

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss

SUPERIOR COURT DEPT.

CIVIL ACTION NO.:

2089CV02078 B

_____)
TAYLOR WHITAKER,)
Plaintiff)
)
v.)
)
MONICA'S TRATTORIA, INC., PATRICK)
MENDOZA and FRANK MENDOZA,)
Defendants)
_____)

SUFFOLK SUPERIOR COURT
 CIVIL CLERK'S OFFICE
 2020 SEP 15 A 9:39
 MICHAEL JOSEPH DONOVAN
 CLERK / MAGISTRATE

COMPLAINT AND JURY DEMAND

Parties

1. The Plaintiff, Taylor Whitaker ("Ms. Whitaker"), is an individual with a residence in Boston, Suffolk County, Massachusetts.
2. The Defendant, Monica's Trattoria, Inc. ("the Restaurant") is a Massachusetts corporation located at 67 Prince Street, Boston, Suffolk County, Massachusetts.
3. The Defendant, Patrick Mendoza ("P. Mendoza"), is the Treasurer of the Restaurant and he works at the Restaurant located at 67 Prince Street, Boston, Suffolk County, Massachusetts.
4. The Defendant, Frank Mendoza ("F. Mendoza"), is the President of the Restaurant and he works at the Restaurant located at 67 Prince Street, Boston, Suffolk County, Massachusetts.

Facts

1. Ms. Whitaker started working for the Restaurant in the North End of Boston in August 2019 as a bartender.
2. Ms. Whitaker typically worked two shifts per week as a bartender, but as a favor to a colleague and to earn additional money, she would often cover a server's shift.
3. Ms. Whitaker was fired in the spring of 2020, at the time that the Covid-19 pandemic was worsening in the Commonwealth of Massachusetts.
4. P. Mendoza and F. Mendoza are brothers. They own and manage the Restaurant. Both have a very 'hands-on' role in managing all aspects of the Restaurant and at least one of them is typically present when Ms. Whitaker was working.
5. Prior to the pandemic, there were approximately 50 employees working for the Restaurant. While the number of employees varied based upon turnover, approximately half of these employees worked in the 'back of the house'. These employees handle all of the food prep, cooking and dishwashing.
6. In the 'front of the house', where the customers are served, there were approximately 6 bartenders, 10 servers, 5 bussers and 4 hostesses prior to the pandemic. The overwhelming majority of these 'front of the house' employees were female. In fact, almost all of these female employees are very young and attractive. Even though Ms. Whitaker was only 29-years-old, she was one of the oldest employees in the 'front of the house'.
7. P. Mendoza and F. Mendoza have made it clear that they want the Restaurant to portray a sexy image.
8. The Restaurant, which has high turnover because of the toxic work environment, was looking to hire more 'front of the house' employees. A female employee stated that she had a friend that was a very experienced bartender and she was brought in for a training day 'sight unseen.' This female came in for her training day and demonstrated that she was competent and very personable, so she would be a great addition to the staff. However, F. Mendoza worked that night and met her for the first time. He said that he would never hire this woman because she was '**ugly**'.
9. On a daily basis, F. Mendoza has subjected Ms. Whitaker (and many of her co-workers) to sexual harassment. Some of the sexual harassment is physical, some of the sexual harassment is verbal. All of the sexual harassment is degrading, offensive and unwanted.

Ms. Whitaker has witnessed numerous female co-workers break down sobbing because of F. Mendoza's verbal and physical sexual harassment.

10. P. Mendoza also subjects the women to sexual harassment, but with less frequency than his brother. However, he has an apathetic attitude about F. Mendoza subjecting the female employees to sexual harassment. P. Mendoza seems more focused on making sure the Restaurant is profitable, whereas Frank seems more focused on getting drunk and **'getting laid'** (his words).
11. F. Mendoza's sexual harassment worsened and was more intimidating while intoxicated at the bar, which is often. Ms. Whitaker has witnessed him drinking Peroni beers when she arrived in the middle of the afternoon and it was obvious that he had not had his first alcoholic drink. He would often stay at the bar drinking until well into the night. Sometimes he was so intoxicated that employees would 'jokingly' make bets as to whether he will fall down because he could not walk a straight line on his way to the Men's bathroom and he badly slurred his words.
12. F. Mendoza pressures and propositions female employees to go back to his apartment, which he claims is right down the street from the Restaurant.
13. F. Mendoza regularly uses vulgar terms to describe the female body parts of employees and pedestrians walking down the street. He will make comments such as **"Would you look at that ass?"**, **"Would you look at those tits?"** and **"The things that I'd do to that one."**
14. F. Mendoza does not seem to care that some of his sexual harassment victims at the Restaurant are teenagers.
15. F. Mendoza would tell Ms. Whitaker when she was working behind the bar, **"I can get any girl in here."**
16. F. Mendoza bragged about his sexual escapades. Even when Ms. Whitaker politely told him that she was not interested in his pornographic stories, he was not deterred. For example, he told Ms. Whitaker that one morning he woke up and he saw a **"giant naked ass"** in his bed and he could not remember who she was or how she got there.
17. F. Mendoza had roving eyes and he was blatant about staring at female employee's buttocks and breasts. He also does this with female customers and pedestrians that walk past the Restaurant. On a couple of occasions, after F. Mendoza left the bar area, a customer would ask; **'Who's that creep?'** and when Ms. Whitaker indicated that F. Mendoza is an owner, they were shocked. Ms. Whitaker recalls one incident in which one female patron said something to the effect of **'Oh honey, I'm so sorry.'**

18. On another occasion, F. Mendoza exposed his genitals to a young, female employee and said, ***"Let me put it in you real quick."***

19. P. Mendoza is not innocent either. Not only does he fail to protect the young women from his brother, but he gets very 'handsy' when he goes behind the bar. Both P. Mendoza and F. Mendoza will come behind the bar without a valid reason. They could simply ask Ms. Whitaker or another bartender to pass them whatever they need. Instead, they come behind the bar and as they walk past Ms. Whitaker in the tight space, they will then grab her hips or buttocks, or slap her buttocks. Ms. Whitaker learned to back herself into a corner to shield her buttocks whenever she saw either of them come behind the bar.

20. Ms. Whitaker specifically recalls another occasion in which F. Mendoza was intoxicated. A bunch of female employees were talking about going out to grab a drink after their shift was over, but they refused to tell F. Mendoza where they were going because they did not want him to join them. After they left, F. Mendoza snuck out and followed them to the bar. He snuck up behind one of the women, who is a college student, put his hands under her shirt and cupped her breasts.

21. Ms. Whitaker worked on New Year's Eve. There was a 17-year-old girl working as the hostess. She was wearing a black tank top. F. Mendoza looked at her, then looked at me, and said, ***"She's going to get me in trouble tonight."*** Later that night, F. Mendoza followed her downstairs and physically accosted her, and told her that he wanted to ***'have her babies'***. She came upstairs to the bar sobbing and told Ms. Whitaker that F. Mendoza had accosted her.

22. On another occasion, in late December 2019 or early January 2020, F. Mendoza was flirting unsuccessfully with a very lively, loud and animated female customer. He seemed frustrated that he was being rejected. He approached Ms. Whitaker at the bar and said ***"I gotta take a break from that one."*** Ms. Whitaker responded, ***"It looks like she could suck the energy out of you."*** He responded, ***"That's not the only thing she'll be sucking tonight."*** Even though F. Mendoza can sometimes intimidate Ms. Whitaker, she was so disgusted that she looked him in the eyes and asked, ***"Seriously?"*** He laughed and responded, ***"Well you walked right into that one."***

23. One day in early March 2020, F. Mendoza was ogling Ms. Whitaker and the other women and making crude, pornographic 'jokes'. For some reason that Ms. Whitaker do not even fully understand herself, she decided that she had reached her threshold. She

approached a female colleague to ask if she was interested in joining her to consult with a lawyer to take action against F. Mendoza and P. Mendoza.

24. On information and belief, this information got back to the two owners because Ms. Whitaker was then told that she had no more shifts. A male manager, Mike I/n/u, told me that she was no longer needed because the Restaurant was cutting staff due to the COVID-19 virus.
25. On information and belief, Ms. Whitaker was the first employee fired, but it was because she approached a colleague about the workplace sexual harassment and hiring a lawyer, not because of the COVID-19 virus.
26. As a result of the physical and verbal sexual harassment, she has suffered emotional distress damages, and as a result of the retaliation, she has suffered lost wages damages.

CAUSES OF ACTION

COUNT I – SEXUAL HARASSMENT

27. This is a cause of action by the Plaintiff against all Defendants for sexual harassment in violation of MGL c. 151B, § 1, et. seq.
28. The Plaintiff was subjected to an unwanted, sexually charged, toxic work environment, which was pervasive and severe and affected the terms and conditions of her employment.
29. As a result, the Plaintiff has been harmed.

COUNT II - RETALIATION

30. This is a cause of action by the Plaintiff against all Defendants for retaliation in violation of MGL c. 151B, § 1, et. seq.
31. After the Plaintiff made public that she was going to take action against the owners for the sexual harassment, she was immediately fired, which was retaliatory.
32. As a result, the Plaintiff has been harmed.

The Plaintiff demands a jury trial on all triable issues.

WHEREFORE, the Plaintiff, Taylor Whitaker, prays that this Honorable Court:

- I. Enter an award of damages, reasonable attorney's fees, costs and interest against the Defendants, and

- II. Grant such other relief as this Court deems just and proper.

Respectfully submitted,
Plaintiff Taylor Whitaker,
By her attorney,

/s/ John W. Davis
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