

CAUSE NO. 2007-64034

ASSESSED
ENTERED
VERIFIED

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JENNIFER PAPPAS-BLANCAS
 V.
 HOLLOWAY H. FROST AND
 TEXAS MEMORY SYSTEMS, INC

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§

IN THE DISTRICT COURT OF
 HARRIS COUNTY, TEXAS
 COL JUDICIAL DISTRICT

PLAINTIFF'S ORIGINAL PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

DISCOVERY PLAN

1. This case shall proceed under a Level 3-Discovery Plan.

PARTIES

2. Jennifer Pappas-Blancas ("Blancas") is a citizen of the State of Texas, who resides in Fort Bend County, Texas.

3. Holloway H. Frost resides in Houston, Harris County, Texas. Mr. Frost can be served at his place of business 10777 Westheimer Road, Suite 600, Houston, Texas 77042 or at his home address, 11615 Versailles Lakes Lane, Houston, Texas 77082.

4. Texas Memory Systems, Inc. is a corporation incorporated under the laws of Texas and conducts business in Houston, Harris County, Texas. Texas Memory Systems can be served by serving its president and registered agent Holloway H. Frost at 10777 Westheimer Road, Suite 600, Houston, Texas 77042 or at his home address, 11615 Versailles Lakes Lane, Houston, Texas 77082.

JURISDICTION AND VENUE

5. Jurisdiction is proper as this is a civil suit for damages within the jurisdictional limits of this court. Venue is proper in this county because it is where all Defendants reside, where Texas

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 CHARLES BACARISSE
 DISTRICT CLERK
 HARRIS COUNTY, TEXAS

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BY _____ DEPUTY

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Memory Systems has its principal place of business, and where the wrongful conduct giving rise to Plaintiff's claims occurred.

FACTS

6. This case is necessary because Defendant Holloway Frost committed multiple sexual assaults and batteries upon Jennifer Pappas-Blancas, who was subordinate to and worked for Frost. Frost is the president of Texas Memory Systems, Inc. Frost used force and his position as president to abuse, coerce, and sexually attack Jennifer Pappas-Blancas.

7. Blancas started working at Texas Memory Systems, Inc. in 1997. Defendants promised Blancas a sales position that would pay a salary plus commissions/bonuses based on sales and other benefits. Not only did it take years for Blancas to obtain a sales position, Defendants never paid Blancas any commissions/bonuses based on her sales of Defendants' Digital Signal Processing ("DSP") product. At all times material to this action, Blancas' performance was excellent.

8. In the last year and a half of Blancas' employment with Defendants, Frost made forceful and physical advances towards Blancas. Frost would often tell Blancas how he liked her figure and how good she looked. Frost also approached Blancas on numerous occasions and hugged Blancas. On a number of these occasions, Frost would then either shove his hand down the back of Blancas' pants and undergarments, grab her butt, or brush his hands across Blancas' breasts. Each time Blancas would attempt to pull away to get herself out of the situation.

9. In 2006, despite being married, Frost took Blancas in his office, closed the door, and told her that he loved her and that he wanted to marry her, but not to tell anyone. Frost started rubbing Blancas on her leg. As Blancas got up to leave his office, Frost hugged Blancas and rubbed her back and butt. Blancas immediately pulled away and left his office.

10. In December 2006, Blancas' mother was ill. Frost called Blancas and asked her to come down to his car so they could go get some food for her family. Blancas told him "no." Frost then demanded that she come down to his car so they could go get the food. Blancas reluctantly agreed. After getting the food and while in his parked car, Frost reached over, hugged Blancas and asked for a kiss. Before Blancas could respond, Frost forcibly kissed Blancas. Frost then leaned back in his seat, drove back to the office, and dropped Blancas off so she could go up to the office first by herself. Over the next few months, there were a number of additional instances where Frost hugged Blancas and physically groped Blancas including again shoving his hand down the back of her pants and undergarments.

11. Jennifer Pappas-Blancas was and remains emotionally shattered as a result of Frost's continued assaults upon her. Frost's repeated assaults and the hostile environment those assaults created forced Blancas to resign in June 2007. This resignation amounts to a constructive discharge.

AUTHORITY

12. The acts alleged in this pleading were committed by Frost as vice-principal, an agent, servant, employee, President, and representative of Texas Memory Systems, Inc. with actual authority, both express and implied, or apparent authority and acting within the course and scope of his employment at all material times. These acts were ratified and approved by the corporate defendant Texas Memory Systems, Inc.

13. The acts of Frost are attributable to Texas Memory Systems, Inc. because he is a vice-principal and President of Texas Memory Systems, Inc.

CAUSES OF ACTION

14. Defendants' conduct constitutes assault and battery.

15. Defendant Texas Memory Systems also breached its agreement to pay Plaintiff a commission/bonus based on Plaintiff's DSP sales. Because Texas Memory Systems breached its agreement to pay Plaintiff a commission/bonus on DSP sales, Plaintiff has suffered damages. Plaintiff performed all conditions precedent under this agreement.

16. Alternatively, Plaintiff asserts a claim for quantum meruit. Plaintiff performed valuable services for Defendant Texas Memory Systems in selling Defendant's DSP product. Plaintiff's services benefitted Defendant. Defendant accepted Plaintiff's services and received the benefits of those services which resulted in DSP sales and significant revenue. Based on information and belief, Defendant's other sales employees received additional commissions/bonuses based on sales. Therefore, Plaintiff is entitled to a reasonable commission/bonus based on each DSP sale Plaintiff handled for Defendant Texas Memory Systems, Inc.

ACTUAL DAMAGES

17. As a direct and proximate result of the conduct of the Defendants, singularly and collectively, the Plaintiff has been severely damaged. These damages exceed the minimum jurisdictional amounts of this Court. These damages include those set forth in the following paragraphs.

MENTAL ANGUISH

18. Plaintiff has suffered disgrace, shame, embarrassment and humiliation as well as extreme emotional and mental anguish in the past and in all probability Plaintiff will continue to suffer such disgrace, shame, embarrassment, humiliation and emotional and mental anguish in the future. Her enjoyment of life has been impaired.

LOST EARNINGS

19. In addition, Plaintiff will in all probability suffer loss of earnings and earning capacity prior to trial and in the future. Plaintiff has also suffered damages in the amount of commissions/bonuses she should have received for the DSP sales Plaintiff handled.

OTHER DAMAGES

20. Damages also include increased costs and necessary expenses.

21. The precise amount of damages suffered by Plaintiff cannot be measured with mathematical accuracy nor can the Plaintiff state with any degree of certainty at this time the extent or impact of future losses. Damages can be more accurately determined after completion of discovery in this case and Plaintiff specifically reserves the right to plead further with respect to such damages.

ATTORNEY'S FEES

22. Plaintiff seeks to recover from Defendant Texas Memory Systems reasonable and necessary attorneys' fees to prosecute these claims pursuant to TEX. CIV.PRACT. & REM. CODE § 38.001 *et. seq.* and other applicable law, for the preparation and trial of this case and various stages of appeal, if any, including additional attorneys' fees in the event it is necessary to collect this amount of money once a judgment becomes final.

PRETRIAL INTEREST

23. Plaintiff also seeks prejudgment interest of the rate commensurate with the actual rate of interest in the market place or alternatively, statutory rate of interest, because of the delay in receiving the damages and also to avoid unjust enrichment of the Defendants who have had the use of Plaintiff's money.

PUNITIVE DAMAGES

24. As a result of Defendants' wrongful and malicious conduct, Plaintiff is entitled to punitive and exemplary damages that the jury might award, over and above the actual legal damages, in an amount that will adequately and properly punish the Defendants, that will serve as a deterrent to the Defendants and others, and set an example to the community.

PRAYER

25. Plaintiff prays that she have and recover a judgment against the Defendants, jointly and severally for:

- a. actual damages;
- b. punitive damages;
- c. attorney's fees;
- d. prejudgment interest;
- e. post-judgment interest;
- f. costs of court; and
- g. for such other and further relief to which Plaintiff would show herself justly entitled and for which she will ever pray.

JURY TRIAL

26. Plaintiff requests a trial by jury and hereby tenders the requisite jury fee.

Respectfully submitted,

GLICKMAN & HUGHES, L.L.P.

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October 16, 2007

Unofficial Copy Office of Chris Pappas Ronquillo, L.L.P.

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October 16, 2006

Via CitiCouriers #34827

Ms. Theresa Chang

District Clerk

201 Caroline - File Desk

Houston, Texas 77002 2007-64034

FILED
CHARLES CACARISSE
DISTRICT CLERK
HARRIS COUNTY, TEXAS
07 OCT 16 PM 3:24

BY _____ DEPUTY

Re: Cause No. _____; Jennifer Pappas-Blancas v. Holloway H. Frost and Texas
Memory Systems, Inc., in the LA Judicial District Court of Harris County, Texas

Dear Ms. Chang:

Enclosed for filing in the above-referenced matter is the following:

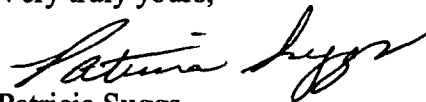
- 1) Plaintiff's Original Petition with three copies and our firm check in the amount of \$243.00 (for the filing fee, 2 citations and \$30.00 jury fee);
- 2) Civil Case Information Sheet; and
- 3) Civil Process Request.

Please file the original Plaintiff's Original Petition with your court and file-stamp the copies and return them to our office via our messenger as proof of filing.

Please prepare citations on (1) Texas Memory Systems, Inc., by and through their registered agent Holloway H. Frost at 10777 Westheimer Road, Suite 600, Houston, Texas 77041 or at his home address, 11615 Versailles Lakes Lane, Houston, Texas 77082; and (2) Holloway H. Frost, at 10777 Westheimer Road, Suite 600, Houston, Texas 77041 or at his home address, 11615 Versailles Lakes Lane, Houston, Texas 77082. Please attach a copy of the Original Petition with each citation for service and notify our office upon completion so someone can retrieve them for service.

If anything further is needed, please feel free to contact me. In advance, thank you for your assistance in this matter.

Very truly yours,



Patricia Suggs

Legal Secretary for Ashton Bachynsky

Enclosures

AB:pes

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October 16, 2007