	Case 2:20-cv-01595-ESW Document :	1 Filed 08/12/20 Page 1 of 10		
1				
1	Jason Barrat; AZ Bar No. 029086 Jessica Miller; AZ Bar No. 031005			
2	ZOLDAN LAW GROUP, PLLC			
3	14500 N. Northsight Blvd., Suite 133			
4	Scottsdale, AZ 85260 Tel & Fax: 480.442.3410			
5	jbarrat@zoldangroup.com			
6	jmiller@zoldangroup.com			
	Attorneys for Plaintiff			
7	Noel Hendrix			
8	μημτέρ στα τές ριστρίοτ σομρτ			
9	UNITED STATES DISTRICT COURT			
10	DISTRICT OF ARIZONA			
11	Noel Hendrix, Individually and on Behalf	Case No.		
12	of All Others Similarly Situated,			
13	Plaintiffs,			
		COLLECTIVE ACTION COMPLAINT		
14	V.	UNDER 42 U.S.C. § 2000e, <i>ET SEQ</i> .		
15	Chipotle Mexican Grill, Inc., a Delaware			
16	Corporation,	(Inny Trial Degregated)		
17	Defendants.	(Jury Trial Requested)		
18				
19				
20	Plaintiff Noel Hendrix, individually, and on behalf of all other persons similarly			
	situated, alleges as follows:			
21	PRELIMINA	RV STATEMENT		
22	<u>PRELIMINARY STATEMENT</u>			
23	1. Plaintiff and the Collective M	Iembers are current and former lactating female		
24	employees of Defendants. They bring this action on behalf of themselves and all similarly-			
25				
26	situated current and former lactating female employees of Defendants who were not given			
27	proper breaktime to pump breastmilk while on shift.			
28	2. Plaintiff and the Collective	Members bring this action against Defendants		
20	2. Plaintiff and the Collective Members bring this action against Defendants			
	alleging discrimination under Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e.			

ZOLDAN LAW GROUP, PLLC 14500 N. Northsight Blvd. Suite 133 Scottsdale, Arizona 85260 Tel & Fax: 480.442.3410 - mzoldan@zoldangroup.com 1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

22

23

26

27

28

3. This is an action for equitable relief, back pay, front pay, compensatory and punitive damages under Title VII.

#### JURISDICTION AND VENUE

4. This Court has jurisdiction over the subject matter and the parties hereto pursuant to 42 U.S.C. § 2000e, *et seq.* and 28 U.S.C. § 1331.

5. Venue is proper in this District because the acts giving rise to the claims of Plaintiff and the Collective Members occurred within the District of Arizona, and Defendants regularly conduct business in and have engaged in the wrongful conduct alleged herein and, thus, are subject to personal jurisdiction in this judicial district.

6. Plaintiff timely filed a Charge of Discrimination with the EEOC and has timely filed this Complaint.

#### **PARTIES**

7. At all relevant times to the matters alleged herein, Plaintiff Noel Hendrix resided in the District of Arizona. At all relevant times, Plaintiff and Collective Members were employees of Defendants as defined in Title VII.

8. Defendant is a corporation authorized to do business in Arizona, and was at
all relevant times Plaintiff's and the Collective Members' employer as defined by Title VII.

#### **FACTUAL ALLEGATIONS**

9. Plaintiff was employed by Defendant from approximately March 2016 until
 December 2016 at its 59th and Thunderbird location in Glendale, Arizona.

10. Plaintiff was a nursing mother while employed with Defendant.

11. Throughout the timeframe relevant to this Complaint, Plaintiff would inform her managers that she needed regular breaks to express breastmilk, which would typically 1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

28

occur no more than once or twice per shift.

12. If Plaintiff did not timely pump breastmilk consistent with a regular schedule, her breasts would become painfully engorged, or her breasts would sometimes leak breastmilk.

13. On or about December 29, 2016, Plaintiff requested a short break to pump breastmilk.

14. Plaintiff's managers refused to let her take a break to pump breastmilk, claiming that the restaurant was too busy to authorize her break.

15. Plaintiff was also told that she should have managed her time better before coming into work.

16. Plaintiff returned to her post working as a cashier, which is a high-volume, customer-facing role.

17. Approximately twenty minutes later, Plaintiff's breasts began to visibly leak breastmilk through her shirt.

18. Plaintiff was very embarrassed because she was forced to interact with customers in close proximity with a breastmilk-soaked shirt.

19. Upon discovering that her breasts were leaking through her shirt, Plaintiff's manager told her that she could take a break in fifteen minutes.

24
 25
 20. While she was waiting, Plaintiff's undergarments and work uniform became
 25
 26. Cold and soggy in plain view of guests.

26 21. Approximately forty minutes after she was allowed to pump, two of
27 Plaintiff's managers called her into the office to berate her.

22. Vinnie F (LNU) raised his voice during the confrontation in the tiny office.

Vinnie F stated that he had a business to run and could not stop everything

2 just because Plaintiff needed to pump breastmilk. 3 24. Vinnie F also told Plaintiff that her mother could call corporate, but that he 4 was "untouchable," so there was no point. 5 6 25. Vinnie F also stated that the whole team "had his back," indicating that 7 Plaintiff's peers not only knew about the embarrassing event, but also that they had 8 apparently chosen Vinnie F's side. 9 26. Vinnie F also threatened to complain to Plaintiff's boss about her request to 10 11 pump breastmilk during peak hours. 12 27. After her managers harassed her for requesting to take a pump break, Plaintiff 13 felt ashamed and embarrassed. 14 28. Following the altercation, Plaintiff called Defendant's respectful work 15 16 number on two or three occasions and left voicemails. 17 29. Defendant never responded to Plaintiff's complaints. 18 30. Plaintiff is aware of other current or former female employees of Defendant 19 that were denied pumping breaks and/or that experienced similar hostility in the workplace. 20 21 31. Plaintiff filed a Charge of Discrimination with the EEOC alleging that she 22 was discriminated against on the basis of her gender/pregnancy in violation of Title VII. 23 32. The EEOC issued a Cause Determination concluding that: 24 there is reasonable cause to believe Respondent violated Title VII, the 25 Pregnancy Discrimination Act of 1978, 42 U.S.C. § 2000e (k), when 26 Respondent subjected Charging Party to discrimination due to her sex, female (pregnancy), by preventing her from expressing breast milk at work, 27 and openly expressing hostility and subjecting her to harassment about her need to express milk at work. 28

ZOLDAN LAW GROUP, PLLC

14500 N. Northsight Blvd. Suite 133 Scottsdale, Arizona 85260 Tel & Fax: 480.442.3410 - mzoldan@zoldangroup.com

1

23.

### COLLECTIVE ACTION ALLEGATIONS

2 Plaintiff Hendrix brings this action on behalf of herself and all other similarly 33. 3 situated individuals. Plaintiff and the Collective Members are current and former lactating 4 female employees of Defendants. They bring this action on behalf of themselves and all 5 6 similarly-situated current and former lactating female employees of Defendants who were 7 not given proper breaktime to pump breastmilk while on shift. 8 The proposed collective class for the FLSA claims is defined as follows: 9 All current or former employees of Defendant, working in job positions 10 in its restaurants, who requested to pump or express breast milk while 11 on-shift, but were denied the request, and/or who were subjected to hostility or harassment for requesting such pump breaks, between 12 March 9, 2016 and January 3, 2017. 13 34. Plaintiff has given her written consent to be a party Plaintiff in this action. 14 Plaintiff's signed consent form is attached as "Exhibit 1". As this case proceeds, it is likely 15 16 that other individuals will file consent forms and join as "opt-in" plaintiffs. 17 35. The EEOC also determined that: 18 Like and related to Charging Party's claim, and stemming out of the 19 Commission's investigation, the evidence further revealed that Respondent subjected other Aggrieved Individual(s) to harassment due to their sex, 20 female (pregnancy), in violation of Title VII, the Pregnancy Discrimination 21 Act of 1978, 42 U.S.C. § 2000e (k). 22 As such, the Collective Members' claims are preserved by Plaintiff's timely filing of her 23 EEOC Charge. 24 36. At all relevant times, Plaintiff and the Collective Members are and have been 25 26 similarly situated, have had substantially similar job positions, and were each denied 27 reasonable break periods to express breastmilk while on-shift. Plaintiff's claims stated 28 herein are essentially the same as those of the Collective Members. This action is properly

14500 N. Northsight Blvd. Suite 133 Scottsdale, Arizona 85260 Tel & Fax: 480.442.3410 – mzoldan@zoldangroup.com

1

maintained as a collective action because in all pertinent aspects of the employment relationship of individuals similarly situated to Plaintiff are identical or substantially similar.

37. The claims of all Collective Members arise from a common nucleus of facts. Liability is based on a systematic course of wrongful conduct by the Defendants that caused harm to all of the Collective Members.

38. Notice of this action should be sent to all similarly situated female employees who were denied reasonable break time to pump breast milk at work, or else were subjected to hostility or harassment for requesting pump breaks while on-shift.

39. There are numerous similarly situated current and former employees of Defendants who have been denied appropriate breaks to pump breastmilk or experienced hostility for requesting pump breaks, who would benefit from a Court supervised notice of the lawsuit and the opportunity to join the case. Those similarly stated employees are known to Defendants and are readily identifiable through Defendants' records.

### DISCRIMINATION IN VIOLATION OF TITLE VII OF THE CIVIL RIGHTS ACT OF 1964 (COUNT I)

40. Plaintiff hereby incorporates by reference the allegations contained in paragraphs 1-38 above as though fully set forth herein.

41. Defendant is an employer within the meaning of the Civil Rights Act of 1964,
as amended by the Pregnancy Discrimination Act, 42 U.S.C. § 2000e *et seq.*

26 42. Defendant's actions as alleged herein constitute discrimination on the basis
27 of gender/pregnancy in violation of Title VII.

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

28

43. Defendant intentionally discriminated against Plaintiff and the Collective Members, and acted with malice or reckless indifference to Plaintiff's federally protected rights.
44. As a result of Defendant's discrimination, Plaintiff and the Collective Members have suffered damages in an amount to be proven at trial.
<u>CONCLUSION AND PRAYER FOR RELIEF</u>

**WHEREFORE**, Plaintiff, individually, and on behalf of all other similarly situated persons, respectfully requests that this Court grant the following relief in Plaintiff's and the Collective Members' favor, and against Defendants:

- A. Designation of this action as a collective action on behalf of Title VII
   Collective Members (asserting Title VII claims) and prompt issuance of
   notice to all similarly situated members of the class, apprising them of the
   pendency of this action, and permitting them to timely assert Title VII claims
   in this action by filing individual Consent to Sue forms;
- B. For the Court to award compensatory damages in an amount to be determined at trial;
- C. For the Court to award punitive damages in an amount to be determined at trial

D. For the Court to award prejudgment and post-judgment interest;

E. For the Court to award Plaintiff's reasonable attorneys' fees and costs;

F. For the Court to provide reasonable incentive awards to each named Plaintiff to compensate them for the time they spent and risks they took in pursuing this lawsuit; and

Case 2:20-cv-01595-ESW Document 1 Filed 08/12/20 Page 7 of 10

	Case 2:20-cv-01595-ESW Document 1 Filed 08/12/20 Page 8 of 10	
1	G. Such other relief as this Court shall deem just and proper.	
2	JURY DEMAND	
3	Plaintiff and the Collective Members hereby demand a trial by jury of all issues so	
4	triable.	
5		
6	RESPECTFULLY SUBMITTED August 12, 2020.	
7	ZOLDAN LAW GROUP, PLLC	
8	By: <u>/s/ Jessica Miller</u>	
9 10	14500 N. Northsight Blvd, Suite 133 Scottsdale, AZ 85260	
10	Attorneys for Plaintiffs	
11		
12		
13		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		
26		
27		
28		

ZOLDAN LAW GROUP, PLLC 14500 N. Northsight Blvd. Suite 133 Scottsdale, Arizona 85260 Tel & Fax: 480.442.3410 - mzoldan@zoldangroup.com Case 2:20-cv-01595-ESW Document 1 Filed 08/12/20 Page 9 of 10

1

# **EXHIBIT 1**

	Case 2:20-cv-01595-ESW Document 1	1 Filed 08/12/20 Page 10 of 10	
1 2 3 4 5 6 7 8	Jason Barrat; AZ Bar No. 029086 Jessica Miller; AZ Bar No. 031005 <b>ZOLDAN LAW GROUP, PLLC</b> 14500 N. Northsight Blvd., Suite 133 Scottsdale, AZ 85260 Tel & Fax: 480.442.3410 jbarrat@zoldangroup.com jmiller@zoldangroup.com Attorneys for Plaintiff Noel Hendrix		
9	UNITED STATES DISTRICT COURT		
10	DISTRICT OF ARIZONA		
11	<b>Noel Hendrix</b> , Individually and on Behalf of All Others Similarly Situated,	Case No.	
12	Plaintiffs,		
13 14	V.		
15	<b>Chipotle Mexican Grill, Inc.</b> , a Delaware Corporation,	PLAINTIFF NOEL HENDRIX'S CONSENT TO JOIN COLLECTIVE ACTION AS NAMED PLAINTIFF	
16 17	Defendants.		
18			
19	I, Noel Hendrix, do hereby consent	to be a party plaintiff to the above entitled	
20	action. I have read the complaint to be filed in the United States District Court for the		
21 22	District of Arizona, Phoenix Division, and authorize my attorneys, Zoldan Law Group,		
23	PLLC to file the complaint on my behalf and for other employees similarly situated. I		
24	hereby verify that all information in the Collective Action Complaint Under 42 U.S.C. §		
25 26	2000e, <i>et seq</i> . is true and accurate to the best of my recollection.		
27	mor person	08 / 12 / 2020	
28	Noel Hendrix	Date	

ZOLDAN LAW GROUP, PLLC

14500 N. Northsight Blvd. Suite 133 Scottsdale, Arizona 85260 Tel & Fax: 480.442.3410 – mzoldan@zoldangroup.com Case 2:20-cv-01595-ESW/// Brockmater 101/29-bin/994eeda08/1912/2001 Page 1 of 2

## UNITED STATES DISTRICT COURT DISTRICT OF ARIZONA

## **Civil Cover Sheet**

This automated JS-44 conforms generally to the manual JS-44 approved by the Judicial Conference of the United States in September 1974. The data is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. The information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is authorized for use <u>only</u> in the District of Arizona.

## The completed cover sheet must be printed directly to PDF and filed as an attachment to the Complaint or Notice of Removal.

<b>Plaintiff</b> (s): <b>Noel Hendrix</b>	Defendant(s): Chipotle Mexican Grill, Inc.	
County of Residence: Maricopa	County of Residence: Outside the State of Arizona	
County Where Claim For Relief Arose: Maricopa		
Plaintiff's Atty(s):	Defendant's Atty(s):	
Jessica Miller Zoldan Law Group 14500 N. Northsight Blvd Suite		
133		
Scottsdale, Arizona 85260		
4804423410		

<u>II. Basis of</u> Jurisdiction:	1. U.S. Government Plaintiff				
III. Citizenship of					
Principal Parties					
(Diversity Cases Only)					
Plaintiff:-1 Citizen of This State					
Defendant:-5 Non AZ corp and Principal place of Business					
	outside AZ				
IV. Origin :	1. Original Proceeding				
V. Nature of Suit:	440 Other Civil Rights				
VI.Cause of Action:	Title VII of the Civil Rights Act of 1964				
VII. Requested in					
<u>Complaint</u>					
Class Action: Yes					
Dollar Demand:					
Jury Demand	l: Yes				

VIII. This case is not related to another case.

## Signature: Jessica Miller

Date: 08/12/2020

If any of this information is incorrect, please go back to the Civil Cover Sheet Input form using the *Back* button in your browser and change it. Once correct, save this form as a PDF and include it as an attachment to your case opening documents.

**Revised: 01/2014** 

## **ClassAction.org**

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: <u>Ex-Chipotle Worker Denied Break to Pump Breastmilk</u>, <u>Lawsuit Alleges</u>