

Douglas A. Pierce #8116  
JAMES, VERNON & WEEKS, P.A.  
Attorneys at Law  
1612 Lincoln Way  
Coeur d'Alene, ID 83814  
Telephone: (208) 667-0683  
Fax: (208) 664-1684  
Attorney for Plaintiff

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF  
IDAHO

STACIE WARD,

vs.

RED ROBIN INTERNATIONAL, INC.

Defendants.

CASE NO.: 15-168

COMPLAINT

COMES NOW the above named Plaintiff by and through her attorney of record Douglas A. Pierce of James, Vernon & Weeks, P.A. and for the claim against the Defendant, complains and alleges as follows:

PARTIES

Plaintiff, Stacie Ward, (hereinafter Plaintiff, Stacie or Ward) is a resident of Kootenai County, Idaho. At all material times herein, she was employed by the Defendant in Idaho.

Defendant, Red Robin International, Inc., DBA Red Robin Gourmet Burgers & Restaurant (hereinafter Defendant or Red Robin) is a Nevada corporation with

headquarters at 6312 S. Fiddlers Green Circle, Suite 200 North, Greenwood Village, CO 80111. It receives service of process at its Idaho Registered Agent, Corporation Service Company, 12550 W. Explorer Drive, Suite 100, Boise, Idaho 83713. Red Robin maintains hundreds of stores nationwide, and the store at issue in this lawsuit is the one located in Coeur d'Alene, Idaho.

### ALLEGATION OF JURISDICTION

#### I.

At all times relevant hereto, Plaintiff was a resident of the County of Kootenai, State of Idaho and was an employee of the Defendant.

#### II.

At all times relevant hereto, Defendant Red Robin was resident of the State of Colorado and a Nevada corporation. Red Robin maintains fifteen or more employees for each working day in each of twenty or more calendar weeks in the current or preceding (and applicable) years and is therefore an "employer" under the United States Code.

#### III.

The United States District Court of Idaho maintains jurisdiction because the Plaintiff resides in Idaho, and the lawsuit is based upon the federal question of retaliation under Title VII of the Civil Rights Act of 1964, specifically codified at 42 U.S.C. §2000e-5(f)(3). Equitable and other relief are also sought under 42 U.S.C. §2000e-5(g).

The United States Equal Employment Opportunity Commission, Seattle

Field Office, issued Stacie her right to sue on February 26, 2015. Said "Notice of Right To Sue" is attached herein as Attachment A.

IV.

The Federal District Court also has jurisdiction under 28 USC §1332 as parties reside in different states and the matter in controversy exceeds, exclusive of interest and costs, the sum specified by said statute.

GENERAL ALLEGATIONS

V.

On or about October 27, 2012, Red Robin terminated, for cause, Stacie's employment. Said Termination was under false pretenses and was wrongful in that it violated state and federal law.

VI.

Stacie was hired by Red Robin on about June, 2001. She was hired at the Bellingham, Washington store and then worked at about ten different Red Robins in various cities west of the Rockies including Las Vegas, Layton Utah, and several cities in Washington.

VII.

On or about the spring of 2007, Red Robin opened the store in the River Stone development in Coeur d'Alene, Idaho. Stacie was working at the Spokane Valley store at the time, and Red Robin asked her to help open the Coeur d'Alene store. She loved working for Red Robin and was both flattered and excited to move the 25 miles to help be part of a brand new team.

VIII.

Stacie's official title at the Coeur d'Alene store for her entire tenure was Lead Bartender and she was a certified trainer. She handled the screening for all new hires for the entire store when it opened, then as things got going, she focused primarily on the bar. Stacie also maintained the bar schedule and was the screener and first interviewer for most if not all bartenders, and most other employees. Although she did not have final say on who Red Robin would offer a position, that responsibility was left to the General Manager and Assistant GM of the store.

IX.

During her tenure at the store in Coeur d'Alene, Stacie would suggest that persons of color be hired. By information and belief, the only person of color ever employed in the bar at the Coeur d'Alene store was a gentleman named Dana, who Stacie brought from the Spokane Valley store at the onset of the Coeur d'Alene store. Against Stacie's wishes, Dana was fired shortly after the store's opening.

X.

Specifically regarding Dana: when Red Robin fired him, Stacie was told that he had been wearing headphones while on duty, which usually even if true, only merits a warning. During the discussion, Stacie disagreed with the allegation that Dana was wearing headphones while on duty, and at the time, wondered why Management really fired him.

XI.

On or about late summer 2012, a male person of color who was a student at the local college in Coeur d'Alene, and met all pre-screening qualifications, applied

for a busing position. Stacie met with him and wanted to move him to the next phase of hiring, most likely a formal interview. Stacie asked the Assistant General Manager (now General Manager) to meet with him.

When the Assistant General Manager came out of the office, the prospective employee was waiting in a booth close to the front door. When Stacie pointed him out to the Assistant General Manager, assuming she would go talk to him, the Assistant General Manager shook her head in a "no" manner and said something along the lines of "we don't hire niggers in this store, that's why we fired Dana" and walked away. Stacie's reaction was both anger and amazement. She followed the Assistant General Manager and stood up to her however, and pointed out in no uncertain terms that that policy was wrong, she thought the gentleman would be a good employee. Stacie attempted to contact the District Manager prior to her termination. The District Manager did not return her calls.

## XII.

During the next week, tensions mounted between Stacie and the store management of Red Robin. Retaliation and harassment by the management ensued; such as making Stacie "re-apply" for her job, hyper critique her every move, and management logged multiple false notices that customers were complaining about Stacie.

## XIII.

Examples of the false allegations were that Stacie ran out of the store yelling at an employee for not leaving a tip, and telling a customer that if that customer returned her burger, Stacie would have to pay for it out of her own pocket.

XIV.

The General Manager Reed Faucet (wrongfully) terminated Stacie for cause on or about October 27, 2012. Also present at Stacie's termination was Alicia DiAgastino, the Assistant General Manager, and by information and belief, Ms. DiAgastino is now General Manager of the Coeur d'Alene store.

XV.

Stacie filed a complaint with the Idaho Human Rights Commission/EEOC. The EEOC conducted its investigation, and found probable cause that Red Robin had retaliated against her and issued its Right To Sue letter on February 26, 2015.

WRONGFUL DISCHARGE / RETALIATION CLAIM – I.C. §67-5901 et seq.

XVI.

Red Robin's termination of Stacie's employment was wrongful and against the Idaho Code, specifically §67-5911 which states in part: "It shall be unlawful for a person or any business entity subject to regulation by this chapter to discriminate against any individual because he or she has opposed any practice unlawful by this chapter ..."

Firing Dana and later refusing to interview a person of color violated I.C. §67-5909 which states in part "It shall be a prohibited act to discriminate against a person because of, or on a basis of race, color ... in any of the following subsections." Subsection (1) states "For an employer to fail or refuse to hire, to discharge, or to otherwise discriminate against an individual with respect to compensation or the terms, conditions or privileges of employment or to reduce the wage of any employee in order to comply with this chapter."

In sum, Red Robin is an employer according to I.C. §67-5902(6). It discriminated against Dana by firing him, and the college student by not interviewing him after Stacie recommended him. Both discriminations were based upon race and/or color. When Stacie was told that Red Robin doesn't hire "niggers," and she verbally told management that was wrong, she opposed an unlawful practice. Shortly after that, she was wrongfully terminated under false pretenses, and Red Robin broke the law in doing so, and also caused Stacie damages.

XVII.

WRONGFUL DISCHARGE / RETALIATION CLAIM – 42 U.S.C. §2000e- et seq.

Firing Dana and later refusing to interview a person of color violated the United States Code, specifically 42 USC §2000e-2(a) which states in part: "It shall be an unlawful employment practice for an employer-- (1) to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, or national origin"

Red Robin's termination of Stacie's employment was wrongful and against the United States Code, specifically 42 U.S.C. §2000e-3 which states in part: "(a) Discrimination for making charges, testifying, assisting, or participating in enforcement proceedings - It shall be an unlawful employment practice for an employer to discriminate against any of his employees ... because he has opposed any practice made an unlawful employment practice by this subchapter, or because he has made a charge, testified, assisted, or participated in any manner in an

investigation, proceeding, or hearing under this subchapter."

In sum, Red Robin is an employer according to 42 U.S.C. §2000e(b). It discriminated against Dana by firing him, and the college student by not interviewing him after Stacie recommended him. Both discriminations were based upon race and/or color. When Stacie was told that Red Robin doesn't hire "niggers," and she verbally told management that was wrong, she opposed an unlawful practice. Shortly after that, Red Robin wrongfully terminated under false pretenses, and Red Robin broke the law in doing so, and also caused Stacie damages.

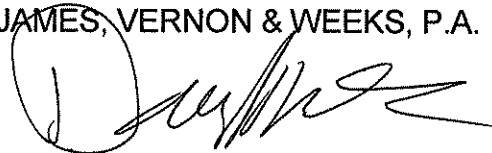
PRAYER FOR RELIEF

XVII.

WHEREFORE Plaintiffs pray for judgment against the Defendant in said sums that will fully and fairly compensate her for her injuries and damages as mentioned above, including but not limited to past and future lost wages, and damages which occurred because she was unemployed, together with attorney's fees, costs and interest, and such other relief as the Court may deem appropriate.

Dated this 18<sup>th</sup> day of May, 2015.

JAMES, VERNON & WEEKS, P.A.

A handwritten signature in black ink, appearing to read 'Douglas A. Pierce', is written over a circular stamp or seal.

Douglas A. Pierce, ISB # 8116  
Attorney for Plaintiff



# Attachment A

## U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

NOTICE OF RIGHT TO SUE  
(CONCILIATION FAILURE)

To: Stacie L. Ward  
1155 West Deschutes Ave  
Post Falls, ID 83854

From: Seattle Field Office  
909 First Avenue  
Suite 400  
Seattle, WA 98104



On behalf of person(s) aggrieved whose identity is  
CONFIDENTIAL (29 CFR §1601.7(a))

EEOC Charge No.

EEOC Representative

Telephone No.

551-2013-00179

Meiju N. Ong,  
Intake Supervisor

(206) 220-6913

## TO THE PERSON AGGRIEVED:

This notice concludes the EEOC's processing of the above-numbered charge. The EEOC found reasonable cause to believe that violations of the statute(s) occurred with respect to some or all of the matters alleged in the charge but could not obtain a settlement with the Respondent that would provide relief for you. In addition, the EEOC has decided that it will not bring suit against the Respondent at this time based on this charge and will close its file in this case. This does not mean that the EEOC is certifying that the Respondent is in compliance with the law, or that the EEOC will not sue the Respondent later or intervene later in your lawsuit if you decide to sue on your own behalf.

## - NOTICE OF SUIT RIGHTS -

(See the additional information attached to this form.)

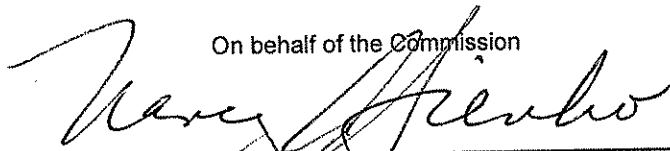
**Title VII, the Americans with Disabilities Act, the Genetic Information Nondiscrimination Act, or the Age Discrimination in Employment Act:** This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit **must be filed WITHIN 90 DAYS of your receipt of this notice**; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

5/27/15 ON.

**Equal Pay Act (EPA):** EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that **backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.**

If you file suit, based on this charge, please send a copy of your court complaint to this office.

On behalf of the Commission



FEB 26 2015

Enclosures(s)

Nancy A. Sienko,  
Director

(Date Mailed)

cc: RED ROBIN  
c/o Daniel Boyer, Attorney  
222 SW Columbia Street, Suite 1500  
Portland, OR 97201

JAMES, VERNON & WEEKS P.A.  
ATTN: Douglas Pierce, Attorney  
1626 Lincoln Way  
Coeur D' Alene, ID 83814

RECEIVED

MAR 02 2015

JAMES, VERNON  
& WEEKS, P.A.

**INFORMATION RELATED TO FILING SUIT  
UNDER THE LAWS ENFORCED BY THE EEOC**

*(This information relates to filing suit in Federal or State court under Federal law.  
If you also plan to sue claiming violations of State law, please be aware that time limits and other  
provisions of State law may be shorter or more limited than those described below.)*

**PRIVATE SUIT RIGHTS -- Title VII of the Civil Rights Act, the Americans with Disabilities Act (ADA),  
the Genetic Information Nondiscrimination Act (GINA), or the Age  
Discrimination in Employment Act (ADEA):**

In order to pursue this matter further, you must file a lawsuit against the respondent(s) named in the charge **within 90 days of the date you receive this Notice**. Therefore, you should **keep a record of this date**. Once this 90-day period is over, your right to sue based on the charge referred to in this Notice will be lost. If you intend to consult an attorney, you should do so promptly. Give your attorney a copy of this Notice, and its envelope, and tell him or her the date you received it. Furthermore, in order to avoid any question that you did not act in a timely manner, it is prudent that your suit be filed **within 90 days of the date this Notice was mailed to you** (as indicated where the Notice is signed) or the date of the postmark, if later.

Your lawsuit may be filed in U.S. District Court or a State court of competent jurisdiction. (Usually, the appropriate State court is the general civil trial court.) Whether you file in Federal or State court is a matter for you to decide after talking to your attorney. Filing this Notice is not enough. You must file a "complaint" that contains a short statement of the facts of your case which shows that you are entitled to relief. Your suit may include any matter alleged in the charge or, to the extent permitted by court decisions, matters like or related to the matters alleged in the charge. Generally, suits are brought in the State where the alleged unlawful practice occurred, but in some cases can be brought where relevant employment records are kept, where the employment would have been, or where the respondent has its main office. If you have simple questions, you usually can get answers from the office of the clerk of the court where you are bringing suit, but do not expect that office to write your complaint or make legal strategy decisions for you.

**PRIVATE SUIT RIGHTS -- Equal Pay Act (EPA):**

EPA suits must be filed in court within 2 years (3 years for willful violations) of the alleged EPA underpayment: back pay due for violations that occurred **more than 2 years (3 years) before you file suit** may not be collectible. For example, if you were underpaid under the EPA for work performed from 7/1/08 to 12/1/08, you should file suit **before 7/1/10 -- not 12/1/10** -- in order to recover unpaid wages due for July 2008. This time limit for filing an EPA suit is separate from the 90-day filing period under Title VII, the ADA, GINA or the ADEA referred to above. Therefore, if you also plan to sue under Title VII, the ADA, GINA or the ADEA, in addition to suing on the EPA claim, suit must be filed within 90 days of this Notice and within the 2- or 3-year EPA back pay recovery period.

**ATTORNEY REPRESENTATION -- Title VII, the ADA or GINA:**

If you cannot afford or have been unable to obtain a lawyer to represent you, the U.S. District Court having jurisdiction in your case may, in limited circumstances, assist you in obtaining a lawyer. Requests for such assistance must be made to the U.S. District Court in the form and manner it requires (you should be prepared to explain in detail your efforts to retain an attorney). Requests should be made well before the end of the 90-day period mentioned above, because such requests do not relieve you of the requirement to bring suit within 90 days.

**ATTORNEY REFERRAL AND EEOC ASSISTANCE -- All Statutes:**

You may contact the EEOC representative shown on your Notice if you need help in finding a lawyer or if you have any questions about your legal rights, including advice on which U.S. District Court can hear your case. If you need to inspect or obtain a copy of information in EEOC's file on the charge, please request it promptly in writing and provide your charge number (as shown on your Notice). While EEOC destroys charge files after a certain time, all charge files are kept for at least 6 months after our last action on the case. Therefore, if you file suit and want to review the charge file, **please make your review request within 6 months of this Notice**. (Before filing suit, any request should be made within the next 90 days.)

***IF YOU FILE SUIT, PLEASE SEND A COPY OF YOUR COURT COMPLAINT TO THIS OFFICE.***