected to his inappropriate behavior, threats and comments in the workplace.

b. In addition, Aga played Defendant Manager Ruggiero's threatening and vulgar telephone messages that he had left on Aga's cell phone voicemail for HR Director Barnes.

c. Kate Taylor complained to HR Director Barnes about Defendant Manager Ruggiero's touching her in a sexual manner and commenting on her breasts.

d. HR Director Barnes recommended to Defendant Vice President Higdon that Defendant Manager Ruggiero be fired because he had disrespected Defendant Vice President Higdon and he was an insubordinate employee. Defendant Vice President Higdon ignored HR Director Barnes' recommendation.

224. Jamie Russell worked for Fairfield from approximately March 2001 to October 2003 in the capacities of Administrative Support Coordinator and Commissions Analyst. Russell testified under oath as follows:

a. During her career at Fairfield's Nashville facility, Russell estimated that she received between 20 and 30 complaints regarding Defendant Manager Ruggiero's conduct.

b. Russell recalled seeing approximately 15-20 complaints in Defendant Director Hurley's personnel file, including sexual harassment complaints.

c. Russell stated that Defendant Vice President Higdon did not allow women to have access to the same professional opportunities as men.

d. Defendant Fail, a male employee, complimented Russell on the shade of her lipstick. Later, Defendant Griffin told Russell that Defendant Fail commented on the color of her lipstick because Defendant Fail thought the shade "would look really good around his dick."

e. Russell overheard employees making comments about oral sex at Fairfield's Nashville facility.

f. During sexual harassment training sessions, several male employees regularly made jokes and inappropriate comments.

g. Russell also stated that employees did not seem to take seriously Fairfield's sexual harassment policies and procedures.

h. Russell testified that Sam Daie, a male manager, was aware of sexual harassment complaints but did not take any action regarding these issues.

i. Kemp, a male Front-Line Sales Representative, made inappropriate jokes and comments around female employees.

j. Wendy Stevens, a female employee, complained to Russell that Bob Ruff, a male employee, deliberately grabbed her breasts.

k. Bridged Brown, a female employee, contacted Russell to file a complaint about Defendant Griffin, a male employee, inappropriately touching her and making sexual comments to her.

l. Aga and Carol Jarrett, female employees, complained to Russell on behalf of the other female employees in Fairfield's Nashville Member Services Department that Defendant Director Hurley created a hostile work environment.

m. Defendant Manager Ruggiero once picked up Russell and threw her over his shoulder without her consent.

n. Russell testified that Defendant Manager Ruggiero could not control his temper nor his emotions around certain individuals.

o. Russell recalled seeing at least three warnings in Defendant Manager Ruggiero's personnel file.

p. Russell testified that there were approximately three or four complaints in employee Defendant Pierce's personnel file regarding his lewd comments and jokes.

q. Russell also testified that there were approximately three or four complaints in Defendant Griffin's personnel file regarding his lewd comments and jokes.

r. Patricia Wilson complained to Russell that Defendant Vice President LaBelle did not seriously evaluate her request to be considered for a Front-Line manager position.

s. Russell and Wilson witnessed both managers intimidating Front-Desk personnel and Sales Representatives (who had high sales numbers) speaking to other Fairfield

employees inappropriately and they also heard reports that vehicles were being vandalized whenever there were arguments on-site.

225. Jacquelyn Sessoms (“Sessoms”) worked for Fairfield from approximately 2000 through 2002 in the capacity of sales representative. Sessoms testified under oath as follows:

a. Contrary to Fairfield’s policies, a male employee, Defendant Griffin, kept pornographic material in the workplace.

b. During training sessions, Defendant Doyle, a male Sales Manager, would make sexual comments to and about female employees.

c. Also during one sexual harassment training session, several employees made jokes about homosexuals in the presence of a homosexual employee, Jason Atkins.

d. Defendant James Graves (“Defendant Graves”), a male employee, made sexual comments in the workplace.

e. On at least one occasion, Defendant Vice President Higdon used inappropriate language when referring to Sessoms.

f. Sessoms stated that Defendant Vice President Higdon used cocaine at Fairfield’s Nashville facility.

g. Manager Ross Schneider made sexual comments in the workplace.

h. Greg Schleicher (“Schleicher”), a male employee, discussed his sexual relations with his wife in front of other Fairfield Nashville employees on a regular basis.

i. Defendant Fail, a male employee, made sexually graphic comments about women in the workplace at Fairfield’s Nashville facility.

j. On several occasions, Defendant Doyle touched women inappropriately.

k. Sessoms was subjected to the inappropriate behavior of another male employee when Schleicher grabbed and kissed her on Fairfield’s Nashville’s premises.

l. During her employment with Fairfield, Sessoms learned that several employees, including Defendant Manager Ruggiero, had engaged in sexual acts on the premises of Fairfield Nashville's facility.

m. Sessoms heard reports that Defendant Director Hurley engaged in sexual relations with several women on Fairfield's Nashville premises.

n. Sessoms heard that a male employee, Defendant Graves, told a female trainee that she would lose her job if she did not perform oral sex on him.

o. In-House Sales Manager, Ross Schneider was more critical of high-selling female employees, including Sessoms and Andrea Brichant, than of high-selling males.

p. Sessoms was subjected to a hostile work environment by a male employee whose sexual advances she had previously rejected.

226. George "Ross" Schneider ("Schneider") has worked for Fairfield since approximately April 1998 in the capacities of In-House Sales Representative and In-House Director of Sales. Schneider testified under oath as follows:

a. Schneider saw many male managers hugging female employees, some of whom did not welcome the hugs.

b. On several occasions, Schneider saw various Fairfield Nashville employees, including Defendant Vice President LaBelle, kiss female employees on the cheek in the workplace.

c. Schneider saw employees flirting at Fairfield's Nashville facility.

d. A male manager made an "off-color" remark to a female employee, who later complained to Schneider.

e. Schneider also heard reports that Defendant Pierce made sexually inappropriate comments to female employees at Fairfield's Nashville facility.

f. Schneider was aware of several complaints from female employees (including Diane Lee) regarding inappropriate comments being made by male employees, such as Lee Acker and Defendant Doyle.

g. During a meeting Schneider once addressed Wendy Stevens, a female employee, as “honey.”

h. On at least one occasion Kate Taylor once told Schneider that Defendant Manager Ruggiero made inappropriate comments to her and touched her inappropriately.

i. Schneider heard reports that Andrea Brichant had been harassed in a sexual manner and stalked by Defendant Manager Ruggiero

j. Brichant complained directly to Schneider on several occasions regarding Defendant Manager Ruggiero’s inappropriate conduct and comments.

k. Brichant also advised Schneider that Defendant Director Hurley had not taken any action in response to her complaints about Defendant Ruggiero.

l. On one occasion, Schneider advised Brichant to contact HR Director Barnes, or “the VP,” regarding Brichant’s complaints.

m. Schneider believed that, as a manager, he had no responsibility to help Brichant, even though she complained to him about Defendant Ruggiero on many occasions.

n. Schneider was aware that Brichant thought her manager, Defendant Director Hurley, was discriminating against her.

o. Schneider was aware of a complaint made by a female employee, Brigid Brown, against a male employee, Defendant Griffin, in which Griffin had made inappropriate comments to her and had touched her in a sexual manner.

p. Schneider said that Defendant Manager Ruggiero did not have a lot of patience with or respect for other individuals.

q. Fairfield Nashville violated its “zero-tolerance” by not using more effective measures against Defendant Manager Ruggiero.

r. Schneider stated that he believed HR Director Barnes could have done a better job in handling Defendant Ruggiero and the complaints about his behavior.

s. Further, Schneider testified that HR Director Barnes should have been reprimanded and retrained because she did not sufficiently pursue and investigate the sexual harassment complaints at Fairfield’s Nashville facility.

t. Fairfield neither created an environment that was sexual-harassment-free and nor created an environment where harassment was deemed inappropriate.

227. John Walker (“Walker”) has worked for Fairfield since March 2000 and has worked in the capacities of Sales Representative and Senior Sales Manager. Walker testified under oath as follows:

a. A female employee, Tamara Pacwa, complained to Walker about Defendant Director Hurley yelling at her during a meeting. Walker testified that it is common for employees at Fairfield’s Nashville facility to discuss sex and their personal relationships in the workplace.

b. Walker overheard several Fairfield employees discussing a videotape depicting two Fairfield employees engaging in sexual acts.

c. Shannon Matthews once complained to Walker that Defendant Manager Ruggiero tried to have sex with her against her wishes during a business trip.

d. Another female employee, Kate Taylor, complained to Walker about the inappropriate and derogatory comments Defendant Manager Ruggiero made to her.

e. Walker witnessed Defendant Manager Ruggiero’s touching of Taylor’s stomach during her pregnancy, and Taylor later complained to Walker about this incident.

f. On at least one occasion, Defendant Manager Ruggiero used derogatory language when referring to Taylor.

g. Walker testified that Defendant Ruggiero had a “temper” and often became intensely angry at other employees, including Walker.

228. Kevin Meehan has worked for Fairfield since 1995 and is currently employed in the capacity of In-house Sales Manager. Meehan testified under oath as follows:

a. Meehan saw employees at Fairfield’s Nashville facility telling sexual jokes, flirting and discussing sex in the workplace.

b. Meehan testified that he saw a videotape in which two Fairfield employees were engaging in various sexual acts.

c. Meehan was also aware that several female employees (such as Tera Jameson and Jennifer Coon) filed complaints against male employees (such as Pat Doyle and Ronnie Crawford) because of their inappropriate behavior towards them.

d. Meehan stated that Wendy Stevens, a female employee, complained that Bob Ruff, a sales representative, tried to grab her while they were at a restaurant.

e. Defendant Manager Ruggiero told Meehan about his sexual exploits with various female employees, including several that occurred on the premises of Fairfield’s Nashville Facilities.

f. Meehan said Defendant Ruggiero had a “quick” temper which made him unpredictable and difficult to work with.

g. Meehan also heard reports that Kate Taylor complained that Defendant Ruggiero touched her stomach while she was pregnant.

h. Female employees Andrea Brichant and Tiffany Aga complained to Meehan about Defendant Manager Ruggiero verbally abusing them.

i. Meehan also testified that Brichant told him that Defendant Manager Ruggiero asked her inappropriate questions about her personal life and stared at her while she was working.

j. Aga complained to Meehan about abusive and threatening phone messages she had received from Defendant Manager Ruggiero.

k. Meehan heard reports that John Tallman, a male manager, used abusive language while speaking with Tamara Pacwa and that he was also abusive towards most of his team.

l. Meehan saw Defendant Director Hurley act rudely and disrespectfully towards Pacwa at a meeting.

## **X. CLASS ACTION ALLEGATIONS**

### **A. Class Definition**

229. The Class Representatives seek to maintain claims on their own behalf and on behalf of a class of current and former Fairfield employees. Each of the Class Representatives is a member of the class.

230. The class consists of all females who are, or have been, employed by Fairfield and have experienced gender discrimination and/or sexual harassment at any time during the applicable liability period. All of the Class Representatives are proposed representatives of the class. Upon information and belief, there are hundreds, if not thousands, of members of the proposed class.

### **B. Efficiency of Class Prosecution of Common Claim**

231. Certification of a class of female employees similarly situated to the Class Representatives is the most efficient and economical means of resolving the questions of law and fact which are common to the claims of the Class Representatives and the proposed class. The

individual claims of the Class Representatives require resolution of the common question of whether Fairfield has engaged in a systemic pattern and/or practice of gender discrimination and sexual harassment against female employees. The Class Representatives seek remedies to eliminate the adverse effects of such treatment in their own lives, careers and working conditions and in the lives, careers and working conditions of the proposed class members, and to prevent continued gender discrimination and sexual harassment in the future. The Class Representatives have standing to seek such relief because of the adverse effect that Fairfield's conduct has had on them individually and on females generally. In order to gain such relief for themselves, as well as for the class members, the Class Representatives will first establish the existence of systemic gender discrimination and sexual harassment as the premise for the relief they seek. Without class certification, the same evidence and issues would be subject to re-litigation in a multitude of individual lawsuits with an attendant risk of inconsistent adjudications and conflicting obligations. Certification of the proposed class of females who have been affected by these common questions of law and fact is the most efficient and judicious means of presenting the evidence and arguments necessary to resolve such questions for the Class Representatives, the proposed class and Fairfield.

232. The Class Representatives' individual and class claims are premised upon the traditional bifurcated method of proof and trial for disparate impact and systemic disparate treatment claims of the type at issue in this case. Such a bifurcated method of proof and trial is the most efficient method of resolving such common issues.

**C. Numerosity and Impracticability of Joinder**

233. The class which the Class Representatives seek to represent is too numerous to make joinder practicable. The proposed class consists of hundreds, if not thousands, of current, former and future female employees in Nashville, Tennessee during the liability period.

**D. Common Questions of Law and Fact**

234. The prosecution of the claims of the Class Representatives will require the adjudication of numerous questions of law and fact common to both their individual claims and those of the putative class they seek to represent. The common questions of law include, *inter alia*: (a) whether Fairfield has engaged in unlawful, systemic sexual harassment; (b) whether Fairfield has engaged in unlawful, systemic gender discrimination in its promotion, advancement, and compensation policies, practices and/or procedures, and in the general terms and conditions of work and employment; (c) whether Fairfield is liable for a continuing systemic violation of Title VII; and (d) a determination of the proper standards for proving a pattern or practice of gender discrimination and sexual harassment by Fairfield against its female employees. The common questions of fact would include, *inter alia*, whether, through its policies, practices and/or procedures:

a. Fairfield has subjected females to sexual harassment, including but not limited to, inappropriate and unwelcome touching, sexual comments about female employees' bodies, and unwelcome sexual propositions;

b. Fairfield has subjected females to other forms of gender hostility and a sexually hostile work environment;

c. Fairfield has engaged in a pattern and practice of failing to take prompt and effective action to remedy the hostile work environment based on gender;

d. Fairfield has maintained policies and procedures that condone sexually harassing behavior towards female employees and gender hostility in the workplace; or alternatively, maintained policies and procedures which do not adequately prevent sexually harassing behavior and gender hostility, and thus, allow for their continued existence; or alternatively, maintained policies and procedures that may prohibit sexual harassment and gender

hostility, but that have not been applied properly, have not been understood by managers and employees and/or have been interpreted in a subjective and inconsistent manner, and thus, have adversely affected female employees;

e. Fairfield has maintained a hostile work environment based on gender;

f. Fairfield has denied or delayed promotions and promotional opportunities for females; and

g. Fairfield has subjected females to differential and inequitable treatment, including but not limited to, less preferable work assignments, less profitable work assignments, and degrading work assignments which are not included in their job descriptions.

235. The employment policies, practices and/or procedures to which the Class Representatives and the class members are subjected to are set at Fairfield's corporate level and apply universally to all class members.

236. Throughout the liability period, a disproportionately large percentage of the managers and supervisors at Fairfield have been male.

237. Gender discrimination in selection, promotion and advancement occurs as a pattern and practice throughout all levels and all divisions of Fairfield. Selection, promotion, and advancement opportunities are driven by personal familiarity, subjective decision-making, pre-selection and interaction between male managers, supervisors, and subordinates, rather than by merit or equality of opportunity. As a result, male employees have advanced and continue to advance more rapidly to better and higher paying jobs than do female employees.

238. Fairfield's policies, practices and/or procedures have had an adverse impact on females seeking selection for, or advancement to, better and higher paying positions. In general, the higher the level of the job classification, the lower the percentage of female employees holding it.

239. Fairfield's female employees have also received differential treatment which discourages them from seeking professional advancement. For example, male managers have propositioned female employees for sexual favors in exchange for career advancement, have insulted the intelligence and destroyed the self esteem of female employees, have required female employees to perform degrading work not included in their job descriptions and have made it clear in various other ways that they prefer male employees.

240. Additionally, sexual harassment occurs as a pattern and practice throughout all levels and all divisions at Fairfield. Female employees are routinely subjected to inappropriate sexual comments, uncomfortable touching, hugging and kissing, unwelcome sexual advances and other forms of sexual harassment. Sexual harassment is routinely practiced by male managers towards female subordinate employees.

241. Numerous female employees at Fairfield have repeatedly complained about the sexual harassment they experience on a daily basis. Despite this, Fairfield's management and HR employees have taken insufficient action or have downplayed and sought to excuse the conduct described herein. HR Management has failed to remedy the pervasive and severe sexual harassment occurring at Fairfield's Nashville facility.

242. Fairfield's policies and procedures condone sexual harassment and/or do not adequately prevent sexual harassment.

#### **E. Typicality of Claims and Relief Sought**

243. The claims of the Class Representatives are typical of the claims of the class. The Class Representatives assert claims in each of the categories of claims they asserted on behalf of the class. The relief sought by the Class Representatives for sexual harassment and gender discrimination complained of herein is also typical of the relief sought on behalf of the class.

244. The Class Representatives are, like the members of the class, all female employees who have worked for Fairfield during the liability period.

245. The sexually hostile work environment at Fairfield and Fairfield's discrimination in promotion, advancement and training affects the Class Representatives and all the employee class members in the same manner.

246. Differential treatment between male and female employees occurs as a pattern and practice throughout all levels and departments of Fairfield. Male employees are treated more favorably than female employees, routinely receive more profitable work assignments than female employees and, thus, enjoy a greater earning potential than their female counterparts, and receive other forms of preferential treatment.

247. Sexual harassment occurs as a pattern and practice throughout all levels and departments of Fairfield and affects the Class Representatives and the members of the class in the same manner. Male managers and employees regularly hold sexually explicit conversations, make sexually hostile jokes and remarks, comment on female employees' bodies, harass and intimidate female employees, inappropriately touch, hug and kiss female employees, make unwelcome sexual advances on female employees, demand sexual favors from female employees in exchange for professional advancement and practice other forms of sexual harassment.

248. Several of the Class Representatives, and numerous other female employees, have repeatedly complained to Fairfield's management and HR about gender discrimination and a sexually hostile work environment. Company investigations into these complaints have been inadequate and/or superficial. The Class Representatives and class members have been affected in the same ways by Fairfield's failure to implement adequate procedures to detect, monitor and correct this pattern and practice of discrimination.

249. Despite ample evidence of knowledge held not only by HR personnel about Fairfield's rampant gender discrimination and sexual harassment, but also among high-level corporate executives, Fairfield has failed to create adequate incentives for, and oversight over its managers to comply with equal employment opportunity laws regarding each of the employment policies, practices and/or procedures referenced in this Complaint and has failed to discipline adequately its managers and other employees when they violate the anti-discrimination laws. These failures have affected the Class Representatives and the class members in the same ways.

250. The relief necessary to remedy the claims of the Class Representatives is exactly the same as that necessary to remedy the claims of the proposed class members in this case. The Class Representatives seek the following relief for their individual claims and for those of the members of the proposed class: (a) a declaratory judgment that Fairfield has engaged in systemic gender discrimination against female employees by subjecting them to severe sexual harassment and gender hostility at work, by limiting their ability to be promoted to better and higher paying positions, and by exposing them to differential and inequitable treatment; (b) a permanent injunction against such continuing discriminatory and harassing conduct; (c) injunctive relief which effects a restructuring of Fairfield's promotion, training, selection, compensation, work environment and discipline policies, practices and/or procedures so that females will be able to compete fairly in the future for promotions, transfers and assignments to better and higher paying classifications with terms and conditions of employment traditionally enjoyed by male employees; (d) injunctive relief which effects a restructuring of Fairfield's policy and practice so that male employees who sexually harass female employees and/or create gender hostility in the workplace are granted zero tolerance; (e) injunctive relief which effects a restructuring of the Fairfield workforce so that females are promoted into higher and better paying classifications which they would have held in the absence of Fairfield's past gender discrimination; (f) back

pay, front pay and other equitable remedies necessary to make the female employees whole from the Fairfield's past discrimination and harassment; (g) compensatory damages; (h) punitive and nominal damages to prevent and deter Fairfield from engaging in similar discriminatory practices in the future; and (i) attorneys' fees, costs and expenses associated with this litigation.

**F. Adequacy of Representation**

251. The Class Representatives' interests are co-extensive with those of the members of the proposed class which they seek to represent in this case. The Class Representatives seek to remedy Fairfield's discriminatory employment policies, practices and/or procedures so that females will no longer be prevented from advancing into higher paying and more desirable positions, will not receive disparate pay and differential treatment and will not be subjected to sexual harassment and gender hostility at work. The Class Representatives are willing and able to represent the proposed class fairly and vigorously as they pursue their similar individual claims in this action. The Class Representatives have retained counsel who are qualified, experienced and able to conduct this litigation and to meet the time and fiscal demands required to litigate an employment discrimination class action of this size and complexity. The combined interests, experience and resources of the Class Representatives and their counsel to litigate competently the individual and class claims at issue in this case clearly satisfy the adequacy of representation requirement of Fed. R. Civ. P. 23(a)(4).

**G. Requirements of Fed. R. Civ. P. 23(b)(2)**

252. Fairfield has acted on grounds generally applicable to the Class Representatives and the proposed class by adopting and following systemic policies, practices and/or procedures which are discriminatory on the basis of gender. Sexual harassment and gender discrimination are Fairfield's standard operating procedures rather than sporadic occurrences. Fairfield has refused to act on grounds generally applicable to the class by, *inter alia*: (a) refusing to provide a

working environment that is free of sexual harassment and gender hostility; (b) refusing to implement policies that adequately address and remedy female employees' complaints of sexual harassment and gender hostility; (c) refusing to provide sufficient incentives to prevent male employees from sexually harassing female employees; (d) refusing to discipline male employees who sexually harass and intimidate female employees; (e) refusing to adopt and apply promotion, advancement and compensation policies, practices and/or procedures which do not have a disparate impact on, or otherwise systemically discriminate against, females; and (f) refusing to provide equal terms and conditions of employment for females. Fairfield's systemic discrimination and refusal to act on grounds that are not discriminatory have made appropriate the requested final injunctive and declaratory relief with respect to the class as a whole.

253. Injunctive and declaratory relief are the predominant relief sought in this case because they are the culmination of the proof of Fairfield's individual and class-wide liability at the end of Stage I of a bifurcated trial and the essential predicate for the Class Representatives' and class members' entitlement to monetary and non-monetary remedies at Stage II of such trial. Declaratory and injunctive relief flow directly and automatically from proof of the common questions of law and fact regarding the existence of systemic sexual harassment and gender discrimination of female employees at Fairfield. Such relief is the factual and legal predicate for the Class Representatives' and the class members' entitlement to monetary and non-monetary remedies for individual losses caused by, and for exemplary purposes necessitated by, such systemic discrimination and harassment.

#### **H. Requirements of Fed. R. Civ. P. 23(b)(3)**

254. The common issues of fact and law affecting the claims of the Class Representatives and class members, including, but not limited to, the common issues identified above, predominate over any issues affecting only individual claims.

255. A class action is superior to other available means for the fair and efficient adjudication of the claims of the Class Representatives and class members.

256. The cost of proving Fairfield's pattern and practice of discrimination makes it impracticable for the Class Representatives and members of the proposed class to control the prosecution of their claims individually.

## **XI. CLASS ALLEGATIONS**

257. The Class Representatives and class members have been subjected to a systemic pattern and practice of sexual harassment and gender discrimination involving a battery of practices that have also had an unlawful disparate impact on them and their employment opportunities.

258. The sexual harassment to which female Fairfield employees are subjected occurs on a regular basis and is practiced by male managers and employees at all levels. This harassment includes, but is not limited to, explicit sexual conversations, sexually hostile jokes and remarks, inappropriate sexual comments about female employees' bodies, sexual intimidation of female employees, violent threats to female employees, inappropriate touching, hugging and kissing and unwelcome sexual advances and propositions.

259. Fairfield condones sexual harassment by refusing or failing to take adequate action against male employees who have sexually harassed female employees and by failing to adequately respond to numerous complaints from female employees regarding the sexual harassment they have experienced. Management in Fairfield's Nashville facility, HR and high-level corporate executives in Fairfield's corporate headquarters in Orlando were all well aware of the existence of rampant sexual harassment at Fairfield, yet no reasonable effort was made to remedy the problem.

260. The gender discrimination includes adhering to a policy and practice of restricting the promotion and advancement opportunities of female employees so that they remain in the lower classification and compensation levels. Fairfield in effect bars females from better and higher paying positions which have traditionally been held by male employees. The systemic means of accomplishing such gender stratification include, but are not limited to, Fairfield's promotion, advancement, training and compensation policies, practices and/or procedures.

261. Fairfield's promotion, advancement, training and compensation policies, practices and/or procedures incorporate the following discriminatory practices: (a) sexually harassing female employees by demanding sexual favors from them in exchange for professional advancement opportunities; (b) refusing or failing to establish and/or follow policies, practices, procedures, or criteria that reduce or eliminate disparate impact and/or intentional gender bias and sexual harassment; (c) subjecting females to gender hostility in the work environment; (d) relying upon subjective judgments, procedures and criteria which permit and encourage the incorporation of gender stereotypes and bias by Fairfield's predominately male-managerial and supervisory staff in making promotion, training, and compensation decisions; (e) refusing or failing to provide equal training opportunities to females; (f) refusing or failing to provide females with equal opportunities to demonstrate their skills and qualifications for advancement, including routinely assigning them less profitable work than male employees; (g) using informal, subjective selection methods which allow for rampant gender discrimination; and (h) discouraging applications and expressions of interest by females;

262. Fairfield's promotion policies, practices and/or procedures have had a disparate impact on the Class Representatives and class members. Such procedures are not valid, job-related, or justified by business necessity. There are alternative objective and more valid selection procedures available to Fairfield which are more closely related to the actual

responsibilities of the positions, which would have less of a disparate impact on females. However, Fairfield has failed or refused to use such alternative procedures.

263. Fairfield's promotion, advancement, training, and compensation policies, practices and/or procedures are intended to have a disparate impact on the Class Representatives and the class they seek to represent. Such practices form a part of Fairfield's overall pattern and practice of keeping females in the lower classifications which have less desirable terms and conditions of employment.

264. In addition, Fairfield condones sexual harassment by failing to provide adequate training on the issues of sexual harassment and gender hostility. Fairfield's policies and procedures also condone sexual harassment and/or allow for sexual harassment by not adequately preventing it. Those policies and procedures prohibiting sexual harassment and gender hostility that do exist are subjectively and inconsistently interpreted and applied and, thus, have lost their intended impact.

265. Fairfield's policies, practices and/or procedures concerning sexual harassment, gender hostility and other human resources issues are intended to have a disparate impact on the Class Representatives and class members. These practices contribute to an overarching pattern and practice of creating a hostile work environment based on gender in which female employees are denied equality in terms and conditions of employment.

266. Because of Fairfield's systemic pattern and practice of sexual harassment and gender discrimination, the Class Representatives and class members have been adversely affected and have experienced harm, including the loss of compensation, wages, back pay and employment benefits. This pattern and practice of sexual harassment and gender discrimination includes: being subjected to rampant sexual harassment by male managers and employees on a regular basis; being subjected to a sexually hostile work environment; being denied promotions

in favor of equally or less qualified male employees; being denied training opportunities provided to male employees; receiving less profitable work assignments than male employees; being disciplined more frequently and more severely than male employees as well being disciplined for engaging in behaviors for which male employees are not disciplined.

267. The Class Representatives and class members have been subjected to gender hostility at work, both severe and pervasive, which affects the terms and conditions of their employment. The Fairfield's actions and inactions allow and/or encourage this behavior by its male employees.

268. The Plaintiffs have no plain, adequate, or complete remedy at law to redress the rampant and pervasive wrongs alleged herein, and this suit is their only means of securing adequate relief. The Plaintiffs are now suffering, and will continue to suffer, irreparable injury from Fairfield's unlawful policies, practices and/or procedures as set forth herein unless those policies, practices and/or procedures are enjoined by this Court.

**Counts for Class Representatives and Class Members**

**COUNT I**  
**VIOLATION OF TITLE VII 42 U.S.C. §§ 2000e et seq.**  
**SEXUAL HARASSMENT**  
**(AGAINST CORPORATE DEFENDANT)**

269. Class Representatives re-allege and incorporate by reference each and every allegation contained in each and every aforementioned paragraph as though fully set forth herein.

270. Fairfield has discriminated against Class Representatives and class members by permitting an ongoing pervasive pattern and practice of sexual harassment by maintaining a sexually hostile work environment, in violation of 42 U.S.C. § 2000e et seq.

271. Fairfield's conduct has been intentional, deliberate, willful, malicious, reckless and conducted in callous disregard of the rights of the Class Representatives and the class members.

272. Such conduct directly and proximately caused the Class Representatives and class members to be damaged and to suffer damages, economic losses, mental and emotional harm, anguish and humiliation.

273. By reason of the continuous nature of Fairfield's discriminatory conduct, persistent throughout the employment of the Class Representatives and class members, the Class Representatives and class members are entitled to application of the continuing violation doctrine to all of the violations alleged herein.

274. By reason of the sexual harassment suffered at Fairfield, the Class Representatives and the class members are entitled to all legal and equitable remedies available under Title VII.

**COUNT II**  
**VIOLATION OF TITLE VII 42 U.S.C. §§ 2000e et seq.**  
**GENDER DISCRIMINATION**  
**(AGAINST CORPORATE DEFENDANT)**

275. Class Representatives re-allege and incorporate by reference each and every allegation contained in each and every aforementioned paragraph as though fully set forth herein.

276. Fairfield has discriminated against the Class Representatives and class members by treating them differently from and less preferably than similarly situated male employees and subjecting them to discriminatory denials of promotions, discriminatory compensation policies, differential treatment, disparate terms and conditions of employment, hostile work environments and/or other forms of discrimination in violation of Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000(e), et seq., as amended ("Title VII").

277. Fairfield's conduct has been intentional, deliberate, willful, malicious, reckless and conducted in callous disregard of the rights of the Class Representatives and the class members.

278. Such conduct directly and proximately caused the Class Representatives and class members to be damaged and to suffer economic losses, mental and emotional harm, anguish and humiliation.

279. Fairfield's policies and practices have produced a disparate impact against the Class Representatives and the class members with respect to the terms and conditions of employment.

280. By reason of the continuous nature of Fairfield's discriminatory conduct, persistent throughout the employment of the Class Representatives and class members, the Class Representatives and class members are entitled to application of the continuing violation doctrine to all of the violations alleged herein.

281. By reason of the discrimination suffered at Fairfield, the Class Representatives and the class members are entitled to all legal and equitable remedies available under Title VII.

**COUNT III**  
**VIOLATION OF 42 U.S.C. §§ 2000e et seq.**  
**RETALIATION**  
**(AGAINST CORPORATE DEFENDANT)**

282. Class Representatives re-allege and incorporate by reference each and every allegation contained in each and every aforementioned paragraph as though fully set forth herein.

283. Fairfield has retaliated against Class Representatives and class members because Class Representatives and class members insisted upon a work environment free of sexual harassment and gender discrimination and also because Class Representatives and class members complained about sexual harassment and gender discrimination.

284. Fairfield has retaliated against Class Representatives by subjecting them to adverse employment actions, including but not limited to, denying Class Representatives and class members promotions for which they were qualified and subjecting Class Representatives

and class members to disparate terms and conditions of employment, sexual harassment, a hostile work environment, and/or other forms of discrimination in violation of Title VII.

285. Fairfield's actions were intentional, deliberate, willful, malicious, reckless and conducted in callous disregard of causing harm Class Representatives and class members.

286. Such conduct directly and proximately caused the Class Representatives and the class members to suffer severe emotional distress for which each claims compensatory and punitive damages from Fairfield.

287. By reason of the retaliation suffered at Fairfield, Class Representatives and class members are entitled to all legal and equitable remedies available under Title VII.

**COUNT IV**  
**ASSAULT**

**(AGAINST DEFENDANT MICKEY RUGGIERO, DEFENDANT JOHN "DAVE"  
LABELLE, DEFENDANT TODD GRIFFIN, DEFENDANT JAMES GRAVES,  
DEFENDANT MIKE PIERCE, DEFENDANT MIKE THOMPSON,  
DEFENDANT PAT DOYLE AND DEFENDANT TIM HURLEY)**

288. Class Representatives re-allege and incorporate by reference each and every allegation contained in each and every aforementioned paragraph as though fully set forth herein.

289. This claim arises under the laws of the State of Tennessee to redress assault against the Class Representatives and class members and Fairfield's ratification of that conduct.

290. Employees of Fairfield named as Defendants in this count ("these Defendants") intended to cause or attempted to cause harmful, rude, unwanted, offensive touching or corporal injury on the Class Representatives and class members on several occasions.

291. These Defendants caused Class Representatives and class members to reasonably apprehend a harmful, rude, unwanted, offensive touching or corporal injury on several occasions.

292. These actions were intentional, deliberate, willful, malicious, reckless and conducted in callous disregard of Class Representatives and class members.

293. These Defendants knew or should have known of their unlawful conduct.

294. Such conduct directly and proximately caused the Class Representatives and class members to suffer severe emotional distress for which each claims compensatory and punitive damages from these Defendants.

**COUNT V**  
**BATTERY**

**(AGAINST DEFENDANT MICKEY RUGGIERO, DEFENDANT JOHN “DAVE” LABELLE, DEFENDANT TODD GRIFFIN, DEFENDANT JAMES GRAVES, DEFENDANT MIKE THOMPSON, DEFENDANT PAT DOYLE AND DEFENDANT TIM HURLEY)**

295. Class Representatives re-allege and incorporate by reference each and every allegation contained in each and every aforementioned paragraph as though fully set forth herein.

296. This is a claim arising under the laws of the State of Tennessee to redress battery against the Class Representatives and class members and Fairfield’s ratification of that conduct.

297. Employees of Fairfield named as Defendants in this count (“these Defendants”) subjected the Class Representatives and class members to intentional, unlawful, harmful, rude, unwanted, offensive and/or corporal contact or constraint without consent.

298. Such conduct directly and proximately caused the Class Representatives and class members to suffer severe emotional distress for which each claims compensatory and punitive damages from these Defendants.

**COUNT VI**  
**INVASION OF PRIVACY**

**(AGAINST CORPORATE DEFENDANT, DEFENDANT MICKEY RUGGIERO, DEFENDANT JOHN “DAVE” LABELLE” AND DEFENDANT DANNY HIGDON)**

299. Class Representatives re-allege and incorporate by reference each and every allegation contained in each and every aforementioned paragraph as though fully set forth herein.

300. This claim arises under the laws of the State of Tennessee to redress violations by Fairfield’s male employees, in particular Individual Defendants Mickey Ruggiero, John “Dave”

LaBelle and Danny Higdon, of the Class Representatives' and class members' right to privacy and Fairfield's ratification of that conduct.

301. Employees of Fairfield, in particular Individual Defendants Mickey Ruggiero, John "Dave" LaBelle and Danny Higdon, intentionally intruded, physically or otherwise, upon the solitude or seclusion or the private affairs or concerns of Class Representatives and class members.

302. Employees of Fairfield realized or should have realized that their conduct would be highly offensive to reasonable persons.

303. This intrusion of employees of Fairfield goes beyond the limits of decency.

304. Fairfield knew or should have known of its employees' unlawful conduct.

305. Such conduct directly and proximately caused the Class Representatives and class members to suffer severe emotional distress for which each claims compensatory and punitive damages from the Defendants named in this count.

**COUNT VII**  
**INTENTIONAL OR RECKLESS INFLICTION OF EMOTIONAL DISTRESS**  
**(AGAINST ALL DEFENDANTS)**

306. Class Representatives re-allege and incorporate by reference each and every allegation contained in each and every aforementioned paragraph as though fully set forth herein.

307. This claim arises under the laws of the State of Tennessee to redress intentional and reckless infliction of emotional distress violations by the Individual Defendants upon the Class Representatives and class members and Fairfield's ratification of that conduct.

308. Employees of Fairfield intentionally or recklessly inflicted emotional distress upon Class Representatives and class members.

309. The conduct of Fairfield's employees was so extreme and outrageous that it clearly exceeded the bounds of decency making this behavior intolerable in a civilized society.

310. This intentional or reckless infliction of emotional distress resulted in severe mental injuries to Class Representatives and class members.

311. Such conduct directly and proximately caused the Class Representatives and class members to suffer humiliation, embarrassment, degradation, shock, outrage and serious emotional distress for which each claims compensatory and punitive damages from Fairfield.

**COUNT VIII**  
**NEGLIGENT INFLECTION OF EMOTIONAL DISTRESS**  
**(AGAINST CORPORATE DEFENDANT, DEFENDANT MICKEY RUGGIERO,**  
**DEFENDANT JOHN “DAVE” LABELLE, DEFENDANT TODD GRIFFIN,**  
**DEFENDANT RAY MOORE, DEFENDANT MIKE PIERCE,**  
**DEFENDANT MIKE THOMPSON, DEFENDANT DARIC FAIL,**  
**DEFENDANT TIM HURLEY AND DEFENDANT DANNY HIGDON)**

312. Class Representatives re-allege and incorporate by reference each and every allegation contained in each and every aforementioned paragraph as though fully set forth herein.

313. This claim arises under the laws of the State of Tennessee to redress negligent infliction of emotional distress suffered by the Class Representatives and class members and Fairfield’s ratification of that conduct.

314. The Individual Defendants named in this count negligently inflicted emotional distress on Class Representatives and class members. Fairfield allowed their employees to be subjected to sexual harassment, discrimination and/or a hostile work environment, by supervisors and/or co-workers.

315. As a proximate and foreseeable result of the Fairfield’s negligence, the Class Representatives and class members have suffered emotional injury by witnessing other Fairfield employees being sexually harassed, discriminated against, subjected to a hostile work environment and/or suffer serious injury.

316. The severe emotional injury suffered by Class Representatives and class members is supported by expert medical evidence.

317. Fairfield knew or should have known of its employees' unlawful conduct.

318. Fairfield condoned, authorized and/or ratified that conduct.

319. Such conduct directly and proximately caused the Class Representatives and class members to suffer shock, outrage and serious emotional distress for which each claims compensatory and punitive damages from the Defendants named in this count.

**COUNT IX**  
**NEGLIGENT AND/OR WANTON**  
**SUPERVISION, TRAINING, AND RETENTION**  
**(AGAINST CORPORATE DEFENDANT, DEFENDANT JOHN "DAVE" LABELLE**  
**AND DEFENDANT DANNY HIGDON)**

320. Class Representatives re-allege and incorporate by reference each and every allegation contained in each and every aforementioned paragraph as though fully set forth herein.

321. This claim arises under the laws of the State of Tennessee to redress the negligent and/or wanton supervision, training, and retention of male employees and managers by Defendants.

322. The Corporate Defendant and the Individual Defendants named in this count negligently and/or wantonly failed to adequately supervise, train and/or negligently and/or wantonly retained male employees and managers, which directly and proximately caused the sexual harassment of and retaliation against the Class Representatives and class members.

323. These Defendants took insufficient action, if any, to stop the harassing and/or discriminatory conduct of its employees.

324. Such conduct directly and proximately caused the Class Representatives and class members to suffer severe emotional distress for which each claims compensatory and punitive damages from these Defendants

**COUNT X**  
**NEGLIGENT AND/OR WANTON HIRING**  
**(AGAINST CORPORATE DEFENDANT, DEFENDANT JOHN “DAVE” LABELLE**  
**AND DEFENDANT DANNY HIGDON)**

325. Class Representatives re-allege and incorporate by reference each and every allegation contained in each and every aforementioned paragraph as though fully set forth herein.

326. This claim arises under the laws of the State of Tennessee to redress the negligent and/or wanton hiring of male employees and managers by Fairfield.

327. Upon information and belief, there is evidence that various employees of Defendant were unfit for particular jobs in which they were employed.

328. Upon information and belief, there is evidence that certain applicants for employment by Fairfield, if hired, would pose an unreasonable risk to others.

329. Upon information and belief there is evidence that the Defendants named in this count knew or should have known that the historical wrongdoing of the applicant would likely be repetitive.

330. Such conduct directly and proximately caused the Class Representatives and class members to suffer severe emotional distress for which each claims compensatory and punitive damages from the Defendants named in this count.

**COUNT XI**  
**RESPONDEAT SUPERIOR**  
**(AGAINST CORPORATE DEFENDANT)**

331. Class Representatives re-allege and incorporate by reference each and every allegation contained in each and every aforementioned paragraph as though fully set forth herein.

332. This claim arises under the laws of the State of Tennessee to redress harm suffered by the Class Representatives and class members and/or Fairfield’s ratification of the conduct causing that harm.

333. Fairfield is liable for their employees' unlawful acts, including, but not limited to, assault, battery, negligent infliction of emotional distress, intentional or reckless infliction of emotional distress and/or invasion of privacy against the Class Representatives and class members within the course and scope of their employment.

334. The wrongful acts and omissions by Fairfield's employees described in this Complaint were carried out in the scope of such employees' employment and/or in furtherance of the Fairfield's business.

335. Fairfield condoned, authorized and/or ratified such conduct.

336. Such conduct directly and proximately caused the Class Representatives and class members to suffer severe emotional distress for which each claims compensatory and punitive damages from Fairfield.

**PRAYER FOR RELIEF FOR CLASS REPRESENTATIVES AND CLASS MEMBERS**

WHEREFORE, Class Representatives, on behalf of themselves and class members pray that this Court:

337. Certify of the case as a class action maintainable under Federal Rules of Civil Procedure Rule 23 (a), (b)(2) and/or (b)(3), on behalf of the proposed Plaintiff class, and designation of the Plaintiffs as representatives of this class and their counsel of record as class counsel;

338. Issue a permanent injunction against the Fairfield and its partners, officers, trustees, owners, employees, agents, attorneys, successors, assigns, representatives and any and all persons acting in concert with them from engaging in any conduct violating the rights of the Class Representatives, class members and those similarly situated as secured by 42 U.S.C. §§ 2000e et seq., and order such injunctive relief as will prevent Fairfield from continuing their discriminatory practices and protect others similarly situated.

339. Issue a permanent injunction against Fairfield and its partners, officers, trustees, owners, employees, agents, attorneys, successors, assigns, representatives and any and all persons acting in concert with them from engaging in any further unlawful practices, policies, customs, usages, sexual harassment, gender discrimination or retaliation by Fairfield as set forth herein;

340. Declare and adjudge that Fairfield's employment policies, practices and/or procedures challenged herein are illegal and in violation of Title VII of the 1964 Civil Rights Act, as amended, 42 U.S.C. §§ 2000e et seq., as amended ("Title VII");

341. Order Fairfield to initiate and implement programs that (i) will provide equal employment opportunities for female employees; (ii) will grant zero tolerance to any male employees who sexual harass female employees and/or create gender hostility in the workplace; (iii) will remedy the effects of Fairfield's past and present unlawful employment policies, practices and/or procedures; and (iv) will eliminate the continuing effects of the discriminatory and retaliatory practices described above;

342. Order Fairfield to initiate and implement systems of assigning, training, transferring, compensating and promoting female employees in a non-discriminatory manner;

343. Order Fairfield to establish a task force on equality and fairness to determine the effectiveness of the programs described in ¶341(i) through ¶341(iv) above, which would provide for (i) monitoring, reporting, and retaining of jurisdiction to ensure equal employment opportunity, (ii) the assurance that injunctive relief is properly implemented, and (iii) a quarterly report setting forth information relevant to the determination of the effectiveness of the programs described in ¶341(i) through ¶341(iv) above;

344. Order Fairfield to adjust the wage rates and benefits for the Class Representatives and the class members to the level that they would be enjoying but for Fairfield's discriminatory policies, practices and/or procedures;

345. Order Fairfield to place or restore the Class Representatives and the class members into those jobs they would now be occupying, but for Fairfield's discriminatory policies, practices and/or procedures;

346. Order that this Court retain jurisdiction of this action until such time as the Court is satisfied that Fairfield has remedied the practices complained of herein and is determined to be in full compliance with the law;

347. Award nominal, compensatory and punitive damages to Class Representatives and the class members;

348. Award litigation costs and expenses, including, but not limited to, reasonable attorneys' fees, to the Class Representatives and class members;

349. Award back pay, front pay, lost benefits, preferential rights to jobs and other damages for lost compensation and job benefits with pre-judgment and post-judgment interest suffered by the Class Representatives and the class members to be determined at trial;

350. Order Fairfield to make whole the Class Representatives and class members by providing them with appropriate lost earnings and benefits, and other affirmative relief;

351. Award any other appropriate equitable relief to the Class Representatives and proposed class members; and

352. Award any additional and further relief as this Court may deem just and proper.

**Individual Counts for Plaintiff George “Chip” Pennington**

**COUNT XII**  
**VIOLATION OF 42 U.S.C. §§ 2000e et seq.**  
**RETALIATION**  
**(AGAINST CORPORATE DEFENDANT)**

353. Plaintiff George “Chip” Pennington re-alleges and incorporates by reference each and every allegation contained in each and every aforementioned paragraph as though fully set forth herein.

354. Fairfield has retaliated against Pennington because he complained about sexual harassment and gender discrimination. Pennington was demoted to another position in which his monthly income was significantly reduced.

355. As a proximate and direct result of Fairfield’s acts, Pennington has in the past and will in the future suffer loss of wages, loss of earning capacity and loss of other emoluments of employment.

356. Fairfield’s actions were intentional, willful, malicious, reckless and done with callous disregard of causing harm to Pennington, and he is therefore entitled to punitive damages.

357. Such conduct directly and proximately caused Pennington to suffer severe emotional distress for which each claims compensatory and punitive damages from Fairfield.

358. By reason of the retaliation suffered at Fairfield, Pennington is entitled to all legal and equitable remedies available under Title VII.

**COUNT XIII**  
**NEGLIGENT AND/OR WANTON SUPERVISION, TRAINING AND RETENTION**  
**(AGAINST CORPORATE DEFENDANT, DEFENDANT JOHN “DAVE” LABELLE**  
**AND DEFENDANT DANNY HIGDON)**

359. Pennington re-alleges and incorporates by reference each and every allegation contained in each and every aforementioned paragraph as though fully set forth herein.

360. This claim arises under the law of the State of Tennessee to redress the negligent and/or wanton supervision, training and retention of male employees and managers by Defendants.

361. The Defendants named in this count negligently and/or wantonly failed to adequately supervise, train and/or retain male employees and managers, which directly and proximately caused the retaliation against Pennington.

362. These Defendants took insufficient action, if any, to stop the harassing and/or discriminatory conduct of its employees.

363. Such conduct directly and proximately caused Pennington to suffer great emotional distress for which Pennington claims compensatory and punitive damages from Defendants named in this count.

**COUNT XIV**  
**NEGLIGENT AND/OR WANTON HIRING**  
**(AGAINST CORPORATE DEFENDANT, DEFENDANT JOHN “DAVE” LABELLE**  
**AND DEFENDANT DANNY HIGDON)**

364. Pennington re-alleges and incorporates by reference each and every allegation contained in each and every aforementioned paragraph as though fully set forth herein.

365. This claim arises under the law of the State of Tennessee to redress the negligent and/or wanton hiring of male employees and managers by Defendants named in this count.

366. Upon information and belief, there is evidence that various employees of Fairfield were unfit for particular jobs in which they were employed.

367. Upon information and belief, there is evidence that certain applicants for employment by Fairfield, if hired, would pose an unreasonable risk to others.

368. Upon information and belief there is evidence that the Defendants named in this count knew or should have known that the historical wrongdoing of the applicant would likely be repetitive.

369. Such conduct proximately and directly caused Pennington to suffer severe emotional distress for which each claims compensatory and punitive damages from Defendants named in this count.

**COUNT XV**  
**INTENTIONAL OR RECKLESS INFLICTION OF EMOTIONAL DISTRESS**  
**(AGAINST ALL DEFENDANTS)**

370. Pennington re-alleges and incorporates by reference each and every allegation contained in each and every aforementioned paragraph as though fully set forth herein.

371. This claim arises under the laws of the State of Tennessee to redress intentional or reckless infliction of emotional distress violations by the Individual Defendants upon Pennington and the Fairfield's ratification of that conduct.

372. Employees of Fairfield intentionally or recklessly inflicted emotional distress upon Pennington.

373. The conduct of Fairfield's employees was so extreme and outrageous that it clearly exceeded the bounds of decency making this behavior intolerable in a civilized society.

374. This intentional or reckless infliction of emotional distress resulted in severe mental injuries to Pennington.

375. Such conduct proximately caused Pennington to suffer humiliation, embarrassment, degradation, shock, outrage and serious emotional distress for which Pennington claims compensatory and punitive damages from Defendants.

**COUNT XVI**  
**RESPONDEAT SUPERIOR**  
**(AGAINST CORPORATE DEFENDANT)**

376. Pennington re-alleges and incorporates by reference each and every allegation contained in each and every aforementioned paragraph as though fully set forth herein.

377. This claim arises under the law of the State of Tennessee to redress harm suffered by Pennington and/or Fairfield's ratification of the conduct causing that harm.

378. Fairfield is liable for their employees' unlawful acts, including, but not limited to, intentional or reckless infliction of emotional distress against Pennington within the course and scope of their employment.

379. The wrongful acts and omissions by Fairfield's employees described in this Complaint were carried out in the scope of such employees' employment and in furtherance of the Fairfield's business.

380. Fairfield condoned, authorized and/or ratified such conduct.

381. Such conduct directly and proximately caused Pennington to suffer severe emotional distress for which Pennington claims compensatory and punitive damages from Fairfield.

**PRAYER FOR RELIEF FOR INDIVIDUAL PLAINTIFF PENNINGTON**

WHEREFORE, Plaintiff George "Chip" Pennington prays that this Court:

382. Issue a permanent injunction against Fairfield and its partners, officers, trustees, owners, employees, agents, attorneys, successors, assigns, representatives and any and all persons acting in concert with them from engaging in any further unlawful practices, policies, customs, usages and any conduct violating Plaintiff's rights or the rights of others similarly situated as secured by 42 U.S.C. §§ 2000e et seq., and order such injunctive relief as will prevent

Fairfield from continuing its discriminatory and retaliatory practices and protect others similarly situated;

383. Declare and adjudge that Fairfield has violated Plaintiff's rights under Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e-5(f), et seq., as amended ("Title VII");

384. Declare and adjudge that Defendants negligently and/or wantonly failed to adequately supervise and train, and negligently and/or wantonly retained employees;

385. Declare and adjudge that Defendants negligently and/or wantonly hired employees;

386. Declare and adjudge that Defendants intentionally inflicted emotional distress on Plaintiff;

387. Award Plaintiff nominal damages;

388. Award Plaintiff compensatory damages;

389. Award Plaintiff punitive damages;

390. Award back pay, front pay, lost benefits, preferential rights to jobs and other damages for lost compensation and job benefits with pre-judgment and post-judgment interest suffered by Plaintiff to be determined at trial;

391. Order Defendants to make whole Plaintiff by providing him appropriate past and future lost earnings and benefits with the pre-judgment and post-judgment interest, and other affirmative relief;

392. Award Plaintiff the costs and expenses of this action, including, but not limited to, reasonable attorneys' fees and expenses; and

393. Award Plaintiff any such additional and further relief as this Court deems just and proper.

**Individual Counts for Plaintiff Shannon Matthews**

**COUNT XVII**  
**VIOLATION OF TITLE VII 42 U.S.C. §§ 2000e et seq.**  
**SEXUAL HARASSMENT**  
**(AGAINST CORPORATE DEFENDANT)**

394. Matthews re-alleges and incorporates by reference each and every allegation contained in each and every aforementioned paragraph as though fully set forth herein.

395. Fairfield has discriminated against Matthews by permitting an ongoing and pervasive pattern and practice of sexual harassment against Matthews by creating and maintaining a sexually hostile work environment, in violation of 42 U.S.C. § 2000e et seq.

396. Fairfield's conduct has been intentional, deliberate, willful, malicious, reckless and conducted in callous disregard of the rights of Matthews.

397. As a direct and proximate result of Fairfield's aforementioned conduct, Matthews was damaged and suffered economic losses, mental and emotional harm, anguish and humiliation.

398. By reason of the continuous nature of Fairfield's discriminatory conduct, persistent throughout Matthews' employment, Matthews is entitled to application of the continuing violation doctrine to all of the violations alleged herein.

399. By reason of the sexual harassment suffered at Fairfield, Matthews is entitled to all legal and equitable remedies available under Title VII.

**COUNT XVIII**  
**VIOLATION OF TITLE VII 42 U.S.C. §§ 2000e et seq.**  
**GENDER DISCRIMINATION**  
**(AGAINST CORPORATE DEFENDANT)**

400. Individual Plaintiff Shannon Matthews re-alleges and incorporates by reference each and every allegation contained in each and every aforementioned paragraph as though fully set forth herein.

401. Fairfield has discriminated against Matthews by treating her differently from and less preferably than similarly situated male employees and subjecting her to discriminatory denials of promotions, discriminatory compensation policies, differential treatment, disparate terms and conditions of employment, hostile work environments and other forms of discrimination in violation of Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e-5(f), et seq., as amended (“Title VII”).

402. Fairfield’s conduct has been intentional, deliberate, willful, reckless and conducted in callous disregard of the rights of Matthews.

403. Such conduct directly and proximately caused Matthews to be damaged and to suffer economic losses, mental and emotional harm, anguish and humiliation.

404. Fairfield’s policies and practices have produced a disparate impact against Matthews with respect to the terms and conditions of employment.

405. By reason of the continuous nature of Fairfield’s discriminatory conduct, persistent throughout Matthew’s employment, Matthews is entitled to application of the continuing violation doctrine to all of the violations alleged herein.

406. By reason of the discrimination suffered at Fairfield, Matthews is entitled to all legal and equitable remedies available under Title VII.

**COUNT XIX**  
**VIOLATION OF 42 U.S.C. §§ 2000e et seq.**  
**RETALIATION**  
**(AGAINST CORPORATE DEFENDANT)**

407. Matthews re-alleges and incorporates by reference each and every allegation contained in each and every aforementioned paragraph as though fully set forth herein.

408. Fairfield has retaliated against Matthews because she insisted upon a work environment free of sexual harassment and gender discrimination and also because she complained about sexual harassment and gender discrimination.

409. Fairfield has retaliated against Matthews by subjecting her to adverse employment actions, including but not limited to, disparate terms and conditions of employment, sexual harassment, a hostile work environment and/or other forms of discrimination in violation of Title VII.

410. Fairfield's actions were intentional, willful, reckless and done with callous disregard of causing harm to Matthews, and she is therefore entitled to punitive damages.

411. Such conduct directly and proximately caused Matthews to suffer severe emotional distress for which she claims compensatory and punitive damages from Fairfield.

412. Due to Fairfield's retaliation, Matthews is entitled to all legal and equitable remedies available under Title VII.

**COUNT XX**  
**INVASION OF PRIVACY**  
**(AGAINST CORPORATE DEFENDANT AND**  
**DEFENDANT MICKEY RUGGIERO)**

413. Matthews re-alleges and incorporates by reference each and every allegation contained in each and every aforementioned paragraph as though fully set forth herein.

414. This claim arises under the laws of the State of Tennessee to redress violation by the Fairfield's male employees, in particular Individual Defendant Mickey Ruggiero, of Matthews' right to privacy and Fairfield's ratification of that conduct.

415. Employees of Fairfield, in particular Mickey Ruggiero, intentionally intruded, physically or otherwise, upon the solitude, seclusion or the private affairs or concerns of Matthews.

416. Employees of Fairfield should have realized that their conduct would be highly offensive to reasonable persons.

417. This intrusion of employees of Fairfield goes beyond the limits of decency.

418. Fairfield knew or should have known of its employees' unlawful conduct.

419. Such conduct directly and proximately caused Matthews to suffer severe emotional distress for which she claims compensatory and punitive damages from Defendants.

**COUNT XXI**  
**INTENTIONAL AND RECKLESS INFLICTION OF EMOTIONAL DISTRESS**  
**(AGAINST ALL DEFENDANTS)**

420. Matthews re-alleges and incorporates by reference each and every allegation contained in each and every aforementioned paragraph as though fully set forth herein.

421. This claim arises under the laws of the State of Tennessee to redress the intentional or reckless infliction of emotional distress violations by male employees of Fairfield upon Matthews and Fairfield's ratification of that conduct.

422. Employees of Fairfield intentionally or recklessly inflicted emotional distress upon Matthews.

423. The conduct of the Fairfield's employees was so extreme and outrageous that it clearly exceeded the bounds of decency making this behavior intolerable in a civilized society.

424. This intentional or reckless infliction of emotional distress resulted in severe mental injuries to Matthews.

425. Such conduct directly and proximately caused Matthews to suffer severe emotional distress for which she claims compensatory and punitive damages from Defendants.

**COUNT XXII**  
**NEGLIGENT AND/OR WANTON HIRING**  
**(AGAINST CORPORATE DEFENDANT, DEFENDANT JOHN “DAVE” LABELLE**  
**AND DEFENDANT DANNY HIGDON)**

426. Matthews re-alleges and incorporates by reference each and every allegation contained in each and every aforementioned paragraph as though fully set forth herein.

427. This claim arises under the laws of the State of Tennessee to redress the negligent and/or wanton hiring of male employees and managers by Fairfield.

428. Upon information and belief, there is evidence that various employees of Fairfield were unfit for particular jobs in which they were employed.

429. Upon information and belief, there is evidence that certain applicants for employment by the Fairfield, if hired, would pose an unreasonable risk to others.

430. Upon information and belief there is evidence that Fairfield knew or should have known that the historical wrong doing of the applicant would likely be repetitive.

431. Such conduct directly and proximately caused Matthews to suffer severe emotional distress for which she claims compensatory and punitive damages from Defendants named in this Count.

**COUNT XXIII**  
**RESPONDEAT SUPERIOR**  
**(AGAINST CORPORATE DEFENDANT)**

432. Matthews re-alleges and incorporates by reference each and every allegation contained in each and every aforementioned paragraph as though fully set forth herein.

433. This is a claim arising under the laws of the State of Tennessee to redress harm suffered by Matthews and/or Fairfield’s ratification of the conduct causing that harm.

434. Fairfield is liable for their employees’ unlawful acts, including, but not limited to, intentional or reckless infliction of emotional distress and/or invasion of privacy against Matthews within the course and scope of their employment.

435. The wrongful acts and omissions by Fairfield's employees described in this Complaint were carried out in the scope of such employees' employment and in furtherance of the Fairfield's business.

436. Such conduct directly and proximately caused Matthews to suffer great emotional distress for which she claims compensatory and punitive damages from Fairfield.

**PRAYER FOR RELIEF FOR INDIVIDUAL PLAINTIFF SHANNON MATTHEWS**

WHEREFORE, Plaintiff Shannon Matthews prays that this Court:

437. Issue a permanent injunction against Fairfield and its partners, officers, trustees, owners, employees, agents, attorneys, successors, assigns, representatives and any and all persons acting in concert with them from engaging in any further unlawful practices, policies, customs, usages and any conduct violating Plaintiff's rights or the rights of others similarly situated as secured by 42 U.S.C. §§ 2000e et seq., and order such injunctive relief as will prevent Fairfield from continuing its discriminatory and retaliatory practices and protect others similarly situated;

438. Declare and adjudge that Fairfield has violated Plaintiff's rights under Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e-5(f), et seq., as amended ("Title VII");

439. Declare and adjudge that Defendants negligently and/or wantonly failed to adequately supervise and train, and negligently and/or wantonly retained employees;

440. Declare and adjudge that Defendants negligently and/or wantonly hired employees;

441. Declare and adjudge that Defendants intentionally inflicted emotional distress on Plaintiff;

442. Declare and adjudge that Defendants intentionally invaded Plaintiff's privacy;

443. Award Plaintiff nominal damages;

444. Award Plaintiff compensatory damages;
445. Award Plaintiff punitive damages;
446. Award back pay, front pay, lost benefits, preferential rights to jobs and other damages for lost compensation and job benefits with pre-judgment and post-judgment interest suffered by Plaintiff to be determined at trial;
447. Order Defendants to make whole Plaintiff by providing her appropriate past and future lost earnings and benefits, with the pre-judgment and post-judgment interest, and other affirmative relief;
448. Award Plaintiff the costs and expenses of this action, including, but not limited to, reasonable attorneys' fees and expenses; and
449. Award Plaintiff any such additional and further relief as this Court deems just and proper.

## **XII. JURY DEMAND**

Plaintiffs hereby request a trial by jury.

Respectfully submitted this 17th day of February, 2005.

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**CERTIFICATE OF SERVICE**

I HEREBY certify that a copy of the foregoing has been served on February 17, 2005  
via United States Mail in a prepaid envelope, correctly addressed to the following:

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