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<p>MICHELLE PROVOST,</p> <p style="text-align: center;">Plaintiff,</p> <p style="text-align: center;">vs.</p> <p>MACH REST LLC d/b/a RED HORSE BY DAVID BURKE; DAVID BURKE; RAFAEL LAST NAME UNKNOWN; TONI CHARMELLO; LEO LAST NAME UNKNOWN; KAREN JENSEN; SCOTT UBERT; GARY LAST NAME UNKNOWN; ABC CORPORATIONS 1-5 (fictitious names describing presently unidentified business entities); and JOHN DOES 1-5 (fictitious names describing presently unidentified individuals),</p> <p style="text-align: center;">Defendants.</p>	<p>SUPERIOR COURT OF NEW JERSEY LAW DIVISION: MERCER COUNTY</p> <p>DOCKET NO.</p> <p style="text-align: center;"><u>Civil Action</u></p> <p>COMPLAINT & DEMAND FOR TRIAL BY JURY; FIRST DEMAND FOR PRODUCTION OF DOCUMENTS AND FIRST SET OF INTERROGATORIES DIRECTED TO ALL DEFENDANTS</p>
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Plaintiff Michelle Provost (“Plaintiff”), by way of Complaint against Mach Rest LLC d/b/a Red Horse by David Burke (“Defendant Red Horse”), Defendant ABC Corporations 1-5 (fictitious names describing presently unknown business entities) (along with Defendant Red Horse, collectively referred to as the “Corporate Defendants”), Defendant David Burke (“Defendant Burke”), Defendant Rafael Last Name Unknown (“Defendant Rafael LNU”), Defendant Toni Charmello (“Defendant Charmello”), Defendant Leo Last Name Unknown (“Defendant Leo LNU”), Defendant Karen Jensen (“Defendant Jensen”), Defendant Scott Ubert (“Defendant

Ubert”), Defendant Gary Last Name Unknown (“Defendant Gary LNU”) and Defendant John Does 1-5 (fictitious names describing presently unidentified individuals) (along with Defendant Burke, Defendant Rafael LNU, Defendant Charmello, Defendant Leo LNU, Defendant Jensen, and Defendant Ubert, and Defendant Gary LNU, collectively referred to as “Individual Defendants”) (altogether referred to herein as the “Defendants” or “Red Horse Defendants”) alleges as follows:

INTRODUCTION

This case concerns the most fundamental right of any female employee—the right to a workplace free of sexual harassment. Now, more than ever, women should be empowered and encouraged to bring valid claims of sexual harassment to light. At a minimum, women who report sexual harassment should not be victim-blamed, gaslighted, or forced out of their job. Plaintiff Michelle Provost, the former General Manager of the Red Horse Defendants, spoke out and reported directly to the company’s owner, celebrity chef Defendant Burke, about the disgraceful sexual harassment, assaults and batteries she suffered at the (literal) hands of multiple staff members, including the company’s executive chef and a prominent investor. Instead of addressing her complaints and remediating this intolerable behavior, the Red Horse Defendants protected Plaintiff’s harassers and weaponized their resources against her.

While employed by the Red Horse Defendants, Plaintiff suffered repeated acts of harassment and sexual assault, including, but not limited to: **Defendant Rafael LNU’s attempt to drag Plaintiff into a bathroom to sexually assault her; (2) Defendant Rafael LNU’s attempt to forcibly kiss Plaintiff; (3) Defendant Gary LNU, a prominent investor’s, proposition Plaintiff masturbate him in exchange for money; and (4) repeated comments about her breast size and body.** Despite the severity of Plaintiff’s complaints, the Red Horse Defendants

allowed Plaintiff's assailants to remain employed, and continue to visit the restaurant, without discernable consequence. Rather than sending a strong message this outrageous conduct would not be tolerated in the workplace, Defendant Burke mobilized his resources to retaliate against Plaintiff, downplayed her trauma and swept the brutal harassment, assaults and batteries she endured under the rug.

Following Plaintiff's complaints, Defendant Burke berated her for falling ill at work and requesting to leave early. He continued to shout at her in front of co-workers and eventually forced her home for several days. When Plaintiff finally returned, the Red Horse Defendants callously terminated Plaintiff under the vague pretext of unprofessionalism. Fortunately, New Jersey's Law Against Discrimination, N.J.S.A. 10:5-1 et seq. (hereinafter the "NJLAD"), provides redress for employees subjected to such conduct. Accordingly, Plaintiff brings this action to vindicate her rights, and the rights of others, to work in an environment free of sexual harassment, gender discrimination, and unlawful retaliation.

PARTIES

1. Plaintiff is a thirty-one (31) year-old woman and domiciliary of the State of New Jersey presently residing in Mercerville, New Jersey. At all times relevant hereto, Defendants employed Plaintiff as a General Manager.

2. Defendant Red Horse is a limited liability company existing under the laws of the State of New Jersey, with three restaurant locations in (1) Rumson, New Jersey; (2) Bernardsville, New Jersey; and (3) White Plains, New York. The events outlined herein occurred at Defendant Red Horse's restaurant location at 26 Ridge Road, Rumson, New Jersey 07760. At all times relevant hereto, Defendant Red Horse is an "employer" as defined under the NJLAD and directly employed Plaintiff and all Individual Defendants.

3. Defendant Burke, at all times relevant hereto, is the owner and founder of Defendant Red Horse, and one of Plaintiff's supervisors. Defendant Burke is a domiciliary of the State of New Jersey. This claim is brought against Defendant Burke in his individual capacity and/or as an agent of Corporate Defendants. Defendant Burke is named as a Defendant in this litigation because of his role in aiding, abetting, and inciting the Red Horse Defendants' discrimination, harassment, and/or retaliation against Plaintiff. At all times relevant hereto, Defendant Burke is an "employer" as defined under the NJLAD.

4. Defendant Rafael LNU, at all times relevant hereto, is the sous chef of Defendant Red Horse, and one of Plaintiff's supervisors. Defendant Burke is a domiciliary of the State of New Jersey. This claim is brought against Defendant Rafael LNU in his individual capacity and/or as an agent of Corporate Defendants. Defendant Rafael LNU is named as a Defendant in this litigation because of his role in aiding, abetting, and inciting the Red Horse Defendants' discrimination, harassment, and/or retaliation against Plaintiff.

5. Defendant Charmello, all times relevant hereto, is the executive chef of Defendant Red Horse, and one of Plaintiff's supervisors. Defendant Charmello is a domiciliary of the State of New Jersey. This claim is brought against Defendant Charmello in her individual capacity and/or as an agent of Corporate Defendants. Defendant Charmello is named as a Defendant in this litigation because of her role in aiding, abetting, and inciting the Red Horse Defendants' discrimination, harassment, and/or retaliation against Plaintiff.

6. Defendant Leo LNU, all times relevant hereto, is the executive chef of Defendant Red Horse, and one of Plaintiff's supervisors. Defendant Leo LNU is a domiciliary of the State of New Jersey. This claim is brought against Defendant Leo LNU in his individual capacity and/or as an agent of Corporate Defendants. Defendant Leo LNU is named as a Defendant in this litigation

because of his role in aiding, abetting, and inciting the Red Horse Defendants' discrimination, harassment, and/or retaliation against Plaintiff.

7. Defendant Jensen, all times relevant hereto, is the head of Human Resources and Accounting of Defendant Red Horse, and one of Plaintiff's supervisors. Defendant Jensen is a domiciliary of the State of New Jersey. This claim is brought against Defendant Jensen in his individual capacity and/or as an agent of Corporate Defendants. Defendant Jensen is named as a Defendant in this litigation because of his role in aiding, abetting, and inciting the Red Horse Defendants' discrimination, harassment, and/or retaliation against Plaintiff. At all times relevant hereto, Defendant Jensen is an "employer" as defined under the NJLAD.

8. Defendant Ubert, at all times relevant hereto, is the corporate chef of Defendant Red Horse, and one of Plaintiff's supervisors. Defendant Ubert is a domiciliary of the State of New Jersey. This claim is brought against Defendant Ubert in his individual capacity and/or as an agent of Corporate Defendants. Defendant Ubert is named as a Defendant in this litigation because of his role in aiding, abetting, and inciting the Red Horse Defendants' discrimination, harassment, and/or retaliation against Plaintiff.

9. Defendant Gary LNU, all times relevant hereto, is an investor of Defendant Red Horse. Defendant Gary LNU is a domiciliary of the State of New Jersey. This claim is brought against Defendant Gary LNU in his individual capacity and/or as an agent of Corporate Defendants. Defendant Gary LNU is named as a Defendant in this litigation because of his role in aiding, abetting, and inciting the Red Horse Defendants' discrimination, harassment, and/or retaliation against Plaintiff.

10. ABC Corporations 1-5 are currently unidentified business entities which acted in concert with Defendant Red Horse and/or currently unidentified business entities responsible for

the creation and/or implementation of anti-retaliation policies of Defendant Red Horse and/or currently unidentified business entities which may have liability for the damages suffered by Plaintiff under any theory advanced herein.

11. Defendant John Does 1-5 are currently unidentified individuals who have acted in concert, aided and abetted, were complicit in, engaged in, and/or encouraged conduct with regard to the instant matter and/or were responsible for the creation and/or implementation of anti-retaliation policies of Corporate Defendants and are currently unidentified individuals who may have liability for the damages suffered by Plaintiff under any theory advanced herein.

FACTS COMMON TO ALL CLAIMS

12. Corporate Defendants claim, at all times relevant hereto, it had in effect at its facilities and locations within the State of New Jersey specific policies prohibiting sexual harassment and gender-based discrimination.

13. Corporate Defendants claim, at all times relevant hereto, it had in effect at its facilities and locations within the State of New Jersey policies and procedures prohibiting workplace retaliation.

14. Corporate Defendants claim, at all times relevant hereto, they had in effect at its facilities and locations within the State of New Jersey a zero-tolerance policy when it comes to workplace retaliation, gender discrimination, and sexual harassment.

15. Corporate Defendants claim, at all times relevant hereto, it had in effect at its facilities and locations within the State of New Jersey policies and procedures requiring an employee who believes they were the victim of discrimination and workplace retaliation to report the discriminatory and/or retaliatory acts or omissions to supervisory, management, and/or human resources personnel working for Defendant UPS.

16. Corporate Defendants claim, at all times relevant hereto, it had in effect at its facilities and locations within the State of New Jersey policies and procedures whereby it would engage in a timely and effective investigation of complaints of sexual harassment or gender-based discrimination brought to its attention by employees.

17. Corporate Defendants claim, at all times relevant hereto, it had in effect at its facilities and locations within the State of New Jersey policies and procedures committing it to undertake prompt and effective remedial measures to put a stop to any sexual harassment and/or gender discrimination it found to exist.

18. In or around March 1, 2024, Plaintiff commenced employment with Corporate Defendants as an Assistant General Manager at the Defendant Red Horse location in Rumson, New Jersey. In or around late May 2024, due to her exemplary work ethic, Corporate Defendants promoted Plaintiff to General Manager.

19. Throughout her employment with the Red Horse Defendants, Plaintiff performed her duties competently and diligently, loyally dedicated to the company and the customers that they serve in the community.

20. Despite her demonstrated ability to maintain the highest level of job performance, Plaintiff soon found herself amid an unbearably toxic work environment rife with sexual harassment, gender discrimination, and retaliation.

A. Defendant Rafael LNU First Subjects Plaintiff To Unwanted Sexual Advances.

21. At the onset of Plaintiff's employment, she quickly observed the Red Horse Defendants' maintained an environment utterly beset with sexual harassment and gender discrimination.

22. The sous chef, Defendant Rafael LNU was the first to target Plaintiff with incessant sexual harassment. For example, in or around June 2024, Defendant Rafael LNU consistently begged Ms. Provost to socialize with him outside the workplace.

23. Also, on many occasions, Defendant Rafael LNU asked Plaintiff to go to the bathroom with him, no doubt in an effort to engage in some sort of sexual activity.

24. Each time, Plaintiff unequivocally objected to such behavior and insisted Defendant Rafael LNU remain professional. Even though Plaintiff forcefully objected, he refused to cease his harassing behavior. Instead, Defendant Rafael LNU escalated his pursuit as he then attempted to kiss Plaintiff. At this point, the only way Plaintiff could avoid such an advance was to push Defendant Rafael LNU away from her.

25. Despite this obvious rejection, Defendant Rafael appeared to enjoy the difficulty in pursuing Plaintiff, as he implored further, **“Come on, just give me a kiss!”**

26. In or around May 2024, Defendant Rafael LNU and Plaintiff were lifting chairs to the upstairs level of the establishment. At this point, Defendant Rafael LNU grabbed Plaintiff and dragged her into the bathroom against her will.

27. Terrified of what Defendant Rafael LNU would do if he successfully isolated her in the bathroom, Plaintiff desperately gripped the door frame trying to free herself.

28. Seemingly enjoying the challenge, Defendant Rafael LNU refused to release Plaintiff until he heard someone walk into the building. Finally, Defendant Rafael LNU released his vice grip on Plaintiff.

29. Plaintiff immediately reported the incident to Defendant Red Horse’s executive chef, Defendant Charmello. In response, downplaying the circumstances, Defendant Charmello

advised Plaintiff to “speak to” Defendant Rafael LNU about the situation before escalating it any further.

30. However, upon information and belief, the Red Horse Defendants did not subject Defendant Rafael LNU to any disciplinary or remedial action for this behavior. Instead, they transferred Defendant Rafael LNU to another David Burke restaurant. Despite this transfer, Defendant Rafael LNU still frequented Defendant Red Horse whenever he pleased, thus forcing Plaintiff to interact with her harasser regularly.

31. Surely, the abovementioned events would not have occurred but for Plaintiff’s status as a young woman in Defendant Red Horse’s workplace.

B. Defendant Leo LNU Also Subjects Plaintiff To Unwanted Sexual Advances At Defendant Red Horse.

32. To make matters worse, Defendant Rafael LNU was not the only employee who harassed Plaintiff. Indeed, Defendant Red Horse’s executive chef, Defendant Leo LNU, also made several inappropriate remarks to Plaintiff.

33. By way of illustration and example, around the Summer of 2024, Defendant Leo LNU commented on Plaintiff’s breast size in front of a co-worker and underage food runner. At the end of the night, observing Plaintiff’s distress, the underage food runner went to check on Plaintiff to ensure she was okay.

34. Defendant Leo LNU also sexualized seemingly innocuous comments made by Plaintiff. For example, Plaintiff once told a customer “no is not in my vocabulary when it comes to my guest.” In front of Plaintiff, Defendant Leo LNU turned to the other chefs in the kitchen, winked, and said “**oh, I’ll remember that for later.**” The inference was that Plaintiff would never say “no” to sexual activity.

35. Yet again, Plaintiff reported the sexual harassment to Red Horse Defendants, specifically the head of Human Resources and Accounting, Defendant Jensen. Predictably, Defendant Jensen brushed Plaintiff's concerns aside, responding, "**ew, that's gross. Tell [Defendant Burke].**"

36. Clearly, Defendant Jensen flouted her duties as Head of "Human Resources."

37. Because of fear of termination, Plaintiff did not feel comfortable reporting the incident to the owner and founder of Defendant Red Horse, Defendant Burke. For this reason, Plaintiff escalated her concern to the Corporate Chef, Defendant Ubert. Although Defendant Ubert offered to tell Defendant Burke on Plaintiff's behalf, Plaintiff declined because she legitimately feared for her job security.

38. Despite Plaintiff's inability to report the incident to Defendant Burke, it is important to emphasize both Defendant Jensen and Defendant Ubert had authority and supervisory power over Defendant Leo LNU and an obligation to investigate and remediate his behavior. Even so, Defendants chose to deliberately ignore Plaintiff's pleas and remained idle in the burgeoning hostile work environment.

39. Adding insult to injury, aside from the sexual harassment, a guest also assaulted Plaintiff. Specifically, around late August 2024, a guest of Defendant Red Horse tried stabbing another guest. During this situation, Plaintiff was forced to break up the fight to protect the safety of other customers, and in doing so, was punched in the rib cage.

40. Plaintiff informed Defendant Burke of this altercation, but he failed to rectify, assist, or offer worker's compensation for Plaintiff's injuries. Rather, Defendant Burke merely made a public statement indicating Plaintiff "handl[ed] the situation well."

41. Through these circumstances, Plaintiff acknowledged the continued harassment and lack of empathy in the workplace became sufficiently severe and pervasive which altered the conditions of her employment and created an intimidating, hostile, and offensive work environment.

C. Several Investors Of Defendant Red Horse Further Subject Plaintiff to Sexual Harassment During A Business Dinner.

42. Defendant Red Horse's investors also had a penchant for sexual harassment towards its female staff. This kind of behavior was cultivated, ratified and embraced at all levels of the Red Horse Defendants.

43. Specifically, also around early Summer 2024, Defendant Burke hosted an investor and associate business dinner at Defendant Red Horse's bar area. Quickly, the investors targeted Plaintiff insisting she order an alcoholic beverage with them.

44. Although Plaintiff politely declined on numerous occasions, Defendants' investors would not relent. They continually urged Plaintiff to drink an alcoholic beverage with them. At this time, Defendant Burke observed the persistent efforts made by his business investors but refused to support Plaintiff's wishes.

45. To appease the gentleman and end the harassment, Plaintiff finally ordered a drink at the bar. Once the investors were out of sight, Plaintiff immediately poured her beverage down the drain.

46. Thereafter, following Defendant Burke's departure from the event, some investors and associates remained at the event and ordered several more rounds of drinks from the bar. At this time, Plaintiff advised the guests that the restaurant would be closing soon.

47. As Plaintiff spoke to the bartender, Michael Rourse (“Mr. Rourse”), Defendant Gary LNU drunkenly leaned in to kiss Plaintiff on the cheek. Of course, Plaintiff immediately tried to avoid the kiss, but could not.

48. Thereafter, Plaintiff froze in astonishment.

49. Moments later, Defendant Gary LNU, another investor, propositioned Plaintiff and another female employee, Marilyn Levins (“Ms. Levins”). Specifically, Defendant Gary LNU indicated he would pay the ladies money in exchange for a “hand job.”

50. Appalled, Plaintiff objected to Defendant Gary LNU’s egregious request and instructed him to request an Uber home. Defendant Gary LNU ignored Plaintiff’s objection and suggestion, instead demanding Plaintiff drive him home in her personal vehicle.

51. Thankfully, Mr. Rourse stepped into the situation and unilaterally called Defendant Gary LNU an Uber home to protect Plaintiff from his improper propositions.

52. The next day, Plaintiff mustered the courage to complain to Defendant Burke directly about the investors’ inappropriate conduct the night before. Although Defendant Burke apologized to Plaintiff and said the investors would not return, mere weeks later, the same investors were back dining at Defendant Red Horse. In fact, Defendant Gary LNU even booked Defendant Red Horse for a private event, which required Plaintiff to still engage with yet another sexual harasser at the workplace.

D. Defendants Terminate Plaintiff In Retaliation For Her Sexual Harassment Complaint And For Falling Ill In The Workplace.

53. In or around September 27, 2024, Plaintiff fell ill with the flu. Immediately, Plaintiff reached out to two different managers in hopes they could cover her during her time of need, but no one would assist her.

54. Observing her symptoms progressively worsening, Plaintiff reached out to Defendant Burke about her illness which accompanied a 102-degree fever. She advised in the best interest of her health and the well-being of staff and customers, she needed to take a sick day.

55. Rather than acknowledge these events were outside of the control of Plaintiff, Defendant Burke berated Plaintiff, in front of customers, screaming, **“this is not college, you don’t know what you’re doing. It’s a job!”**

56. Shocked by the response, Plaintiff went to the downstairs area of Defendant Red Horse to avoid the uncontrollable tears streaming from her face. At that point, Plaintiff called Tim Sengle (“Mr. Sengle”), the Corporate Manager..

57. Despite Defendant Burke observing Plaintiff visibly unwell and in distress, Defendant Burke followed Plaintiff downstairs in his manic tirade, as he continually shouted, **“It’s not high school, it’s not college, get over it!”**

58. Further demonstrating his cruelty, Defendant Burke arrogantly shouted Plaintiff should take **“a few days off...or never come back!”**

59. In or around September 28, 2024, Plaintiff accordingly took three (3) days of pre-approved time off to recover from the flu.

60. However, when Plaintiff returned, Defendant Burke insisted Plaintiff take another two (2) days off for no apparent reason.

61. In or around October 7, 2024, Defendant Burke scheduled a Google Meets meeting with Plaintiff. At this time, Defendant Burke unlawfully terminated Plaintiff’s employment. In the meeting, Defendant Burke claimed Plaintiff’s termination occurred because she was **“too inexperienced for the caliber of the restaurant.”** Surely, this paper-thin pretext was designed

solely to retaliate against Plaintiff for complaining about the egregious conduct she endured and for requesting rightfully earned sick time.

62. Accordingly, Plaintiff advised Defendant Burke that such alleged “inexperience” was merely pretext for their true discriminatory and retaliatory motive of pushing Plaintiff from employment because of her sexual harassment concerns. In fact, demonstrating his discriminatory motive further, Defendant Burke became enraged in the meeting, admitting it was “Plaintiff’s fault” for his “losing of a couple good chefs” at Defendant Red Horse. In other words, Defendant Burke admitted he valued chefs who were sexual harassers over protecting female employees like Plaintiff in the workplace.

63. Because of the joint and several acts and omissions of the Corporate Defendants, Individual Defendants, John Does (1-5), and ABC Corporations (1-5), Plaintiff has been and continues to suffer economic losses and pecuniary damage in the form of lost income and benefits past, present, and future.

64. Because of the joint and several acts and omissions of the Corporate Defendants, Individual Defendants, John Does (1-5), and ABC Corporations (1-5), Plaintiff has been and continues to suffer non-economic damages in the form of humiliation, stress, and anxiety, causing her mental and emotional anguish and dysfunction and physical manifestations of same, including, but not limited to, nightmares, inability to sleep, weight gain, headaches, panic attacks, crying, negative thoughts, nervousness, anxiousness, anxiety attacks, upset stomach, and stomach pains, all or some of which may be permanent.

COUNT ONE

**NJLAD – SEXUAL HARASSMENT, GENDER DISCRIMINATION, AND HOSTILE
WORK ENVIRONMENT**

65. Plaintiff repeats each and every allegation set forth above as if set forth fully herein at length.

66. The pattern and practice of discrimination, harassment, and retaliation directed at Plaintiff is outlined above.

67. Plaintiff was subjected to repeated, pervasive, severe, and continuing instances of disparate treatment and harassment based on gender/sex.

68. The above-described conduct would not have occurred but for Plaintiff's gender/sex.

69. As a result of the above harassing and discriminatory conduct, Plaintiff experiences ongoing and debilitating emotional distress and experiences significant economic damages.

70. The harassing and discriminatory conduct was severe or pervasive enough to make a reasonable person and employee believe the conditions of employment were altered, and the working environment was hostile and discriminatory.

71. In addition to the above harassment, discrimination, and retaliation, Defendants did not conduct an adequate investigation and failed to take proper remedial action to protect Plaintiff from discriminatory behavior and retaliation.

72. Defendants did not have an effective anti-harassment policy in place, Defendants have not maintained an anti-harassment policy that is current and effective, and Defendants' anti-harassment policy existed in name only.

73. Defendants did not maintain useful formal and informal complaint structures for victims of discrimination, harassment, and retaliation.

74. Defendants did not properly train its supervisors and/or employees on the subject of discrimination, harassment, and retaliation.

75. Defendants failed to institute appropriate monitoring mechanisms to check the effectiveness of the policies and complaint structures.

76. Defendants did not have a commitment from the highest levels of management that harassment will not be tolerated; in fact, the highest levels of management deliberately and actively retaliated against those who complained about such conduct.

77. Defendants failed to conduct prompt and thorough investigations of employee complaints of harassment or provide a remedial plan reasonably calculated to stop any harassment that is found.

78. Defendants did not conduct an adequate investigation and failed to take proper remedial action to protect Plaintiff from discriminatory behavior and retaliation.

79. It is unlawful discrimination “[f]or any person, whether an employer or an employee or not, to aid, abet, incite, compel or coerce the doing of any of the acts forbidden under this act, or to attempt to do so.” N.J.S.A. 10:5-12(e). The NJLAD imposes liability to Individual Defendants irrespective of their supervisory role. *Cicchetti v. Morris Cnty. Sheriff’s Office*, 194 N.J. 563, 568 (2008) (holding that individual liability is limited to “acts that constitute aiding or abetting,” without requiring that the individual also qualify as a supervisor.); *Raber v. Express Scripts Hold. Co.*, No. 18-cv-8639, 2019 U.S. Dist. LEXIS 34444 (D.N.J. Mar. 5, 2019); *Stouch & Bodnar v. Dep’t of Child Prot. & Permanency*, Docket No. BUR-L-151-19 (Law Div. May 12, 2020).

80. As the employer, employee, and/or supervisor of Plaintiff, Defendants are vicariously, strictly, and/or directly liable to Plaintiff pursuant to the NJLAD, in that the

affirmative acts of harassment, discrimination, and retaliation committed by Individual Defendants occurred within the scope of their employment; and/or Defendants were deliberately indifferent, reckless, negligent and/or tacitly approved the discrimination, hostile work environment, and/or retaliation; and/or Defendants failed to create and/or have in place well-publicized and enforced anti-harassment policies, effective formal and informal complaint structures, training, and/or monitoring mechanisms for same despite the foreseeability of harassment, discrimination, and retaliation in the workplace; and/or by having actual knowledge of the harassment, discrimination, and retaliation of Plaintiff and failing to promptly and effectively act to stop it.

81. Individual Defendants had authority to affect the terms and conditions of Plaintiff's employment, including but not limited to the "authority to hire, fire, discipline, control [Plaintiff's] wages or control [Plaintiff's] schedule[]." *Herman v. Coastal Corp.*, 348 N.J. Super. 1, 28 (Super. Ct. App. Div. 2002).

82. Plaintiff reasonably perceived that the Individual Defendants had the power to impact Plaintiff's conditions of employment and Plaintiff's work environment.

83. Individual Defendants aided, abetted, incited, compelled and/or coerced, and/or attempted to aid, abet, incite, compel and/or coerce each other, themselves, and/or Corporate Defendant to commit acts and omissions that were in violation of the NJLAD by committing affirmatively discriminatory, harassing, and/or retaliatory acts toward Plaintiffs, which are in violation of their duties to halt or prevent harassment, rendering Corporate Defendants and themselves individually and collectively liable to Plaintiff pursuant to N.J.S.A. 10:5-12(e).

84. Individual Defendants have direct involvement in Plaintiff's discrimination and retaliation. Individual Defendants aided in conduct that caused injury to Plaintiff, Individual

Defendants were generally aware of their role in the unlawful conduct, and Individual Defendants knowingly and substantially assisted in the unlawful conduct.

85. Individual Defendants were unresponsive to Plaintiff's complaints, failed to adequately investigate Plaintiff's complaints, and failed to take proper medial action of Plaintiff's complaints. Such conduct is substantial assistance, deliberate indifference, and/or affirmatively harassing acts that violate Individual Defendants' "duty to act against harassment." *Hurley v. Atl. City Police Dep't*, 174 F.3d 95, 126 (3d Cir. 1999); *see also E.E.O.C. v. Foodcrafters Distrib. Co.*, No. 03-2796, 2006 U.S. Dist. LEXIS 11426, 2006 WL 489718, at *7 (D.N.J. Feb. 24, 2006).

86. As Plaintiff's supervisor, Individual Defendants' unlawful conduct imposes liability on themselves and Corporate Defendant under the NJLAD. *See Hurley v. Atl. City Police Dep't*, 174 F.3d 95, 126 (3d Cir. 1999) (When a supervisor engages in "affirmatively harassing acts", he "flouts [his] duty" and "subjects himself and his employer to liability."); *Fasano v. Fed. Reserve Bank of N.Y.*, 457 F.3d 274, 289 (3d Cir. 2006) ("The [NJ]LAD permits the imposition of individual liability on an employee who has aided or abetted barred acts."); *Rowan v. Hartford Plaza Ltd, LP*, 2013 N.J. Super. Unpub. LEXIS 766, at *18-19 (Super. Ct. App. Div. Apr. 5, 2013); *Yobe v. Renaissance Elec., Inc.*, No. 15-3121, 2016 U.S. Dist. LEXIS 18227, at *12 (D.N.J. Feb. 16, 2016); *Dickerson v. N.J. Inst. of Tech.*, No. 19-8344, 2022 U.S. Dist. LEXIS 5074, (D.N.J. Jan. 10, 2022).

87. Individual Defendants' unlawful conduct, irrespective of their supervisory role, imposes liability on themselves and Corporate Defendant under the NJLAD. *See N.J.S.A. 10:5-12(e)* (unlawful for "[f]or any person, whether an employer or an employee or not, to aid, abet, incite, compel or coerce the doing of any of the acts forbidden under this act, or to attempt to do so."); *Cicchetti v. Morris County Sheriff's Office*, 194 N.J. 563, 568 (2008) (holding that individual

liability is limited to “acts that constitute aiding or abetting,” without requiring that the individual also qualify as a supervisor); *Raber v. Express Scripts Hold. Co.*, No. 18-cv-8639, 2019 U.S. Dist. LEXIS 34444 (D.N.J. Mar. 5, 2019); *Stouch & Bodnar v. Dep’t of Child Protection and Permanency*, Docket No. BUR-L-151-19 (Law Div. May 12, 2020).

88. As a proximate result of the aforementioned acts and omissions set forth herein, Plaintiff has sustained damages.

WHEREFORE, Plaintiff demands judgment in her favor and against Defendants on this Court, together with compensatory and equitable relief, all remedies available under the law, punitive damages, emotional distress damages, pre- and post-judgment interest, and attorneys’ fees and costs of suit. More specifically, Plaintiff demands judgment against Defendants for harm suffered in violation of the NJLAD as follows:

- A. Reinstatement of employment and all benefits;
- B. Back pay and benefits;
- C. Front pay and benefits;
- D. Compensatory damages;
- E. Consequential damages;
- F. Reinstatement;
- G. Punitive damages;
- H. Pre-judgment interest and enhancements to off-set negative tax consequences;
- I. Any and all attorneys’ fees, expenses and/or costs, including but not limited to court costs, expert fees, and all attorneys’ fees incurred by Plaintiff in the prosecution of this suit (including enhancements thereof required to off-set negative tax consequences and/or enhancements otherwise permitted under law);
- J. Such other relief as may be available pursuant to the NJLAD and which the Court deems just and equitable;
- K. Ordering Defendants to take appropriate corrective action to stop and prevent retaliation at the workplace;
- L. Ordering Defendants to take appropriate corrective action to stop and prevent harassment at the workplace;
- M. Ordering Defendants to undergo anti-discrimination training;
- N. Ordering Defendants to undergo anti-retaliation training;
- O. Ordering Defendants to undergo anti-harassment training;
- P. Ordering Defendants to undergo workplace civility training;

- Q. Ordering Defendants to undergo bystander intervention training;
- R. Ordering Defendants to engage a research organization to assess the effectiveness of their anti-discrimination training;
- S. Ordering Defendants to engage a research organization to assess the effectiveness of their anti-retaliation training;
- T. Ordering Defendants to engage a research organization to assess the effectiveness of their anti-harassment training;
- U. Ordering Defendants to engage a research organization to assess the effectiveness of their workplace civility training;
- V. Ordering Defendants to engage a research organization to assess the effectiveness of their bystander intervention training;
- W. Ordering Defendants to identify an appropriate professional to investigate any future complaints of discrimination;
- X. Ordering Defendants to identify an appropriate professional to investigate any future complaints of harassment;
- Y. Ordering Defendants to identify an appropriate professional to investigate any future complaints of retaliation; and
- Z. Such other relief as may be available and to which the Court deems just and equitable.

COUNT TWO

NJLAD – RETALIATION/IMPROPER REPRISAL

89. Plaintiff repeats each and every allegation set forth above as if set forth fully herein at length.

90. NJLAD’s anti-reprisal provision specifically prohibits “any person from taking reprisals against any person because that person has opposed any practices or acts forbidden under this act.” N.J.S.A. §10:5-12(d).

91. Plaintiff complained and/or protested against the continuing course of harassing, discriminatory, and retaliatory conduct set forth at length above.

92. Defendants had knowledge about those complaints and/or protests.

93. As a direct result of Plaintiff’s raising complaints regarding Defendants’ conduct, Defendants took retaliatory action against Plaintiff, which is outlined above.

94. The retaliation directed at Plaintiff included but is not limited to, requiring Plaintiff to endure sexual harassment as a condition of employment and failing to investigate Plaintiff's complaints of sexual harassment.

95. Plaintiff was affirmatively and/or constructively terminated by Defendants in retaliation for making complaints about Defendants' conduct and due to Defendants' failure to take corrective and remedial action. As a direct result, Defendants took retaliatory action against Plaintiff, which is outlined above.

96. Defendants are vicariously, strictly and/or directly liable to Plaintiff for unlawful retaliatory conduct in violation of the NJLAD pursuant to N.J.S.A. 10:5-12(d).

97. Individual Defendants' unlawful conduct imposes liability on themselves and Corporate Defendant(s) under the NJLAD anti-retaliation provision. *See* N.J.S.A. §10:5-12(d) (prohibiting "any person from taking reprisals against any person because that person has opposed any practices or acts forbidden under this act."); *Craig v. Suburban Cablevision, Inc.*, 274 N.J. Super. 303, 644 A.2d 112, 115 (App. Div. 1994); *Tyson v. Cigna Corp.*, 918 F. Supp. 836, 839 (D.N.J. 1996); *Kamdem-Ouaffo v. Task Mgmt.*, No. 17-cv-7506, 2018 U.S. Dist. LEXIS 113899, at *48 (D.N.J. July 9, 2018); *McDermott v. CareAllies, Inc.*, 503 F. Supp. 3d 225, 238-39 (D.N.J. 2020); *Smart v. Cnty. of Gloucester*, No. 20-12408, 2022 U.S. Dist. LEXIS 198, at *11-12 (D.N.J. Dec. 30, 2021).

98. As a proximate result of the aforementioned acts and omissions set forth herein, Plaintiff has sustained emotional and pecuniary damages.

WHEREFORE, Plaintiff demands judgment in her favor and against Defendants on this Count, together with compensatory and equitable relief, all remedies available under the law, punitive damages, pre- and post-judgment interest, and attorneys' fees and costs of suit. More

specifically, Plaintiff demands judgment against Defendants for harm suffered in violation of the NJLAD as follows:

- A. Reinstatement of employment and all benefits;
- B. Back pay and benefits;
- C. Front pay and benefits;
- D. Compensatory damages;
- E. Consequential damages;
- F. Reinstatement;
- G. Punitive damages;
- H. Prejudgment interest and enhancements to off-set negative tax consequences;
- I. Any and all attorneys' fees, expenses and/or costs, including but not limited to court costs, expert fees, and all attorneys' fees incurred by Plaintiff in the prosecution of this suit (including enhancements thereof required to off-set negative tax consequences and/or enhancements otherwise permitted under law);
- J. Such other relief as may be available pursuant to the NJLAD and which the Court deems just and equitable;
- K. Ordering Defendants to take appropriate corrective action to stop and prevent retaliation at the workplace;
- L. Ordering Defendants to take appropriate corrective action to stop and prevent harassment at the workplace;
- M. Ordering Defendants to undergo anti-discrimination training;
- N. Ordering Defendants to undergo anti-retaliation training;
- O. Ordering Defendants to undergo anti-harassment training;
- P. Ordering Defendants to undergo workplace civility training;
- Q. Ordering Defendants to undergo bystander intervention training;
- R. Ordering Defendants to engage a research organization to assess the effectiveness of their anti-discrimination training;
- S. Ordering Defendants to engage a research organization to assess the effectiveness of their anti-retaliation training;
- T. Ordering Defendants to engage a research organization to assess the effectiveness of their anti-harassment training;
- U. Ordering Defendants to engage a research organization to assess the effectiveness of their workplace civility training;
- V. Ordering Defendants to engage a research organization to assess the effectiveness of their bystander intervention training;
- W. Ordering Defendants to identify an appropriate professional to investigate any future complaints of discrimination;
- X. Ordering Defendants to identify an appropriate professional to investigate any future complaints of harassment;

- Y. Ordering Defendants to identify an appropriate professional to investigate any future complaints of retaliation; and
- Z. Such other relief as may be available and which the Court deems just and equitable.

COUNT THREE

NEGLIGENT HIRING

(AS TO CORPORATE DEFENDANTS)

99. Plaintiff repeats each and every allegation set forth above as if set forth fully herein at length.

100. Corporate Defendants' negligence, gross negligence, reckless conduct, and hiring of Defendant Rafael LNU as an employee directly and proximately caused Plaintiff to suffer discrimination.

101. As a proximate result of the aforementioned negligent hiring by Corporate Defendants, and acts and omissions set forth herein, Plaintiff has sustained damages and will continue to do so in the future.

WHEREFORE, Plaintiff demands judgment in his favor and against Corporate Defendants, together with compensatory and equitable relief, all remedies available under the law, punitive damages, pre- and post-judgment interest, attorney's fees and costs of suit, and for such other relief that the Court deems equitable and just.

COUNT FOUR

NEGLIGENT RETENTION

(AS TO CORPORATE DEFENDANTS)

102. Plaintiff repeats each and every allegation set forth above as if set forth fully herein at length.

103. Corporate Defendants' negligence, gross negligence, reckless conduct, and retention of Defendant Rafael LNU as an employee directly and proximately caused Plaintiff to suffer discrimination.

104. As a proximate result of the aforementioned negligent retention by Corporate Defendants, and the acts and omissions set forth herein, Plaintiff has sustained damages and will continue to do so in the future.

WHEREFORE, Plaintiff demands judgment in his favor and against Corporate Defendants on this Count, together with compensatory and equitable relief, all remedies available under the law, punitive damages, pre- and post-judgment interest, attorney's fees and costs of suit, and for such other relief that the Court deems equitable and just.

COUNT FIVE

NEGLIGENT TRAINING

(AS TO CORPORATE DEFENDANTS)

105. Plaintiff repeats each and every allegation set forth above as if set forth fully herein at length.

106. Corporate Defendants' negligence, gross negligence, reckless conduct, and training of Defendant Rafael LNU as an employee directly and proximately caused Plaintiff to suffer discrimination.

107. As a proximate result of the aforementioned negligent training by Corporate Defendants, and the acts and omissions set forth herein, Plaintiff has sustained damages and will continue to do so in the future.

WHEREFORE, Plaintiff demands judgment in his favor and against Corporate Defendants on this Count, together with compensatory and equitable relief, all remedies available

under the law, punitive damages, pre- and post-judgment interest, attorney's fees and costs of suit, and for such other relief that the Court deems equitable and just.

COUNT SIX

ASSAULT (AS TO DEFENDANT RAFAEL LNU)

108. Plaintiff repeats each and every allegation set forth above as if set forth fully herein at length.

109. By intentionally touching Plaintiff, Defendant Rafael LNU intended to cause and did in fact cause Plaintiff to suffer apprehension of an immediate harmful contact.

110. Defendant Rafael LNU touched Plaintiff knowingly, willfully, and with malicious intent, and Plaintiff is entitled to punitive damages.

111. Defendant Rafael LNU was an employee of Corporate Defendants when he committed the acts intended to cause and causing Plaintiff to suffer apprehension of an immediate harmful contact.

112. Defendants, despite having actual or constructive notice of the conduct of Defendant Steffens, were deliberately indifferent and acquiesced to same, proximately causing damages to the Plaintiff.

113. On account of the conduct of Defendants, Plaintiff has been injured.

WHEREFORE, Plaintiff demands judgment in her favor and against Defendants on this Count, together with compensatory and equitable relief, punitive damages, pre- and post-judgment interest, attorneys' fees and costs of suit, and for such other relief that the Court deems equitable and just.

COUNT SEVEN

BATTERY (AS TO DEFENDANT RAFAEL LNU)

114. Plaintiff repeats each and every allegation set forth as if set forth fully herein at length.

115. By intentionally touching Plaintiff, Defendant Rafael LNU intended to cause and did cause immediate harmful and offensive contact with Plaintiff.

116. Defendant Rafael LNU touched Plaintiff knowingly, willfully, and with malicious intent, and Plaintiff is entitled to punitive damages.

117. Defendant Rafael LNU was an employee of Corporate Defendant when he committed the intentional touching of Plaintiff.

118. Defendants, despite having actual or constructive notice of the conduct of Defendant Steffens, were deliberately indifferent and acquiesced to same, proximately causing damages to the Plaintiff.

119. On account of the conduct of Defendants, Plaintiff has been injured.

WHEREFORE, Plaintiff demands judgment in her favor and against Defendants on this Count, together with compensatory and equitable relief, punitive damages, pre- and post-judgment interest, attorneys' fees and costs of suit, and for such other relief that the Court deems equitable and just.

COUNT EIGHT

NEW JERSEY EARNED SICK LEAVE LAW (“ESLL”) – FAILURE TO MAKE AVAILABLE EARNED SICK LEAVE, RETALIATION, AND UNLAWFUL TERMINATION

92. Plaintiff repeats each and every allegation set forth above as if set forth fully herein at length.

93. During her employment, Plaintiff accrued earned sick leave, which Plaintiff used to take time off work due to illness.

94. At no time did Plaintiff's time off work exceed her amount of accrued earned sick leave.

95. Despite Plaintiff having accrued earned sick leave, Defendants forbade Plaintiff from continuing to use her earned sick leave and threatened Plaintiff with disciplinary actions or other adverse employment actions if she continued to use her earned sick leave in the future.

96. Defendants thus did not make earned sick leave available to Plaintiff.

97. When Plaintiff complained about Defendants violating Plaintiff's right to earned sick leave, Defendants retaliated against Plaintiff and eventually terminated Plaintiff's employment.

98. Defendants are vicariously, strictly, and/or directly liable to Plaintiff for unlawfully failing to make available earned sick leave and for unlawful retaliation, pursuant to N.J.S.A. 34:11D-5.

99. As a proximate result of the aforementioned acts and omissions set forth herein, Plaintiff has sustained damages.

100. As a result of the unlawful actions undertaken by the Corporate Defendants and the Individual Defendants, jointly and/or severally, Plaintiff has suffered and continues to suffer economic losses and pecuniary damage in the form of lost income and benefits past, present, and future.

101. As a result of the unlawful actions undertaken by the Corporate Defendants and the Individual Defendants, jointly and/or severally, Plaintiff has suffered and continues to suffer non-economic damages in the form of humiliation, stress, anger, sadness, and anxiety causing her

mental and emotional anguish and dysfunction, and physical manifestations of same including, but not limited to, nervousness, anxiousness, sleeplessness, loss of appetite and loss of sleep, all or some of which may be permanent.

WHEREFORE, Plaintiff demands judgment in her favor and against Defendants on this Count, together with compensatory and equitable relief, all remedies available under the ESLL, punitive damages, emotional distress damages, pre- and post-judgment interest, attorneys' fees and costs of suit, and for such other relief that the Court deems equitable and just. More specifically, Plaintiff demands judgment against Defendants to harm suffered in violation of the ESLL as follows:

- A. Reinstatement of employment and all benefits;
- B. Back pay and benefits;
- C. Front pay and benefits;
- D. Compensatory damages;
- E. Consequential damages;
- F. Reinstatement;
- G. Punitive damages;
- H. Prejudgment interest and enhancements to off-set any negative tax consequences;
- I. Any and all attorneys' fees, expenses and/or costs of suit, including, but not limited to, court costs, expert fees and all attorneys' fees incurred by Plaintiff in the prosecution of this suit (including enhancements thereof required to off-set negative tax consequences and/or enhancements otherwise permitted under law); and
- J. Such other relief as may be available pursuant to the ESLL and which the Court deems just and equitable.

DEMAND FOR DISCOVERY OF INSURANCE COVERAGE

Pursuant to Rule 4:10-2(b), demand is made that Defendants disclose to Plaintiff's attorney whether or not there are any insurance agreements or policies under which any person or firm carrying on an insurance business may be liable to satisfy part or all of the judgment which may be entered in this action or indemnify or reimburse for payments made to satisfy the judgment and provide Plaintiff's attorney with true copies of those insurance agreements or policies, including,

but not limited to any and all declaration sheets. This demand shall include and cover not only primary insurance coverage, but also any excess, catastrophe, and umbrella policies.

DEMAND FOR TRIAL BY JURY

Plaintiff demands a trial by jury on all issues.

McOMBER McOMBER & LUBER, P.C.
Attorneys for Plaintiff, Michelle Provost

By: /s/ Peter D. Valenzano
PETER D. VALENZANO, ESQ.

Dated: January 2, 2025

DESIGNATION OF TRIAL COUNSEL

Pursuant to Rule 4:25-4, PETER D. VALENZANO, ESQUIRE, is hereby designated as trial counsel for Plaintiff.

CERTIFICATION

Pursuant to Rule 4:5-1, it is hereby certified that, to the best of my knowledge, there are no other civil actions or arbitration proceedings with respect to this matter, and no other parties need to be joined at this time.

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

McOMBER McOMBER & LUBER, P.C.
Attorneys for Plaintiff, Michelle Provost

By: /s/ Peter D. Valenzano
PETER D. VALENZANO, ESQ.

Dated: January 2, 2025

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<p>MICHELLE PROVOST,</p> <p style="text-align: center;">Plaintiff,</p> <p style="text-align: center;">vs.</p> <p>MACH REST LLC d/b/a RED HORSE BY DAVID BURKE; DEFENDANT BURKE; RAFAEL LAST NAME UNKNOWN; TONI CHARMELLO; LEO LAST NAME UNKNOWN; KAREN JENSEN; SCOTT UBERT; GARY LAST NAME UNKNOWN; ABC CORPORATIONS 1-5 (fictitious names describing presently unidentified business entities); and JOHN DOES 1-5 (fictitious names describing presently unidentified individuals), Defendants.</p>	<p>SUPERIOR COURT OF NEW JERSEY LAW DIVISION: MERCER COUNTY</p> <p>DOCKET NO.</p> <p style="text-align: center;"><u>Civil Action</u></p> <p style="text-align: center;">FIRST SET OF DOCUMENT REQUESTS, INTERROGATORIES, PUNITIVE DAMAGES, AND DEPOSITION NOTICES TO DEFENDANT(S)</p>
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FIRST SET OF DOCUMENT REQUESTS, INTERROGATORIES, PUNITIVE DAMAGES, AND DEPOSITION NOTICES TO DEFENDANT(S)

PLEASE TAKE NOTICE that McOmbler McOmbler & Luber, P.C., attorneys for Plaintiff, Michelle Provost (“Plaintiff”), demand that Defendants Mach Rest LLC d/b/a Red Horse by David Burke (“Defendant Red Horse”), Defendant David Burke (“Defendant Burke”), Defendant Rafael Last Name Unknown (“Defendant Rafael LNU”), Defendant Toni Charmello (“Defendant Charmello”), Defendant Leo Last Name Unknown (“Defendant Leo LNU”), Defendant Karen Jensen (“Defendant Jensen”), Defendant Scott Ubert (“Defendant Ubert”), and

Defendant Gary Last Name Unknown (“Defendant Gary LNU”) (collectively “Defendants”) produce true and complete copies of the following Document Requests and answer under oath the following Interrogatories pursuant to the Rules of Court. Interrogatories answers shall be typed beneath the questions and the original shall be returned in accordance with Rule 4:17-4(c) and, if at any time prior to trial, you obtain information which renders any answer you provide incomplete or inaccurate, amended answers shall be served pursuant to Rule 4:17-7. Both the Document Request and Interrogatories shall be continuing so as to require supplemental responses and/or answers if Defendant(s) obtain(s) further documents or information between the time the response is served and the time of trial/hearing.

DEFINITIONS

1. “Plaintiff” shall mean, individually and collectively, each Plaintiff identified in the above-captioned action. If more than one Plaintiff is identified in the caption as a party to this lawsuit, Defendants must respond to each request with specific responses applicable to each Plaintiff in this lawsuit.

2. “Defendant Red Horse” shall mean Mach Rest LLC d/b/a Red Horse by David Burke, and any of its officers, directors, employees, agents, representatives, successors, predecessors, assigns, divisions, affiliates, subsidiaries, and all persons acting or purporting to act on its behalf.

3. “Defendant Rafael LNU” shall mean Rafael Last Name Unknown, Defendant in the above-captioned action.

4. “Defendant Burke” shall mean David Burke, Defendant in the above-captioned action.

5. “Defendant Charmello” shall mean Toni Charmello, Defendant in the above-captioned action.

6. “Defendant Leo LNU” shall mean Leo Last Name Unknown, Defendant in the above-captioned action.

7. “Defendant Jensen” shall mean Karen Jensen, Defendant in the above-captioned action.

8. “Defendant Ubert” shall mean Scott Ubert, Defendant in the above-captioned action.

9. “Defendant Gary LNU” shall mean Gary Last Name Unknown, Defendant in the above-captioned action.

10. “Defendant(s)” shall individually and collectively mean all Defendants in the above-captioned action.

11. The term “Corporate Defendant(s)” shall individually and collectively mean any Defendant company, corporation, partnership, union, joint venture, sole proprietorship, association, government agency, or organization, or any other similar type of group through which business is conducted, or any director, officer, employee, or agent thereof.

12. The term “Individual Defendant(s)” shall mean any defendant in this matter sued in his/her individual capacity or as an agent/servant of any Corporate Defendant.

13. The terms “you,” “your,” or “yours” shall mean the party answering these interrogatory questions.

14. “Entity” shall mean any company, corporation, partnership, union, joint venture, sole proprietorship, association, government agency, or organization, or any other similar type of group through which business is conducted, or any director, officer, employee, or agent thereof.

15. “Person” shall mean any natural Person, partnership, corporation, or other business entity and all present and former officers, directors, agents, employees, attorneys, and others acting

or purporting to act on behalf of such natural Person, partnership, corporation, or other business entity.

16. The term “Action” shall mean the civil action captioned above.

17. The term “Complaint” shall mean the Complaint filed by Plaintiff(s) in this Action.

18. The term “Answer” shall mean any Answer to the Complaint filed by any party in this Action, which specifically includes all Affirmative Defenses, Denials, and Counterclaims, and was filed with the Court in the above-captioned Action.

19. The term “Investigation” shall mean any investigation, inquiry, analysis, review, examination, research, study, interview, interrogation, and/or collection of evidence, statements (oral or written), and documents.

20. The term “Grievance” shall mean any complaint, grievance, accusation, allegation, protest, and/or objection (formal or otherwise) by Plaintiff(s) or any Person concerning any of the Defendant(s) and Plaintiff.

21. “Document” or “documents” is defined in accordance with New Jersey Court Rule 4:18-1 and includes the original and any identical or non-identical copy, regardless of origin or location, of any written, reported, filmed, magnetically stored, or graphic matter, or record of any type or description, whether produced, reproduced, or producible on paper, cards, tapes, film, electronic facsimile, computer storage devices, or any other media, including, but not limited to, memoranda, notes, minutes, records, photographs, computer programs, correspondence, telegrams, diaries, bookkeeping entries, specifications, source code, object code, flow charts, financial statements, charts, studies, reports, graphs, statements, notebooks, handwritten notes, application, feasibility studies, agreements, books, pamphlets, periodicals, appointment calendars, notes, records and recordings of oral conversations or voicemails, emails, inter-office or intra-

office communications, handwritten or other notices, diaries, invoices, purchase orders, bills of lading, work papers, and also including, but not limited to, originals and all copies which are different from the original, whether by interlineation, receipt stamp, notation, indication of copy sent or received, or otherwise, and drafts, which are in the possession, custody or control of the present or former agents, representatives, employees, or attorneys of Defendant(s), or all persons acting on Defendant(s)' behalf, including documents at any time in the possession, custody or control of such Individuals or entities who are known by Defendant(s) to exist. Include any catalog, brochure, or any other data compilations from which information can be obtained and translated if necessary, or any other written, recorded, stored, transcribed, punched, taped, filed or graphic matter however produced or reproduced, to which Defendant(s) have or have had access.

22. The term “communication” means any conversation, correspondence, discussion, meeting, message, record of phone calls, or other occurrence in which data, conclusions, information, opinions, or thoughts are exchanged between two or more persons, whether it be written, oral, or electronically transmitted.

23. The terms “all” and “any” shall both be construed as “any and all.”

24. The terms “and,” “or,” and “and/or” shall be construed in both the disjunctive and conjunctive to permit the broadest possible reading of the request so as to bring within the scope of the request documents and other material that might otherwise be construed to be outside the request.

25. The term “concerning” means concerning, comprising, constituting, containing, commenting on, dealing with, describing, discussing, embodying, evidencing, illustrating, pertaining to, referring to, reflecting, regarding, relating to, responding to, stating, or supporting in any way, either directly or indirectly.

26. The phrases “relating to” or “relate to” or “relates to” or “refer to” or “refers to” or “referred” or “relating to” and/or “regarding” shall be construed in the broadest possible sense to mean, *inter alia*, concerning, referring to, embodying, constituting, describing, connected with, commenting on, responding to, evidencing, identifying, supporting, contradicting, rebutting, pertaining to, and/or relating in any way.

27. The term “including” or “include” shall mean “including without limitation.”

28. Masculine forms of any noun or pronoun shall embrace and be read to include the feminine or neuter, as the context may make appropriate.

INSTRUCTIONS

1. In addition to the specific instructions enumerated below, the following Document Requests and Interrogatories shall be subject to the New Jersey Rules of Court.

2. If more than one Plaintiff is identified in the caption as a party to this lawsuit, Defendant(s) must respond to each request with specific responses applicable to each Plaintiff in this lawsuit.

3. When referring to a person, “to identify” means to give, to the extent known, the person’s full name, present or last known address, and last known place of employment.

4. These Document Requests and Interrogatories shall be deemed continuing in nature so as to require prompt supplementation if, as, and when Defendant(s) obtain additional information.

5. If anyone identified in response to any of the Document Requests and/or Interrogatories was formerly, but is no longer, employed by you, please so state in the answer and provide the former employee’s current address and telephone number (business or home), if known. If the current address and telephone number are not known, then please provide the former employee’s last known address and telephone number.

6. You shall be under a continuing obligation to supplement answers to the Document Requests and Interrogatories.

7. If you cannot respond to any of the following Document Requests and/or Interrogatories in full after exercising due diligence to secure the information to do so, then respond to the extent possible and explain your inability to provide a complete answer. State whatever information or knowledge you have about the unanswered portion of any Document Request and/or Interrogatories.

8. Whenever a Document Request and Interrogatories asks for a date, state the exact day, month, and year, if ascertainable or, if not, the best approximation thereof.

9. Documents shall be produced in their original state (i.e., in their original file folders in the exact order as found) without removal or rearrangement of anything contained therein.

10. Each document request that seeks information relating in any way to communications to, from, or within a business or entity is hereby designated to mean, and should be construed to include, all communications by and between that business and/or entity's present or former representatives, employees, agents, and servants of the business and/or entity.

11. All documents shall be organized and labeled to correspond with the numbered paragraphs of these document requests. If there are no documents responsive to a particular document request, Defendant(s) shall so state in writing.

12. All electronically stored information shall be produced in a reasonably usable form, and it shall not be converted from the form in which it is ordinarily maintained to a different form that would make it more difficult or burdensome for Plaintiff to use such information.

13. In the event that any document or portion thereof is withheld on the basis of any privilege or otherwise claimed to be protected against production, such document shall be

identified by stating: (a) the nature of the privilege or reason for withholding which Defendant(s) contend applied; (b) the factual basis for Defendant(s)' assertion of privilege or the reason for withholding; (c) the type of document (e.g., letter, memorandum, etc.); (d) all authors and addressees; (e) all indicated and blind copies; (f) all persons to whom the document was distributed, shown, or explained; (g) the document's date; (h) a summary description of the document's subject matter; (i) the number of pages and attachments or appendices comprising the document; and (j) its present custodian.

14. Whenever a claim of privilege concerns any oral communication or statement, identify the participants to the communication and the person giving and receiving the statement, set forth the date and place of the communication or statement, state the general subject matter thereof, and state the basis for the claim of privilege.

15. If any document was, but is no longer, in Defendant(s)' possession, or subject to Defendant(s)' control, or in existence, state whether it: (a) is missing or lost; (b) has been destroyed; (c) has been transferred, voluntarily or involuntarily, to others; or (d) has been otherwise disposed of. In each instance, explain the circumstances surrounding any such disposition, including the authorization of the disposition, the date of destruction or discard, the manner of destruction or discard and reason for destruction or discard, the persons who authored and carried out such destruction or discard, whether any copies of the document presently exist, and, if so, the name of the custodian of each copy.

16. An objection or claim of privilege directed to part of a request does not constitute an excuse for failure to respond to the parts of the Document Request and/or Interrogatories for which no objection to claim of privilege is made.

17. If a refusal to answer a Document Request and/or Interrogatories is based on the grounds that the request is overly burdensome, identify the number and nature of documents needed to be searched.

18. Punitive Requests relate to Corporate Defendant(s)' financial condition for purposes of punitive damages. "Case law recognizes the Defendant's financial condition as a relevant factor in all punitive-damage awards." Herman v. Sunshine Chemical Specialties, Inc., 133 N.J. 329, 339, (1993). In order to properly determine the appropriate punitive damage award amount, the trier of fact "must consider evidence of the Defendant's financial condition." Id. at 342. "The degree of punishment resulting from a judgment must be, to some extent, in proportion to the means of the guilty person. Restatement (Second) of Torts 908 comment d (1977)." McDonough v. Jorda, 214 N.J. Super. 338, 349 (1986), certif. denied, 110 N.J. 302 (1988) cert. denied, 489 U.S. 1065 (1989).

DOCUMENT REQUESTS
(Directed to All Defendants)

1. Any and all Documents relating to any insurance policy or reinsurance policy that may be used to pay all or part of any judgment entered against Defendant(s) in this Action.

Personnel Files

2. A complete copy of the personnel file Defendant(s) maintained pertaining to Plaintiff, including but not limited to copies of Documents relating to the following: (a) medical records and reports; (b) pay and benefits provided to Plaintiff; (c) attendance, sick time, disability time, personal time and/or vacation time; (d) commendations and/or performance reviews regarding Plaintiff; (e) job title or job status changes; (f) Documents relating to any leave of absence; and (g) employer policy information provided to Plaintiff, if any.

3. Limited portions of the personnel file(s) Defendant(s) maintained pertaining to any

and all Individual Defendant(s), including but not limited to copies of Documents (written or electronic) relating to the following: (a) disciplinary action (i.e., oral reprimand, written reprimand, suspension, demotion, loss of pay, termination) being taken against any Individual Defendant; (b) performance evaluations that were conducted for any Individual Defendant; and (c) job title or job status changes for any Individual Defendant.

Plaintiff's Hiring & Employment

4. Any and all Documents that relate to, discuss, or memorialize the Plaintiff's hiring.
5. Any and all Documents (including the job application) that Plaintiff completed in connection with her seeking or application of employment at Corporate Defendant(s).
6. Produce Corporate Defendant(s) application for employment that was used during Relevant Time Period.
7. Any and all statements, Documents, or Communications related to the policies, procedures, or Documents reviewed with or provided to Plaintiff during Plaintiff's onboarding with Corporate Defendant(s).
8. Any and all policies, practices, procedures that Plaintiff was required to comply with while employed by Corporate Defendant(s).
9. Produce a copy of the employee handbook in force and effect at the time of the Plaintiff's employment with Defendant(s).
10. Produce a copy of any and all Personnel manuals in force and effect at the time of the Plaintiff's employment with Defendant(s).
11. Any and all Documents relating to any and all employee benefits or benefit plan in which the Plaintiff was/were eligible to participate during his/her employment with Defendant(s).

12. Produce Documents related to Plaintiff's compensation including, paystubs, timesheets, and earning statements.

13. Any and all statements, Documents, or Communications concerning any agreement or contract between the Plaintiff and Defendant(s).

14. Any and all statements, Documents, or Communications relating to Plaintiff's performance.

15. Any and all statements, Documents, or Communications concerning any occasion in which Defendant(s) reprimanded or disciplined Plaintiff.

16. Any and all Documents and Electronic Data that relate to, refer to, discuss, or memorialize any alleged adverse employment action against Plaintiff (e.g., the termination, demotion, suspension, separation, and/or resignation of Plaintiff).

Job Description & History

17. A written job description for each and every position that Plaintiff held during Plaintiff's employment with Corporate Defendant(s).

18. A written job description for each and every position held by any Individual Defendant or any employee or agent of Defendant(s) during his/her tenure of employment with Corporate Defendant(s).

Policies & Procedures

19. Produce a copy of Defendant(s)' policies, practices, and/or procedures concerning discrimination, harassment, and retaliation during the Relevant Time Period.

20. Any and all documents which reflect the sick leave policy of Defendant Red Horse.

21. Any and all documents that reflect how Defendants calculate earned sick leave for each employee at Defendant Red Horse.

22. Any and all documents that reflect Plaintiff's accrued sick leave time at Defendant Red Horse during the Relevant Time Period.

Training

23. Any and all statements, Documents, or Communications relating to anti-harassment, anti-discrimination, and/or anti-retaliation training or education completed by Defendant(s) during the Relevant Time Period.

24. Any and all statements, Documents, or Communications concerning Defendant(s) receiving any sensitivity training or any training regarding appropriate workplace conduct during the Relevant Time Period.

Statement & Witnesses

25. Any and all statements, Documents, or Communications concerning or made by any Person that relate to the allegations asserted in the Complaint.

26. Any and all statements, Documents, or Communications relating to statements of witnesses provided to and/or obtained by Defendant(s) that relate to this Action.

27. Any and all statements, Documents, or Communications concerning or made by any Person (including any of Defendant(s)' employees or coworkers) that relate to the defenses, affirmative defenses, and/or denials asserted in the Answer.

28. Any and all statements, Documents, or Communications concerning any and all of Defendant(s) denials of the allegations set forth in the Complaint.

29. Any and all statements, Documents, or Communications concerning any Person who has knowledge and/or information relating to this Action.

30. Any and all statements, Documents, or Communications between the Plaintiff and Defendant(s) that relate to this Action.

31. Any and all statements, Documents, or Communications concerning any and all admissions by or of Defendant(s) that relate to this Action.

Trial & Experts

32. All Documents Defendant(s) intend to use for any purpose in this litigation, including, but not limited to the data it intends to use in depositions or at trial.

33. All Documents any expert who may testify on Defendant(s)' behalf and which Defendant(s) intend to use or may rely upon at trial.

34. Any and all reports relevant to this matter written by an expert utilized by Defendant(s).

35. Copies of any and all books, treatises, pamphlets or other printed material upon which Defendant(s) or any experts retained by Defendant(s) will rely on to support its defenses, including using as an exhibit at trial.

Internal Complaints & Investigation

36. Any and all statements, Documents, or Communications relating to any complaints, protected conduct, and/or Grievances made by the Plaintiff regarding Defendants.

37. Any and all statements, Documents, or Communications concerning any Investigation that relates (i) to the claims and defenses asserted in this Action, (ii) to Plaintiff, and/or (iii) to Defendants. This includes all statements, Documents, or Communications concerning any Investigation concerning discrimination, harassment, hostile work environment, retaliation, or any conduct pertaining to Plaintiff's alleged NJLAD claims.

38. Any and all reports (including drafts) relating to any Investigations or Grievances concerning Defendant(s) and/or the Plaintiff.

Other Litigation

39. Any and all Documents concern concerning any and all internal complaints, lawsuits, and Grievances at Corporate Defendants the past ten (10) years concerning harassment, discrimination, hostile work environment, retaliation, or alleged violation of federal law, state law, CEPA, or NJLAD.

40. Any and all Documents concerning any lawsuits, claims, charges, arbitrations, and/or proceedings – previously or currently before state court, federal court, administrative agency, U.S. Equal Employment Opportunity Commission, the NJ Department of Labor, civil rights agency, commission, board, or department – against Defendant(s) for the past ten (10) years concerning harassment, discrimination, hostile work environment, retaliation, or alleged violation of federal law, state law, CEPA, or NJLAD.

Communication

41. Produce any and all photographs, videos, or recordings that relate to this matter.

42. Produce a copy of any and all Messages and Communication between Defendant(s) and Plaintiff.

43. Produce a copy of any and all Messages and Communication between or among Individual Defendants that concern or relate to Plaintiff.

44. Produce a copy of any and all Messages and Communication between Defendant(s) and Defendant(s)' agents, servants or representatives referring and/or relating to the subject matter of this litigation.

45. Any and all statements, Documents, or Communications concerning any and all Communication between Defendant(s) and Defendant(s)' Human Resources department(s) regarding Plaintiff.

46. Any and all Documents or logs relating to phone calls between the Plaintiff and Defendants, including cell phones, traditional phones, and softphones.

47. Any and all statements, Documents, or Communications concerning teleconference and videoconference (such as Zoom and Teams) that related to this matter.

Other

48. Any and all Documents identified or referenced in Defendant(s)' Answers to Plaintiff's First Set of Interrogatories to Defendant(s).

49. Any and all Documents Defendant(s)' relied upon when drafting their Answer.

Notices

50. Produce any and all notices, posters, bulletins, or other Documents Defendant(s) displayed in the workplace regarding federal, state, and local employment laws during the Relevant Time Period.

Data Preservation

51. Any and all Documents relating to Corporate Defendant(s)' policies, practices, and/or procedures concerning Electronic Data retention and preservation.

Job Comparators & Replacement

52. Any and all Documents relating to any Person who assumed Plaintiff's position, or who assumed or performed Plaintiff's roles/duties/responsibilities, including that individual's contract, offer letter, and Personnel file.

53. Produce portions of the Personnel file(s) Defendant(s) maintained pertaining to any and all of Plaintiffs' "job comparators" during Plaintiff's employment, including but not limited to copies of Documents (written or electronic) relating to the following: (a) disciplinary action (i.e., oral reprimand, written reprimand, suspension, demotion, loss of pay, termination) being taken

against said employees; (b) performance evaluations that were conducted for any said employees; (c) pay records maintained for said employees; and (d) job title or job status changes for any said employees.

54. Produce job descriptions for each and every position held by any and all “job comparators” of the Plaintiff during his/her tenure of employment with Corporate Defendant(s).

55. Any and all Documents relating to job or positions vacancies/postings/openings/advertisements opportunities where Defendant(s) sought to hire an individual or promote an employee within (3) months preceding and succeeding Plaintiff’s termination.

56. Any and all Documents relating to job or positions vacancies/postings/openings/advertisements opportunities where Defendant(s) sought to hire an individual or promote an employee to fulfill or assume Plaintiff’s former job duties.

Unemployment

57. Any and all Documents to or from the State of New Jersey related to Plaintiff’s claim for unemployment benefits.

58. All and all statements, Documents, or Communication related to Plaintiff’s claim for unemployment benefits.

INTERROGATORIES

(Directed to All Defendants)

Insurance

1. Please set forth the existence and contents of any insurance agreement pertaining to the issues in the case, insuring the party answering this Interrogatory. This request is made pursuant to R. 4:10-2(b).

2. State the policy limits of any and all insurance policies naming Defendant(s) as an insured which cover the claims in this litigation, along with the name of the insurance carrier and policy number, the amount of any applicable deductible, and if the claim is being defended under a Reservation of Rights Agreement or letter, attach a copy of said Reservation of Rights Agreement or letter.

Individual Defendants & Other Witnesses

3. Identify the full name, job title, duration of employment, last known address, email address, and telephone number for each and every Individual Defendant.

4. State the job title, duration of employment, last known address, email address, and telephone number for Michael Rourse

5. State the job title, duration of employment, last known address, email address, and telephone number for Marilyn Levins.

6. State the job title, duration of employment, last known address, e-mail address, and telephone number for Tim Sengle.

7. Identify each and every email account each Individual Defendant(s) utilized as an employee of Defendant(s) during the Relevant Time Period.

Termination

8. State with specificity each and every legitimate, non-discriminatory and/or non-retaliatory reason for why Defendants subjected Plaintiff to adverse employment action (e.g., termination, suspension, demotion), during Plaintiff's employment and the factual basis for the same. Attach any and all Documents related to Plaintiff's termination or that discuss Plaintiff's termination.

9. Identify each and every individual who was involved in the decision to take adverse

employment action (e.g., termination, suspension, demotion) against Plaintiff and describe each individual's role and input in the decision.

10. Identify the date, time and location of any meetings where the decision regarding whether to terminate Plaintiff's employment was discussed and identify each and every individual present at the meeting.

Employment

11. State whether there are any forms required to be filled out by an applicant for original hire, promotion, transfer, or other change in terms and conditions of employment, and, if so, state:

- a. the name and identifying number of each form;
- b. the purpose of each form;
- c. and produce the form.

12. State whether there was any collective bargaining agreement in effect during the period referred to in the complaint providing for any connection with, authority over, or direct or indirect effect or control over any hiring practices or procedures of Corporate Defendant(s).

13. With respect to Plaintiff, state the following:

- a. the original date of hire;
- b. the gross earnings or compensation for each year of employment since the original date of hire to the present;
- c. all fringe benefits payable to the plaintiff at time of discharge, including pension, welfare, health, retirement, savings, deferred compensation, bonus and/or profit sharing plans; and
- d. if the benefit plans have changed since the time of discharge, detail all the changes.

14. State identified the employee compensation and benefits that the Corporate Defendant(s) offered to Plaintiff, including, but not limited to, the following, and describe in detail:

- a. hourly or salary wage;any compensation;
- b. overtime;
- c. stock options;
- d. sabbaticals;

- e. sick leave;
- f. disability leave;
- g. vacation leave;
- h. Christmas/holiday bonuses;
- i. other bonuses;
- j. health insurance;
- k. life insurance;
- l. maternity leave;
- m. child-rearing leave;
- n. other leaves of absence;
- o. pensions and retirement benefits;
- p. education leave; and
- q. contribution toward educational expenses.

15. List chronologically each and every job title held by the Plaintiff while employed by any Defendant(s) indicating the time period during which each position was held.

16. For any position held by the Plaintiff while employed by Defendant(s) for which there is no job description, describe with specificity the job functions of each and every such position to the best of Defendant(s)' knowledge.

17. State the required qualifications and skills for each and every job title that the Plaintiff held while employed by any Defendant(s).

18. State whether the Plaintiff was/were ever promoted while employed by any Defendant(s). For each promotion, state the following:

- a. from what position or job title the promotion was from and to what position or job title the promotion was to;
- b. the date of the promotion;
- c. the reason(s) for the promotion;
- d. the names, last known addresses, last known telephone numbers, and job titles, of all Persons involved in the decision-making process and the nature and extent of their involvement in the decision;
- e. the criteria used in making the decision; and
- f. identify all Documents that in any way touch upon, discuss or pertain to any of the matters referred to in this Interrogatory.

19. State whether the Plaintiff was/were ever demoted while employed by any Defendant(s). For each demotion, state the following:

- a. from what position or job title the demotion was from and to what position or job title the demotion was to;
- b. the date of the demotion;
- c. the reason(s) for the demotion;
- d. the names, last known addresses, last known telephone numbers, and job titles, of all Persons involved in the decision-making process and the nature and extent of their involvement in the decision;
- e. the criteria used in making the decision; and
- f. identify all Documents that in any way touch upon, discuss or pertain to any of the matters referred to in this Interrogatory.

20. List chronologically each and every job title held by Individual Defendant(s) while employed by any Defendant(s), indicating the time period during which each position was held.

21. For any position held by Individual Defendant(s) while employed by any Defendant(s) which there is no job description, describe with specificity the job functions of each and every such position to the best of Defendant(s)' knowledge.

22. State the required qualifications and skills for each and every job title that Defendant(s) held while employed by any Defendant(s).

23. State whether Individual Defendant(s) was/were ever promoted while employed by any Defendant(s). For each promotion, state the following:

- a. from what position or job title the promotion was from and to what position or job title the promotion was to;
- b. the date of the promotion;
- c. the reason(s) for the promotion;
- d. the names, last known addresses, last known telephone numbers, and job titles, of all Persons involved in the decision-making process and the nature and extent of their involvement in the decision;
- e. the criteria used in making the decision; and
- f. identify all Documents that in any way touch upon, discuss or pertain to any of the matters referred to in this Interrogatory.

24. State whether Individual Defendant(s) were ever demoted while employed by any Defendant(s). For each demotion, state the following:

- a. from what position or job title the demotion was from and to what position or job title the demotion was to;
- b. the date of the demotion;

- c. the reason(s) for the demotion;
- d. the names, last known addresses, last known telephone numbers, and job titles, of all Persons involved in the decision-making process and the nature and extent of their involvement in the decision;
- e. the criteria used in making the decision; and
- f. identify all Documents that in any way touch upon, discuss or pertain to any of the matters referred to in this Interrogatory.

25. State the full name of each and every manager that worked with or oversaw the Plaintiff during the course of Plaintiff's employment and include dates that each and every manager oversaw Plaintiff.

26. State whether Defendant Rafael LNU attempted to kiss Plaintiff at any point during her employment with Defendant Red Horse.

27. State whether Defendant Rafael LNU ever told Plaintiff, "Come on, just give me a kiss."

28. State whether Defendant Rafael LNU ever grabbed and/or dragged Plaintiff into the bathroom of Defendant Red Horse.

29. State whether Defendant Rafael LNU ever asked Plaintiff to meet with him outside of working hours of Defendant Red Horse.

30. State whether Defendant Leo LNU made comments about Plaintiff's breasts.

31. State whether Defendants ever forced Plaintiff to order an alcoholic beverage during working hours at Defendant Red Horse.

32. State whether Defendant Gary LNU ever propositioned Plaintiff and Marilyn Levin for a hand job in exchange for money.

33. State whether Defendant Gary LNU ever kissed Plaintiff during working hours at Defendant Red Horse.

34. State whether Defendant Gary LNU ever instructed Plaintiff to drive him home in her personal vehicle.

35. State whether Defendant Burke was ever made aware of any sexual harassment and/or discriminatory experiences at Defendant Red Horse by Plaintiff during the Relevant Time Period.

36. State whether Defendant Burke was ever made aware of any sexual harassment and/or discriminatory experiences at Defendant Red Horse by any female employee during the Relevant Time Period.

Procedures & Policies

37. Identify and describe in full detail Defendant(s)' policy relating to an employee's complaint of discrimination, harassment, and/or retaliation.

38. Identify and describe in detail Defendant(s)' policies, practices, and/or procedures for reprimanding, suspending, and terminating employees.

39. Describe, in detail, any Investigation, determination and/or disciplinary actions taken by Defendant(s) relating to any of the parties in this Action in the past ten (10) years.

40. Identify and describe the facts and details relating to each instance in which any of the Defendant(s) reprimanded or disciplined Plaintiff while employed at Defendant(s).

41. Identify and describe the facts and details relating to each instance in which any of the Defendant(s) were reprimanded or disciplined during the course of their employment.

42. Describe, in full detail, the facts and circumstances relating to any change in Plaintiff's position and/or job responsibilities.

43. Describe, in full detail, the facts and circumstances relating to any change in Defendant(s) position and/or job responsibilities.

44. Identify who is responsible for keeping track of employees' earned sick leave at Defendant Red Horse.

45. Describe, in full detail, the process in which Defendants calculate an employee's earned sick leave at Defendant Red Horse.

46. Describe, in full detail, the process in which employees request their earned sick leave with Defendant Red Horse.

Investigation

47. Identify and provide full details concerning any Investigation relating to the allegations and claims in the Complaint, including but not limited to who was questioned or interviewed, what was discovered, and what corrective Action was taken. Identify those who Defendant(s) contacted or assigned to conduct each specific Investigation or inquiry, who was questioned, what was discovered, and what corrective Action was taken to the best of Defendant(s)' knowledge. Provide copies of any examinations, audits, findings, reports, or notices in Individual Defendant(s)' possession.

48. Identify and provide full details concerning any Investigation relating to any denials or defenses asserted in the Answer, including, but not limited to who was questioned or interviewed, what was discovered, and what corrective Action was taken.

Grievances

49. Please describe in detail complaints or Grievances (formal or otherwise) made by the Plaintiff with regard to discrimination, harassment, hostile workplace environment, and/or retaliation regarding Defendant(s).

50. Describe, in detail, all complaints or Grievances (formal or otherwise) by any employees of Defendant(s) relating to discrimination, harassment, hostile workplace environment and/or retaliation by Defendant(s) in the past ten (10) years.

51. Describe, in detail, the Investigation, determination and/or disciplinary actions

taken by Defendant(s) relating to all complaints or Grievances of discrimination, harassment, hostile workplace environment and/or retaliation by Defendant(s) in the past ten (10) years.

52. Describe, in detail, the facts and circumstances relating to the method and process by which complaints or Grievances are handled and resolved with the Human Resources Departments (or similar departments) at Defendant(s).

HR & Training

53. Identify any and all Persons employed by Defendant(s) who are responsible for Human Resources, Personnel matter, training, orientation, and Personnel monitoring for the previous five (5) years to the present to the best of Defendant(s)' knowledge, and provide the dates of employment for each.

54. Provide the name, last known address, last known job title, and last known telephone number of each and every Equal Employment Opportunity officer employed by Corporate Defendant(s) or the previous five (5) years to the present, and for each, state the dates of employment of each EEO officer.

55. State whether any Defendant(s) received or went through an orientation program when he/she was hired to work at Defendant(s) and describe said program. If so:

- a. provide a description of the system(s) or procedure(s) used for orientation for the past five (5) years; and
- b. identify and produce all Documents that in any way touch upon, discuss or pertain to any of the matters referred to in this Interrogatory.

56. Identify and provide full details concerning any and all harassment and discrimination prevention training conducted by Defendant(s) in the past five (5) years.

57. In connection with Defendant(s)' response to the preceding Interrogatory, provide full details of such training including the dates, and provide any and all written materials used in such training. If the training was provided by a third party, please forward the third party's name,

business address, and last known phone number, together with the third party's qualifications to perform such training.

58. Identify and describe the facts and details of each and every instance concerning any of the Defendant(s) receiving any sensitivity training or any training regarding appropriate workplace language and conduct.

59. Does Corporate Defendant maintain records and post employment notices as required by federal, state, or local employment laws, and the regulations adopted pursuant thereto, and, if so, identify the records and notices and describe in detail how compliance has taken place and particularly describe the compliance in the last five (5) years to the present.

60. State whether the Corporate Defendant(s) has received any notices, posters, bulletins, or other Documents from the Equal Employment Opportunity Commission or the New Jersey Department of Labor with instructions to post them in conspicuous places on the premises, and, if so, state where and when the notices, posters, bulletins or Documents were posted, and if they are posted at the present time, state where and when the notices, posters, bulletins or Documents are posted.

Other Cases

61. State whether any lawsuits, claims, charges, arbitrations, and/or proceedings – including with state court, federal court, administrative agency, U.S. Equal Employment Opportunity Commission, the NJ Department of Labor, civil rights agency, commission, board, or department – has been filed/charged/sought against Defendant(s) alleging harassment, discrimination, and/or retaliation in the past ten (10) years. If so, provide the following for each such Action:

- a. the name, last known address, last known telephone number, and job title of the complainant(s);

- b. the title of the Action;
- c. the name and address of the court where the Action was filed;
- d. the docket number of the Action;
- e. the date on which the Action was filed;
- f. the nature and substance of the Action;
- g. the disposition or present status of the Action;
- h. whether the case was tried and, if so, the verdict;
- i. the amount of punitive damages, if any;
- j. the amount of compensatory damages, if any; and
- k. identify all Documents that in any way touch upon, discuss or pertain to any of the matters referred to in this Interrogatory.

62. Set forth in detail, to Your knowledge, any and all notices and warnings received by the Defendant(s) over the past five (5) years from any State and/or Federal and/or Local regulatory authorities who oversee, license, regulate, or discipline Your operations, and/or Your employees.

63. Describe, in detail, any and all complaints to, Investigations by, and/or inquiries by the New Jersey Department of Labor with regard to any employment matter concerning Defendant(s) for the past five (5) years. Identify any and all Documents that in any way touch upon, discuss or pertain to any of the matters referred to in this Interrogatory.

Statement & Admissions

64. Set forth whether Defendant(s) have obtained a statement from any Person not a party to this Action. If Your answer is in the affirmative, state:

- a. Name and address of the Person who gave the statement, and date statement obtained;
- b. if written, whether signed by the Person;
- c. if oral, name and address of the Person who obtained the statement, and if recorded, the nature and present custody of recording;
- d. attach a copy of all said written statements; and
- e. if oral, set forth completely the substance of said statements.

Communication

65. State whether Defendant(s)' agents communicated with any Persons or Entities that are not parties to this litigation in connection with the subject matter of this lawsuit. For any and

all such Communications that were oral, specify the nature and substance of the Communication, the date on which it occurred, the place at which it occurred, and the names, last known addresses, and last known telephone numbers of all Persons present. For any and all such Communications that were written, provide true and accurate copies of each such Communication.

66. State whether at any time, Defendant(s) ever taped and/or digitally recorded any Communication with the Plaintiff, whether face-to-face or telephonic. If so, describe in detail, including but not limited to:

- a. the identity of each Defendant(s) recorded;
 - b. the date, time, place, and manner in which You recorded the Communications;
 - c. the substance of the recorded Communications;
 - d. the device used for making such recordings; and
 - e. whether You obtained consent to tape or record such Communications.
- Provide any such recordings.

Trial & Experts

67. State the name, last known address, and last known telephone number of each and every Person whom Defendant(s) may expect to call as a witness at trial and indicate those facts to which each and every such witness is expected to testify.

68. State the names and business addresses of any and all proposed expert witnesses whom Defendant(s) have retained for this matter.

69. With respect to each and every proposed expert witness referred to in the preceding Interrogatory, provide the following:

- a. field of expertise;
- b. educational background;
- c. the names of any and all books, periodicals, or other writings that he or she has written or to which he or she has contributed;
- d. the date, time, and place at which any oral opinion was rendered, specifying to whom that opinion was rendered and describing the content of that opinion;
- e. true and accurate copies of any and all written reports or opinions, including drafts;

- f. the name, last known address, last known telephone number, job title, and current employer of each Person with whom the expert has met in connection with formulating his or her opinion or preparing his or her report(s);
- g. true and accurate copies of any and all Documents that the expert created, obtained, or reviewed in connection with the formulation of his or her opinion or the preparation of his or her report(s);
- h. all tangible things upon which Your expert(s) may rely as an exhibit at trial and identify the name and address of the Person in whose custody the above identified tangible things are at the present time and;
- i. if any such reports, either written or oral, subsequently become known to You or become available, submit copies thereof to supplemental answers to these Interrogatories.

70. With respect to each and every proposed expert witness referred to in the preceding Interrogatory, set forth in summary form the substance of the opinion to which each is expected to testify, including a summary of grounds for each opinion.

71. Identify the names and addresses of any and all Persons other than those named in the preceding three Interrogatories, who have been retained, specifically employed, or consulted by Defendant(s) in anticipation of litigation or preparation for trial and who may not be called as witnesses at trial and as to each:

- a. state the subject matter on which he/she was consulted;
- b. state his/her field of expertise;
- c. set forth the full and detailed qualifications, training, professional and practical experience, education and degree obtained by such Person. (As to each item listed in the answer to this Interrogatory, set forth the dates and/or years of same, as well as the names and addresses of each institution attended; furthermore, set forth the nature of each place at which experience or training was received);
- d. attach to the answers to these Interrogatories copies of all written reports submitted to You (or detailed resume if report was oral) of each such expert;
- e. state whether or not there are any other reports in existence from the particular experts named, either written or oral (if any such reports, either written or oral, subsequently become known to You, or become available, submit copies thereof of supplemental answers to these Interrogatories);
- f. set forth completely all expert opinions rendered by the named expert(s) which are not in writing;
- g. identify each Document that has been relied upon by each expert witness in the formulation of his or her opinion; and
- h. state a summary of the grounds for each opinion.

Damages

72. If the party or parties answering these Interrogatories believes that some Person, not a party to this Action, is in some way responsible for the injuries and/or damages alleged, please set forth the name and address of such Person, and the acts or omissions and address of such Person, the acts or omissions of said Person which caused the injury or damage and the facts which support the belief.

Legal & Other

73. State the name, last known address, and last known telephone number of any and all Persons who have knowledge of facts relating in any way to this matter and specify the subject matter of each and every such Person's knowledge.

74. Indicate whether the individual or individuals certifying these Interrogatory answers had the opportunity to review the typed responses.

75. If the Person certifying the answers to these Interrogatories did not answer each and every question, then identify each and every Person supplying information used to answer the above Interrogatories and set forth the numbers of the Interrogatories as to which each and every such Person supplied information.

76. Describe, in detail, the factual basis for each and every Affirmative Defense set forth in the Answer.

77. Describe in detail the factual basis for each and every of Defendant(s) denials of the allegations of the Complaint.

78. Are there any Documents that Defendant(s) know or believe to be in existence, although not in Defendant(s)' possession, custody, or control, that in any way relate to the subject matter of this litigation? If so, identify each and every such Document, set forth the source of

Defendant(s)' information or belief regarding the existence of such Document, and identify the Person or Entity in whose possession, custody, or control such Document is known or believed to be.

Jurisdictional

79. Identify each and every State in which Corporate Defendant(s) is incorporated and state the date of each incorporation.

80. Identify each and every State in which Corporate Defendant(s) conducts business operations and state the proportion of the Corporate Defendant(s) total business which is done within each State.

81. Identify and describe the business operations of Corporate Defendant(s) in the State of New Jersey during the Relevant Time Period, including location, nature of operation, for whom work was performed, and pursuant to what contract or agreement.

82. Identify each and every facility maintained by Corporate Defendant(s) in the State of New Jersey and state with reference to each:

- a. the name of the facility;
- b. the address of the facility;
- c. the date the facility opened for operation;
- d. the nature of the work performed at the facility;
- e. the name and title of the officer in charge of each facility; and
- f. the name and title of the individual in charge of employee Relations at each facility.

83. Is there an organization chart for the defendant, and, if so state the name and address of the custodian of the chart.

*Interrogatories to Individual Defendants***INTERROGATORIES TO INDIVIDUAL DEFENDANT(S)***(Directed to Individual Defendants)*

1. Identify each and every Document of every kind and description of which Individual Defendant(s) has knowledge which is, in any way, intended to support any claim, defense, affirmative defense, or factual allegation, or to be used by Individual Defendant(s) in any manner in this matter, including but not limited to, during the examination of any witness; describe the Document as to content and other characteristics, and state the present location of such Documents, or in lieu thereof, attach true copies to Individual Defendant(s)'s answers to these Interrogatories. For each and every such Document or tangible thing upon which Individual Defendant(s) will rely in support of Individual Defendant(s)'s claims/defenses/affirmative defenses state:

- a. its description;
- b. its nature;
- c. the name and address of Person who has custody;
- d. its location; and
- e. its condition.

2. Identify any and all email addresses You have during the past five (5) years.

3. Identify any and all cell phone numbers You have used during the past five years as and identify the carrier and current location of each and every cell phone. For any cell phone that is no longer in Your possession, identify the name and address of the Person's whose possession, custody, or control they are in.

4. Have You ever been convicted of a criminal offense? If so, for each and every conviction, identify and set forth in detail:

- a. the particular offense(s) or crime(s) of which You have been convicted;
- b. the date of each such conviction;
- c. the courts in which You were convicted;
- d. the facts surrounding and underlying each such conviction; and
- e. the punishment or sentence received.

Interrogatories to Individual Defendants

5. State whether You are a supervisor. If so, (1) state all of Your supervisory responsibilities; (2) identify which department and which employees You supervise in any capacity; (3) identify employees who You directly supervise; and (4) state whether You supervised Plaintiff and in what capacity.

Punitive Damages Document Requests

PUNITIVE DAMAGES DOCUMENT REQUESTS

(Directed to Corporate Defendants)

1. Any and all financial statements prepared for the prior 10 years, up to and including the present, setting forth income, expenses, assets, liabilities, and profits of the Corporate Defendant(s).

2. Any and all tax returns filed by the Corporate Defendant(s) for each of the last ten (10) tax years.

3. Any and all Documents evidencing assets of the Corporate Defendant(s).

4. Any and all Documents evidencing the Corporate Defendant(s)' interest in any real estate.

5. Any and all Documents evidencing the financial obligations of the Corporate Defendant(s).

6. Any and all Documents evidencing any judgment against the Corporate Defendant(s) during the past ten (10) years and the amount of such judgment(s).

7. Any and all Documents evidencing bank accounts held by the Corporate Defendant(s) during the past ten (10) years, the location of those accounts, account numbers, and balances of those accounts.

8. Any and all Documents evidencing or setting forth accounts receivable and/or obligations owed by others to the Corporate Defendant(s) during the past ten (10) years.

9. Any and all Documents evidencing payments made by the Corporate Defendant(s) to creditors during the past ten (10) years.

10. Any and all corporate books or any other written memorandum setting forth income received by the Corporate Defendant(s) during the past ten (10) years.

Punitive Damages Document Requests

11. Any and all inventories taken by the Corporate Defendant(s) of its property at any time during the past ten (10) years.

INTERROGATORIES RELATED TO PUNITIVE DAMAGES

(Directed to Corporate Defendants)

1. For each and every Corporate Defendant, set forth:
 - a. The full name of the Corporate Defendant;
 - b. The date of formation;
 - c. The state of formation;
 - d. All states in which the Corporate Defendant conducts its business;
 - e. All states in which the Corporate Defendants has registered to do business;
 - f. The full name and residential address of any Person who has been a shareholder, member, or partner of Corporate Defendant during any part of the last two years;

2. For each and every Person identified in response to subsection (f) above, state the Person's ownership interest in Corporate Defendant;
 - a. The full name and residential address of any Person who has served as a director of Corporate Defendant during any part of the last two years, along with the specific period during which such Person served as director;
 - b. The full name and addresses of all any Person who served as an officer of the corporation during any part of the past two years, along with the title and specific period during which such Person served as an officer;
 - c. All trade or fictitious names under which Corporate Defendant has conducted business during any part of the past two years;
 - d. The complete street address of all locations where Corporate Defendant has conducted its business during any part of the past two years, along with the specific period during which it conducted such business at each location; and
 - e. The full name and address of the Person who has custody of this corporation's books and records.

3. Is a majority of the ownership interest in Corporate Defendant held by any single individual or Entity? If so, state for the individual or Entity:
 - a. The full name and address;
 - b. The state of formation, if applicable;
 - c. The state(s) in which such individual or Entity does business;
 - d. The address of each business office;
 - e. The name and address of each current officer or director; and
 - f. The nature of the business in which such individual or Entity is engaged.

4. For all real property owned by Corporate Defendant(s), state:
 - a. The physical address (the "Location");

- b. The nature of the business conducted at the Location;
- c. The dates during which Corporate Defendant has owned the Location; and
- d. The number of individuals presently employed at the Location.

5. State the name, address, and telephone number of each and every Entity in which any individual identified in response to Interrogatory related to Punitive Damage No. 1(f) now has an interest and set forth the nature of such interest.

6. For each and every bank account of Corporate Defendant, list the name of the bank, the bank's address, the account number, and the name in which the account is held.

7. State the present location of any and all books and records of Corporate Defendant(s), including financial records.

8. State the name and address of each and every Person/Entity who/that prepares, maintains, and/or controls the business records and checkbooks of Corporate Defendant.

9. List each and every physical asset of Corporate Defendant. For each and every physical asset identified, state the location of the physical asset and, if such asset is subject to a lien, state the amount of the lien and the name and address of the lienholder.

10. Does the Defendant(s) own any real estate?

11. If the answer for the preceding interrogatory is in the affirmative, please state for each and every property:

- a. Name(s) in which property is owned;
- b. Address of property;
- c. Date property was purchased;
- d. Purchase price;
- e. Name and address of mortgage holder, if any;
- f. Balance due on mortgage, if any;
- g. The names and addresses of all tenants and monthly rentals paid by each tenant.

12. List any and all vehicles, equipment, and/or motor vehicles, owned by the Defendant(s) and state the following for each vehicle:

- a. Make, model, and year;

- b. License plate number;
- c. Vehicle identification number;
- d. If there is a lien on the vehicle, the name and address of the lienholder and the amount due on the lien.

13. List any and all accounts receivable due to the Defendant(s), stating the name, address, and amount due on each receivable.

14. For any transfer of business assets that has occurred within six months from the date of these Interrogatories, specifically identify:

- a. The nature of the asset;
- b. The date of the transfer;
- c. Name and address of the Person or Entity to whom the asset was transferred;
- d. The consideration paid for the asset and the form in which it was paid, e.g., check, cash; and
- e. Explain in detail what happened to the consideration paid for the asset.

15. Set forth any and all judgments that have been entered against the Defendant(s) and include the following for each:

- a. Creditor's name;
- b. Creditor's attorney;
- c. Amount due;
- d. Name of Court; and
- e. Docket number.

McOMBER McOMBER & LUBER, P.C.
Attorneys for Plaintiff Michelle Provost

By: /s/Peter D. Valenzano
PETER D. VALENZANO, ESQ.

Dated: January 2, 2025

CERTIFICATION

I hereby certify (or aver) that I have reviewed the document production request and that I have made or caused to be made a good faith search for documents responsive to the request. I further certify (or aver) that as of this date, to the best of my knowledge and information, the production is complete and accurate based on () my personal knowledge and/or () information provided by others. I acknowledge my continuing obligation to make a good faith effort to identify additional documents that are responsive to the request and to promptly serve a supplemental written response and production of such documents, as appropriate, as I become aware of them. The following is a list of the identity and source of knowledge of those who provided information to me:

- 1.
- 2.
- 3.
- 4.
- 5.

Dated: _____

By: _____

CERTIFICATION

I certify that the foregoing answers to the Interrogatories made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Dated: _____

By: _____

Christian V. McOmber, Esq. – NJ ID # 012292010
cvm@njlegal.com
Peter D. Valenzano, Esq. – NJ ID # 037892010
pdv@njlegal.com
Tiffany M. Yacullo, Esq. – NJ ID #370662021
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54 Shrewsbury Avenue
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(732) 842-6500 Phone
Attorneys for Plaintiff, Michelle Provost

<p>MICHELLE PROVOST,</p> <p style="text-align: right;">Plaintiff,</p> <p style="text-align: center;">vs.</p> <p>MACH REST LLC d/b/a RED HORSE BY DAVID BURKE; RAFAEL LAST NAME UNKNOWN; TONI CHARMELLO; LEO LAST NAME UNKNOWN; KAREN JENSEN; SCOTT UBERT; GARY LAST NAME UNKNOWN; ABC CORPORATIONS 1-5 (fictitious names describing presently unidentified business entities); and JOHN DOES 1-5 (fictitious names describing presently unidentified individuals),</p> <p style="text-align: right;">Defendants.</p>	<p>SUPERIOR COURT OF NEW JERSEY LAW DIVISION: MERCER COUNTY</p> <p>DOCKET NO.</p> <p style="text-align: center;"><u>Civil Action</u></p> <p style="text-align: center;">NOTICE OF R. 4:14-2 AND R. 4:14-9 VIDEO DEPOSITION</p>
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NOTICE OF R. 4:14-2(c) VIDEO DEPOSITION OF CORPORATE DEFENDANT(S)

PLEASE TAKE NOTICE that pursuant to Rule 4:14-2(c) of the New Jersey Rules of Court, Plaintiff Michelle Provost through his/her undersigned counsel, will take the deposition upon oral examination of the corporate representative of Corporate Defendants(s) **commencing on May 7, 2025, at 10:00 AM**, at the law offices of McOmber McOmber & Luber, P.C. Corporate Defendant(s) is required to designate and produce for deposition a person or persons to testify on its behalf.

PLEASE TAKE FURTHER NOTICE that the foregoing deposition shall be conducted before a notary public or other duly authorized officer and will be recorded stenographically and/or by videotape in accordance with Rules of Court. The deposition shall continue from day to day, weekends and holidays excepted, until completed, unless otherwise agreed by the parties.

McOMBER McOMBER & LUBER, P.C.
Attorneys for Plaintiff, Michelle Provost

By: /s/ Peter D. Valenzano
PETER D. VALENZANO, ESQ.

Dated: January 2, 2025

Christian V. McOmber, Esq. – NJ ID # 012292010
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(732) 842-6500 Phone
Attorneys for Plaintiff, Michelle Provost

<p>MICHELLE PROVOST,</p> <p style="text-align: right;">Plaintiff,</p> <p style="text-align: center;">vs.</p> <p>MACH REST LLC d/b/a RED HORSE BY DAVID BURKE; RAFAEL LAST NAME UNKNOWN; TONI CHARMELLO; LEO LAST NAME UNKNOWN; KAREN JENSEN; SCOTT UBERT; GARY LAST NAME UNKNOWN; ABC CORPORATIONS 1-5 (fictitious names describing presently unidentified business entities); and JOHN DOES 1-5 (fictitious names describing presently unidentified individuals),</p> <p style="text-align: right;">Defendants.</p>	<p>SUPERIOR COURT OF NEW JERSEY LAW DIVISION: MERCER COUNTY</p> <p>DOCKET NO.</p> <p style="text-align: center;"><u>Civil Action</u></p> <p style="text-align: center;">NOTICE OF R. 4:14-2 AND R. 4:14-9 VIDEO DEPOSITION</p>
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NOTICE OF R. 4:14-2 AND R. 4:14-9 VIDEO DEPOSITION

PLEASE TAKE NOTICE that pursuant to the New Jersey Rules of Court, Plaintiff through her undersigned counsel, will take the deposition upon oral examination of Defendant David Burke **commencing on May 9, 2025, at 10:00 AM**, at the law offices of McOmber McOmber & Luber, P.C.

PLEASE TAKE FURTHER NOTICE that the foregoing deposition shall be conducted before a notary public or other duly authorized officer and will be recorded stenographically and/or

by videotape in accordance with Rules of Court. The deposition shall continue from day to day, weekends and holidays excepted, until completed, unless otherwise agreed by the parties.

McOMBER McOMBER & LUBER, P.C.
Attorneys for Plaintiff, Michelle Provost

By: /s/ Peter D. Valenzano
PETER D. VALENZANO, ESQ.

Dated: January 2, 2025

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(732) 842-6500 Phone
Attorneys for Plaintiff, Michelle Provost

<p>MICHELLE PROVOST,</p> <p style="text-align: right;">Plaintiff,</p> <p style="text-align: center;">vs.</p> <p>MACH REST LLC d/b/a RED HORSE BY DAVID BURKE; RAFAEL LAST NAME UNKNOWN; TONI CHARMELLO; LEO LAST NAME UNKNOWN; KAREN JENSEN; SCOTT UBERT; GARY LAST NAME UNKNOWN; ABC CORPORATIONS 1-5 (fictitious names describing presently unidentified business entities); and JOHN DOES 1-5 (fictitious names describing presently unidentified individuals),</p> <p style="text-align: right;">Defendants.</p>	<p>SUPERIOR COURT OF NEW JERSEY LAW DIVISION: MERCER COUNTY</p> <p>DOCKET NO.</p> <p style="text-align: center;"><u>Civil Action</u></p> <p style="text-align: center;">NOTICE OF R. 4:14-2 AND R. 4:14-9 VIDEO DEPOSITION</p>
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NOTICE OF R. 4:14-2 AND R. 4:14-9 VIDEO DEPOSITION

PLEASE TAKE NOTICE that pursuant to the New Jersey Rules of Court, Plaintiff through her undersigned counsel, will take the deposition upon oral examination of Defendant Rafael Last Name Unknown **commencing on May 15, 2025, at 10:00 AM**, at the law offices of McOmber McOmber & Luber, P.C.

PLEASE TAKE FURTHER NOTICE that the foregoing deposition shall be conducted before a notary public or other duly authorized officer and will be recorded stenographically and/or

by videotape in accordance with Rules of Court. The deposition shall continue from day to day, weekends and holidays excepted, until completed, unless otherwise agreed by the parties.

McOMBER McOMBER & LUBER, P.C.
Attorneys for Plaintiff, Michelle Provost

By: /s/ Peter D. Valenzano
PETER D. VALENZANO, ESQ.

Dated: January 2, 2025

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Tiffany M. Yacullo, Esq. – NJ ID #370662021
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54 Shrewsbury Avenue
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(732) 842-6500 Phone
Attorneys for Plaintiff, Michelle Provost

<p>MICHELLE PROVOST,</p> <p style="text-align: right;">Plaintiff,</p> <p style="text-align: center;">vs.</p> <p>MACH REST LLC d/b/a RED HORSE BY DAVID BURKE; RAFAEL LAST NAME UNKNOWN; TONI CHARMELLO; LEO LAST NAME UNKNOWN; KAREN JENSEN; SCOTT UBERT; GARY LAST NAME UNKNOWN; ABC CORPORATIONS 1-5 (fictitious names describing presently unidentified business entities); and JOHN DOES 1-5 (fictitious names describing presently unidentified individuals),</p> <p style="text-align: right;">Defendants.</p>	<p>SUPERIOR COURT OF NEW JERSEY LAW DIVISION: MERCER COUNTY</p> <p>DOCKET NO.</p> <p style="text-align: center;"><u>Civil Action</u></p> <p style="text-align: center;">NOTICE OF R. 4:14-2 AND R. 4:14-9 VIDEO DEPOSITION</p>
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NOTICE OF R. 4:14-2 AND R. 4:14-9 VIDEO DEPOSITION

PLEASE TAKE NOTICE that pursuant to the New Jersey Rules of Court, Plaintiff through her undersigned counsel, will take the deposition upon oral examination of Defendant Toni Charmello **commencing on May 17, 2025, at 10:00 AM**, at the law offices of McOmber McOmber & Luber, P.C.

PLEASE TAKE FURTHER NOTICE that the foregoing deposition shall be conducted before a notary public or other duly authorized officer and will be recorded stenographically and/or

by videotape in accordance with Rules of Court. The deposition shall continue from day to day, weekends and holidays excepted, until completed, unless otherwise agreed by the parties.

McOMBER McOMBER & LUBER, P.C.
Attorneys for Plaintiff, Michelle Provost

By: /s/ Peter D. Valenzano
PETER D. VALENZANO, ESQ.

Dated: January 2, 2025

Christian V. McOmber, Esq. – NJ ID # 012292010
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Tiffany M. Yacullo, Esq. – NJ ID #370662021
tmy@njlegal.com

McOMBER McOMBER & LUBER, P.C.

54 Shrewsbury Avenue

Red Bank, NJ 07701

(732) 842-6500 Phone

Attorneys for Plaintiff, Michelle Provost

MICHELLE PROVOST,

Plaintiff,

vs.

MACH REST LLC d/b/a RED HORSE BY
DAVID BURKE; RAFAEL LAST NAME
UNKNOWN; TONI CHARMELLO; LEO
LAST NAME UNKNOWN; KAREN JENSEN;
SCOTT UBERT; GARY LAST NAME
UNKNOWN; ABC CORPORATIONS 1-5
(fictitious names describing presently
unidentified business entities); and JOHN DOES
1-5 (fictitious names describing presently
unidentified individuals),

Defendants.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: MERCER COUNTY

DOCKET NO.

Civil Action

**NOTICE OF R. 4:14-2 AND R. 4:14-9
VIDEO DEPOSITION**

NOTICE OF R. 4:14-2 AND R. 4:14-9 VIDEO DEPOSITION

PLEASE TAKE NOTICE that pursuant to the New Jersey Rules of Court, Plaintiff through her undersigned counsel, will take the deposition upon oral examination of Defendant Leo Last Name Unknown **commencing on May 19, 2025, at 10:00 AM**, at the law offices of McOmber McOmber & Luber, P.C.

PLEASE TAKE FURTHER NOTICE that the foregoing deposition shall be conducted before a notary public or other duly authorized officer and will be recorded stenographically and/or

by videotape in accordance with Rules of Court. The deposition shall continue from day to day, weekends and holidays excepted, until completed, unless otherwise agreed by the parties.

McOMBER McOMBER & LUBER, P.C.
Attorneys for Plaintiff, Michelle Provost

By: /s/ Peter D. Valenzano
PETER D. VALENZANO, ESQ.

Dated: January 2, 2025

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54 Shrewsbury Avenue
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(732) 842-6500 Phone
Attorneys for Plaintiff, Michelle Provost

<p>MICHELLE PROVOST,</p> <p style="text-align: right;">Plaintiff,</p> <p style="text-align: center;">vs.</p> <p>MACH REST LLC d/b/a RED HORSE BY DAVID BURKE; RAFAEL LAST NAME UNKNOWN; TONI CHARMELLO; LEO LAST NAME UNKNOWN; KAREN JENSEN; SCOTT UBERT; GARY LAST NAME UNKNOWN; ABC CORPORATIONS 1-5 (fictitious names describing presently unidentified business entities); and JOHN DOES 1-5 (fictitious names describing presently unidentified individuals),</p> <p style="text-align: right;">Defendants.</p>	<p>SUPERIOR COURT OF NEW JERSEY LAW DIVISION: MERCER COUNTY</p> <p>DOCKET NO.</p> <p style="text-align: center;"><u>Civil Action</u></p> <p style="text-align: center;">NOTICE OF R. 4:14-2 AND R. 4:14-9 VIDEO DEPOSITION</p>
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NOTICE OF R. 4:14-2 AND R. 4:14-9 VIDEO DEPOSITION

PLEASE TAKE NOTICE that pursuant to the New Jersey Rules of Court, Plaintiff through her undersigned counsel, will take the deposition upon oral examination of Defendant Karen Jensen **commencing on May 20, 2025, at 10:00 AM**, at the law offices of McOmber McOmber & Luber, P.C.

PLEASE TAKE FURTHER NOTICE that the foregoing deposition shall be conducted before a notary public or other duly authorized officer and will be recorded stenographically and/or

by videotape in accordance with Rules of Court. The deposition shall continue from day to day, weekends and holidays excepted, until completed, unless otherwise agreed by the parties.

McOMBER McOMBER & LUBER, P.C.
Attorneys for Plaintiff, Michelle Provost

By: /s/ Peter D. Valenzano
PETER D. VALENZANO, ESQ.

Dated: January 2, 2025

Christian V. McOmber, Esq. – NJ ID # 012292010
cvm@njlegal.com
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Tiffany M. Yacullo, Esq. – NJ ID #370662021
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Red Bank, NJ 07701
(732) 842-6500 Phone
Attorneys for Plaintiff, Michelle Provost

<p>MICHELLE PROVOST,</p> <p style="text-align: right;">Plaintiff,</p> <p style="text-align: center;">vs.</p> <p>MACH REST LLC d/b/a RED HORSE BY DAVID BURKE; RAFAEL LAST NAME UNKNOWN; TONI CHARMELLO; LEO LAST NAME UNKNOWN; KAREN JENSEN; SCOTT UBERT; GARY LAST NAME UNKNOWN; ABC CORPORATIONS 1-5 (fictitious names describing presently unidentified business entities); and JOHN DOES 1-5 (fictitious names describing presently unidentified individuals),</p> <p style="text-align: right;">Defendants.</p>	<p>SUPERIOR COURT OF NEW JERSEY LAW DIVISION: MERCER COUNTY</p> <p>DOCKET NO.</p> <p style="text-align: center;"><u>Civil Action</u></p> <p style="text-align: center;">NOTICE OF R. 4:14-2 AND R. 4:14-9 VIDEO DEPOSITION</p>
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NOTICE OF R. 4:14-2 AND R. 4:14-9 VIDEO DEPOSITION

PLEASE TAKE NOTICE that pursuant to the New Jersey Rules of Court, Plaintiff through her undersigned counsel, will take the deposition upon oral examination of Defendant Scott Ubert **commencing on May 21, 2025, at 10:00 AM**, at the law offices of McOmber McOmber & Luber, P.C.

PLEASE TAKE FURTHER NOTICE that the foregoing deposition shall be conducted before a notary public or other duly authorized officer and will be recorded stenographically and/or

by videotape in accordance with Rules of Court. The deposition shall continue from day to day, weekends and holidays excepted, until completed, unless otherwise agreed by the parties.

McOMBER McOMBER & LUBER, P.C.
Attorneys for Plaintiff, Michelle Provost

By: /s/ Peter D. Valenzano
PETER D. VALENZANO, ESQ.

Dated: January 2, 2025

Christian V. McOmber, Esq. – NJ ID # 012292010
cvm@njlegal.com
Peter D. Valenzano, Esq. – NJ ID # 037892010
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Tiffany M. Yacullo, Esq. – NJ ID #370662021
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54 Shrewsbury Avenue
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(732) 842-6500 Phone
Attorneys for Plaintiff, Michelle Provost

<p>MICHELLE PROVOST,</p> <p style="text-align: right;">Plaintiff,</p> <p style="text-align: center;">vs.</p> <p>MACH REST LLC d/b/a RED HORSE BY DAVID BURKE; RAFAEL LAST NAME UNKNOWN; TONI CHARMELLO; LEO LAST NAME UNKNOWN; KAREN JENSEN; SCOTT UBERT; GARY LAST NAME UNKNOWN; ABC CORPORATIONS 1-5 (fictitious names describing presently unidentified business entities); and JOHN DOES 1-5 (fictitious names describing presently unidentified individuals),</p> <p style="text-align: right;">Defendants.</p>	<p>SUPERIOR COURT OF NEW JERSEY LAW DIVISION: MERCER COUNTY</p> <p>DOCKET NO.</p> <p style="text-align: center;"><u>Civil Action</u></p> <p style="text-align: center;">NOTICE OF R. 4:14-2 AND R. 4:14-9 VIDEO DEPOSITION</p>
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NOTICE OF R. 4:14-2 AND R. 4:14-9 VIDEO DEPOSITION

PLEASE TAKE NOTICE that pursuant to the New Jersey Rules of Court, Plaintiff through her undersigned counsel, will take the deposition upon oral examination of Defendant Gary Last Name Unknown **commencing on May 29, 2025, at 10:00 AM**, at the law offices of McOmber McOmber & Luber, P.C.

PLEASE TAKE FURTHER NOTICE that the foregoing deposition shall be conducted before a notary public or other duly authorized officer and will be recorded stenographically and/or

by videotape in accordance with Rules of Court. The deposition shall continue from day to day, weekends and holidays excepted, until completed, unless otherwise agreed by the parties.

McOMBER McOMBER & LUBER, P.C.
Attorneys for Plaintiff, Michelle Provost

By: /s/ Peter D. Valenzano
PETER D. VALENZANO, ESQ.

Dated: January 2, 2025

Civil Case Information Statement

Case Details: MERCER | Civil Part Docket# L-000007-25

Case Caption: PROVOST MICHELLE VS MACH REST
LLC D/B/A RED HOR

Case Initiation Date: 01/02/2025

Attorney Name: PETER DOUGLAS VALENZANO

Firm Name: MCOMBER MCOMBER & LUBER, PC

Address: 54 SHREWSBURY AVE

RED BANK NJ 07701

Phone: 7328426500

Name of Party: PLAINTIFF : Provost, Michelle

Name of Defendant's Primary Insurance Company
(if known): None

Case Type: LAW AGAINST DISCRIMINATION (LAD) CASES

Document Type: Complaint with Jury Demand

Jury Demand: YES - 6 JURORS

Is this a professional malpractice case? NO

Related cases pending: NO

If yes, list docket numbers:

Do you anticipate adding any parties (arising out of same transaction or occurrence)? NO

Does this case involve claims related to COVID-19? NO

Are sexual abuse claims alleged by: Michelle Provost? NO

THE INFORMATION PROVIDED ON THIS FORM CANNOT BE INTRODUCED INTO EVIDENCE

CASE CHARACTERISTICS FOR PURPOSES OF DETERMINING IF CASE IS APPROPRIATE FOR MEDIATION

Do parties have a current, past, or recurrent relationship? NO

If yes, is that relationship:

Does the statute governing this case provide for payment of fees by the losing party? YES

Use this space to alert the court to any special case characteristics that may warrant individual management or accelerated disposition:

Do you or your client need any disability accommodations? NO

If yes, please identify the requested accommodation:

Will an interpreter be needed? NO

If yes, for what language:

Please check off each applicable category: Putative Class Action? NO **Title 59?** NO **Consumer Fraud?** NO **Medical Debt Claim?** NO

I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with *Rule 1:38-7(b)*

01/02/2025
Dated

/s/ PETER DOUGLAS VALENZANO
Signed

