

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF KINGS

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IVAN RUIZ,	:
	:
	:
Plaintiff,	:
	:
- against -	:  Index No.
	:  Date Filed:
	:
THREE AND SEVENTY-THREE GOURMET, LTD.,	:
d/b/a DALLAS BBQ, BILL HARRIS,	: <u>SUMMONS</u>
AFZAL RAHMAN a/k/a "Shaheen", and JOHN DOES	:
# 1-10 and ABC Corporations # 1-10,	:
	:
Defendants.	:
	:
-----X	

TO: Three And Seventy-Three Gourmet, LTD., d/b/a Dallas BBQ  
1265 Third Avenue  
New York, New York 10021

YOU ARE HEREBY SUMMONED to answer the complaint in this action and to serve a copy of your answer on the Plaintiff's attorney within twenty (20) days after the service of this Summons, exclusive of the date of service, where service is made by delivery upon you personally within the State, or within thirty (30) days after completion of service where service is made in any other manner. In case of your failure to appear or to answer, judgment will be taken against you by default for the relief demanded in the complaint.

Plaintiff designates Kings County as the place of trial.

The basis for venue is Plaintiff's place of residence.

Dated: December 8, 2011  
New York, New York

BRONSON LIPSKY LLP  
Attorneys for Plaintiff  
630 Third Avenue, Third Floor  
New York, NY 10017-6705  
Phone: 212.392.4772

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 # 1-10 and ABC Corporations # 1-10, :  
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 Defendants. :  
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TO: Bill Harris  
C/O Three And Seventy-Three Gourmet, LTD., d/b/a Dallas BBQ  
1265 Third Avenue  
New York, New York 10021

YOU ARE HEREBY SUMMONED to answer the complaint in this action and to serve a copy of your answer on the Plaintiff's attorney within twenty (20) days after the service of this Summons, exclusive of the date of service, where service is made by delivery upon you personally within the State, or within thirty (30) days after completion of service where service is made in any other manner. In case of your failure to appear or to answer, judgment will be taken against you by default for the relief demanded in the complaint.

Plaintiff designates Kings County as the place of trial.

The basis for venue is Plaintiff's place of residence.

Dated: December 8, 2011  
New York, New York

BRONSON LIPSKY LLP  
Attorneys for Plaintiff  
630 Third Avenue, Third Floor  
New York, NY 10017-6705  
Phone: 212.392.4772

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 # 1-10 and ABC Corporations # 1-10, :  
 :  
 Defendants. :  
 :  
 :  
-----X

TO: Afzal Rahman  
C/O Three And Seventy-Three Gourmet, LTD., d/b/a Dallas BBQ  
1265 Third Avenue  
New York, New York 10021

YOU ARE HEREBY SUMMONED to answer the complaint in this action and to serve a copy of your answer on the Plaintiff's attorney within twenty (20) days after the service of this Summons, exclusive of the date of service, where service is made by delivery upon you personally within the State, or within thirty (30) days after completion of service where service is made in any other manner. In case of your failure to appear or to answer, judgment will be taken against you by default for the relief demanded in the complaint.

Plaintiff designates Kings County as the place of trial.

The basis for venue is Plaintiff's place of residence.

Dated: December 8, 2011  
New York, New York

BRONSON LIPSKY LLP  
Attorneys for Plaintiff  
630 Third Avenue, Third Floor  
New York, NY 10017-6705  
Phone: 212.392.4772

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	:
Defendants.	:
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Index No.

VERIFIED COMPLAINT

JURY TRIAL DEMANDED

Plaintiff, Ivan Ruiz, by and through his attorneys, Bronson Lipsky LLP, alleges for his Verified Complaint ("Complaint") as follows:

PARTIES

1. Plaintiff Ivan Ruiz ("Mr. Ruiz") is a resident of the State of New York, Kings County.
2. Three and Seventy-Three Gourmet, Ltd. ("Three and Seventy Three") d/b/a "Dallas BBQ" is, upon information and belief, a corporation organized and existing under the laws of the State of New York ("Dallas BBQ").
3. Defendant Bill Harris ("Harris") is upon information and belief, a resident of the State of New York.
4. Defendant Afzal Rahman (a/k/a "Shaheen") is, upon information and belief, a resident of the State of New York.
3. Upon information and belief, ABC Corporations # 1-10 represent the other corporate Defendants, whose identities are presently unknown, that owned, operated and/or

controlled the day-to-day operations and management of Dallas BBQ, and that jointly employed Plaintiff and are jointly and severally liable with the Defendants.

5. Upon information and belief, John Does # 1-10 represent the officers, directors and/or managing agents of Defendants, whose identities are unknown at this time and who participated in the day-to-day operations of Defendants and acted intentionally and maliciously and are jointly and severally liable with Defendants.

#### VENUE AND JURISDICTION

6. As Plaintiff Ivan Ruiz is a resident of Kings County, this matter is properly venued in Kings County.

7. A copy of this Complaint has been served upon the New York City Commission on Human Rights and upon Corporation Counsel.

#### NATURE OF ACTION

8. This is an action brought for monetary damages for pain, suffering, humiliation, lost wages and other compensation for the national origin discrimination, hostile work environment, *quid pro quo* sexual harassment, and retaliation committed by Defendants and their agents against Mr. Ruiz.

#### FACTS

9. Mr. Ruiz is a heterosexual male of Puerto Rican national origin.

10. Dallas BBQ is a corporation that owns and runs restaurants throughout New York, including one on 73rd Street and 3rd Avenue, New York, New York (the "Restaurant").

11. Three and Seventy-Three Gourmet, Ltd. is a company that owns and operates the Dallas BBQ Restaurant located at 73rd Street and 3rd Avenue, New York, New York.

12. In or about April 2011, Mr. Ruiz commenced employment with Dallas BBQ at its 73rd Street and 3rd Avenue, New York, New York location (the "Restaurant").

13. Mr. Ruiz's initial position at the Restaurant was as an "Expediter."
14. In his capacity as an Expediter, Mr. Ruiz was often entering and exiting the Restaurant's kitchen.
15. While in the kitchen, on multiple occasions, Dallas BBQ employees and supervisors made discriminatory remarks to Mr. Ruiz including, but not limited to, referring to him in Spanish as a "Stupid Puerto Rican," "faggot," and "a-- hole."
16. After weeks of enduring such comments, Mr. Ruiz reported this conduct to a supervisor, but the comments continued.
17. The General Manager of the Restaurant is Mr. Rahman, who is of Bengali national origin.
18. Upon information and belief, the General Manager of the Restaurant is the highest-ranking employee at the Restaurant.
19. In his capacity as the General Manager, Mr. Ruiz reported to Mr. Rahman and Mr. Rahman has supervisory control over Mr. Ruiz.
20. Mr. Rahman repeatedly made discriminatory remarks to Mr. Ruiz including, but not limited to, stating that Bengalis are smarter and better than everyone, including Puerto Ricans.
21. Mr. Rahman repeatedly scheduled Dallas BBQ employees who are of Bengali national origin for the most lucrative shifts at the Restaurant.
22. Mr. Rahman, on more than one occasion, in front of Mr. Ruiz and other Dallas BBQ employees, would point to African American customers of the Restaurant and remark, in sum and substance, how "Blacks are dirty and cheap."
23. Mr. Rahman, on more than one occasion, in front of Mr. Ruiz and other Dallas BBQ employees, would point to Hispanic customers at the Restaurant and make discriminatory

comments including, but not limited to, “Hispanics are uneducated and just have babies and we have to pay for them.”

24. Bill Harris is a Dallas BBQ employee who is a Manager of the Restaurant.

25. In his capacity as a manager, Mr. Ruiz reports to Mr. Harris and Mr. Harris has supervisory control over Mr. Ruiz.

26. Mr. Harris frequently subjected Mr. Ruiz to unwanted, unsolicited sexual advances, comments and contact.

27. On more than one occasion, Mr. Harris rubbed Mr. Ruiz’s shoulders and stomach.

28. On more than one occasion, Mr. Harris remarked to Mr. Ruiz, in sum and substance, “Oh, the things I would do to you.”

29. On multiple occasions, Mr. Harris would show Mr. Ruiz pictures on his phone of naked men that he had sex with.

30. On multiple occasions, Mr. Harris would describe in graphic detail for Mr. Ruiz sexual encounters Mr. Harris would have with men

31. Mr. Ruiz rejected each sexual advance by Mr. Harris.

32. Mr. Harris retaliated against Mr. Ruiz in numerous ways for rejecting his sexual advances.

33. Mr. Harris’ retaliatory actions include, without limitation, eliminating some of Mr. Ruiz’s shifts, sending him home before his shifts were over, not assigning him to more lucrative tables, such as large parties, and suspending him.

34. Upon returning from suspension, Mr. Harris stated to Mr. Ruiz, in sum and substance, “So, are you going to be my b-tch again?”

35. Before Mr. Ruiz worked for Dallas BBQ, Dallas BBQ has been aware of Mr. Harris and Mr. Rahman’s pattern of unlawful conduct.

36. Mr. Rahman has subjected Mr. Ruiz to discriminatory remarks and conduct beyond the incidents identified herein.

37. On September 21, 2011, Mr. Ruiz, through a letter from his counsel, complained to Dallas BBQ of the unlawful sexual harassment and discrimination he was being subjected to.

38. In response to and because of Mr. Ruiz's September 21, 2011 complaint to Dallas BBQ, Dallas BBQ retaliated against Mr. Ruiz in several ways including, but not limited to, Dallas BBQ managers threatening Dallas BBQ employees with the terms and conditions of their employment if they speak with Mr. Ruiz in connection with his September 21, 2011 complaint, reducing his work schedule, scheduling him for shifts that traditionally generate the least amount of money, and assigning him to work sections at Dallas BBQ that traditionally generate the least amount of money.

39. Mr. Harris has subjected Mr. Ruiz to harassing remarks and conduct beyond the incidents identified herein.

40. Mr. Harris' and Mr. Rahman's conduct has caused Mr. Ruiz to suffer emotional distress.

41. Mr. Harris' and Mr. Rahman's conduct was intentionally done to cause Mr. Ruiz emotional distress.

42. As a result of the foregoing, Mr. Ruiz has been denied employment, has lost wages, benefits, promotional opportunities and bonus, has suffered mental anguish, emotional distress, and has incurred damages thereby.

43. Defendants have subjected Mr. Ruiz to retaliatory conduct that is reasonably likely to deter other employees from engaging in protected activity.



AS AND FOR MR. RUIZ'S FIRST CAUSE OF ACTION AGAINST  
DEFENDANTS FOR NATIONAL ORIGIN DISCRIMINATION  
UNDER NEW YORK STATE HUMAN RIGHTS LAW

44. Mr. Ruiz incorporates by reference the preceding paragraphs of the Complaint as if fully set forth herein

45. Defendants discriminated against Mr. Ruiz on the basis of his national origin, Puerto Rican.

46. Mr. Ruiz has been caused to suffer severe emotional and economic damages as a result of this conduct.

47. By and through their course of conduct, Defendants and their agents have discriminated against Mr. Ruiz on the basis of his national origin with respect to his employment terms, working conditions and privileges of employment, violating the New York State Human Rights Law, §§ 296 *et seq.* of the New York State Executive Law.

AS AND FOR MR. RUIZ'S SECOND CAUSE OF ACTION AGAINST  
DEFENDANTS FOR NATIONAL ORIGIN DISCRIMINATION  
UNDER NEW YORK CITY HUMAN RIGHTS LAW

48. Mr. Ruiz incorporates by reference the preceding paragraphs of the Complaint as if fully set forth herein.

49. Defendants discriminated against Mr. Ruiz on the basis of his national origin.

50. Mr. Ruiz has been caused to suffer severe emotional and economic damages as a result of this conduct.

51. By and through their course of conduct, Defendants and their agents have discriminated against Mr. Ruiz on the basis of his national origin with respect to his employment terms, working conditions and privileges of employment, violating the New York City Human Rights Law, §§ 8-101 *et seq.* of the New York City Administrative Code §§ 296 *et seq.*

AS AND FOR MR. RUIZ'S THIRD CAUSE OF ACTION AGAINST  
DEFENDANTS RAHMAN FOR AIDING AND ABETTING NATIONAL ORIGIN  
DISCRIMINATION UNDER NEW YORK STATE HUMAN RIGHTS LAW

52. Mr. Ruiz incorporates by reference the preceding paragraphs of the Complaint as if fully set forth herein.

53. By and through his course of conduct, Defendant Rahman aided and abetted the national origin discrimination against Mr. Ruiz with respect to his employment terms, working conditions and privileges of employment, violating the New York State Human Rights Law §§ 296 *et seq.* of the New York State Executive Law.

AS AND FOR MR. RUIZ'S FOURTH CAUSE OF ACTION AGAINST  
DEFENDANT RAHMAN FOR AIDING AND ABETTING NATIONAL ORIGIN  
DISCRIMINATION UNDER NEW YORK CITY HUMAN RIGHTS LAW

54. Mr. Ruiz incorporates by reference the preceding paragraphs of the Complaint as if fully set forth herein.

55. By and through his course of conduct, Defendant Rahman aided and abetted the national origin discrimination against Mr. Ruiz with respect to his employment terms, working conditions and privileges of employment, violating the New York City Human Rights Law, §§ 8-101 *et seq.* of the New York City Administrative Code §§ 296 *et seq.*

AS AND FOR MR. RUIZ'S FIFTH CAUSE OF ACTION AGAINST  
DEFENDANTS FOR HOSTILE WORK ENVIRONMENT SEXUAL  
HARASSMENT UNDER NEW YORK STATE HUMAN RIGHTS LAW

56. Mr. Ruiz incorporates by reference the preceding paragraphs of the Complaint as if fully set forth herein.

57. Defendants discriminated against Mr. Ruiz because of his gender and/or sexual orientation.

58. Mr. Ruiz was subjected to a severe or pervasive hostile work environment that was calculated to make it extremely difficult to perform the functions of his job.

59. Mr. Ruiz's sexual orientation and/or gender was a motivating factor in the work environment Mr. Ruiz was forced to endure, Harris' conduct towards him, and the denial of compensation.

60. Mr. Ruiz has been caused to suffer severe emotional and economic damages as a result of this conduct.

61. Defendants knew or had reason to believe that Mr. Ruiz would suffer extreme emotional distress, anxiety and humiliation as a result of Defendants' conduct.

62. By and through their course of conduct, Defendants and their agents have discriminated against Mr. Ruiz on the basis of his sexual orientation and/or gender with respect to his employment terms, working conditions and privileges of employment, violating the New York State Human Rights Law, §§ 296 *et seq.* of the New York State Executive Law.

AS AND FOR MR. RUIZ'S SIXTH CAUSE OF ACTION AGAINST  
DEFENDANTS FOR HOSTILE WORK ENVIRONMENT SEXUAL HARASSMENT  
UNDER NEW YORK CITY HUMAN RIGHTS LAW

63. Mr. Ruiz incorporates by reference the preceding paragraphs of the Complaint as if fully set forth herein.

64. Defendants discriminated against Mr. Ruiz because of his gender and/or sexual orientation.

65. Mr. Ruiz was subjected to a severe or pervasive hostile work environment that was calculated to make it extremely difficult to perform the functions of his job.

66. Mr. Ruiz's gender and/or sexual orientation was a motivating factor in the work environment Mr. Ruiz was forced to endure, Harris' conduct towards him, and the denial of compensation.

67. Mr. Ruiz has been caused to suffer severe emotional and economic damages as a result of this conduct.

68. Defendants knew or had reason to believe that Mr. Ruiz would suffer extreme emotional distress, anxiety and humiliation as a result of Defendants' conduct.

69. By and through their course of conduct, Defendants and their agents have discriminated against Mr. Ruiz on the basis of his gender and/or sexual orientation with respect to his employment terms, working conditions and privileges of employment, violating the New York City Human Rights Law, §§ 8-101 *et seq.* of the New York City Administrative Code §§ 296 *et seq.*

AS AND FOR MR. RUIZ'S SEVENTH CAUSE OF ACTION AGAINST  
DEFENDANTS FOR RETALIATION UNDER NEW YORK STATE HUMAN RIGHTS LAW

70. Mr. Ruiz incorporates by reference the preceding paragraphs of the Complaint as if fully set forth herein.

71. Mr. Ruiz complained that he was being treated unfairly due to his gender and/or sexual orientation.

72. Mr. Ruiz's complaint of unfair treatment was a motivating factor in being denied compensation and being subjected to harassing and discriminatory remarks.

73. Defendants discriminated and retaliated against Mr. Ruiz with respect to his employment terms, working conditions and privileges of employment, violating the New York State Human Rights Law, §§ 296 *et seq.* of the New York State Executive Law.

AS AND FOR MR. RUIZ'S EIGHTH CAUSE OF ACTION AGAINST DEFENDANTS FOR  
RETALIATION UNDER NEW YORK CITY HUMAN RIGHTS LAW

74. Mr. Ruiz incorporates by reference the preceding paragraphs of the Complaint as if fully set forth herein.

75. Mr. Ruiz complained that he was being treated unfairly due to his gender and/or sexual orientation.

76. Mr. Ruiz's complaint of unfair treatment was a motivating factor in being denied compensation and being subjected to harassing and discriminatory remarks.

77. Defendants discriminated and retaliated against Mr. Ruiz with respect to his employment terms, working conditions and privileges of employment, violating the New York City Human Rights Law, §§ 8-101 *et seq.* of the New York City Administrative Code §§ 296 *et seq.*

WHEREFORE, Mr. Ruiz prays that this Court grant judgment to him containing the following relief:

1. Accepts jurisdiction over this matter;
2. Impanels and charges a jury with respect to the causes of action;
3. Awards the following damages jointly and severally against the Defendants:
  - a. Back pay, front pay, and all benefits along with pre and post judgment interest in the amount of five hundred thousand dollars and zero cents (\$500,000.00);
  - b. Punitive, liquidated and compensatory damages including, but not limited to, damages for pain and suffering, anxiety, humiliation, physical injury and emotional distress in order to compensate him for the injuries he has suffered and to signal to other employers that discrimination, hostile work environment and retaliation are repulsive to legislative enactments in the amount of five hundred thousand dollars and zero cents (\$500,000.00);
  - c. Attorneys' fees, costs and expenses to the fullest extent permitted by law; and
  - d. Any other relief that this Court deems just and equitable.

Dated: December 8, 2011

BRONSON LIPSKY LLP

By 

Douglas Lipsky

630 Third Avenue, Fifth Floor  
New York, New York 10017-6705  
(212) 392-4772

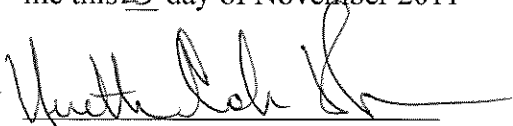
Attorneys for Plaintiff Ivan Ruiz

STATE OF NEW YORK  
CITY OF NEW YORK  
COUNTY OF NEW YORK

Ivan Ruiz, being duly sworn, states that he is the Plaintiff in this action and that the foregoing Complaint is true to his own knowledge, except as to matters therein stated to be alleged on information and belief and as to those matters he believes it to be true.

  
Ivan Ruiz

Sworn to and subscribed before  
me this 25<sup>th</sup> day of November 2011



Notary Public

YVETTE COLON - OS 462A  
NOTARY PUBLIC, State of New York  
Reg. No. 01CO8033282  
Qualified in Bronx County  
Commission Expires Nov. 15, 2013