

# EXHIBIT 1

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO**

Civil Action No. 06-cv-01935-EWN-BNB

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,

Plaintiff,

and

KELLY ALTIZER and  
JENNIFER TURNER-RIEGER

Intervenors.

vs.

OUTBACK STEAKHOUSE OF FLORIDA, INC. and  
OS RESTAURANT SERVICES, INC.

Defendants.

**COMPLAINT IN INTERVENTION AND JURY DEMAND**

Plaintiff-Intervenor Heather Joffe, by and through her counsel, Lohf Shaiman Jacobs Hyman & Feiger PC, complains against the Defendants Outback Steakhouse of Florida, Inc. and OS Restaurant Services, Inc. (“Outback Steakhouse”), as follows:

**JURISDICTION AND VENUE**

1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 1331 and 1343.
2. This action is authorized and instituted pursuant to Sections 706(f)(1) and (3) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §§ 2000e-5(f)(1) and (3).

3. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b) and 42 U.S.C. § 2000e-5(f)(3) because a substantial number of the unlawful employment practices alleged herein were committed within the jurisdictional boundaries of the United States District Court for the District of Colorado and the employment records relevant to this complaint are maintained and administered in the State of Colorado.

4. On September 9, 2003 and June 30, 2004, Intervenors Turner-Reiger and Altizer, respectively, filed Charges of Discrimination with the EEOC alleging discrimination on behalf of themselves and “others similarly situated.”

5. On September 28, 2005, the EEOC issued its determination finding that Charging Parties and a class of females were discriminated against in violation of Title VII.

6. Intervenor Joffe is a member of the class of females discriminated against by Defendants and, thus, is an aggrieved individual pursuant to 42 U.S.C. §2000e-5(f)(1).

#### **PARTIES**

7. Heather Joffe (“Plaintiff-Intervenor”), is and was at all times relevant hereto, a resident of the State of Colorado.

8. At all relevant times, Defendants have continuously been and are now doing business in the State of Colorado and have continuously had at least fifteen (15) employees.

9. At all relevant times, Defendants have continuously been an employer engaged in an industry affecting commerce within the meaning of 42 U.S.C. §§ 2000e (b), (g) and (h).

10. At all relevant times, Defendants were the employer of Plaintiff-Intervenor within the meaning of Title VII.

## GENERAL ALLEGATIONS

11. Plaintiff-Intervenor, who is female, worked for Outback Steakhouse for over nine (9) years.
12. Ms. Joffe began her career with Defendants as a waitress, working her way up through numerous positions, including Bartender, Administrative Assistant, Key Manager, and Traveling Manager.
13. Defendants do not have a system for posting promotional or training opportunities. Rather, employees are hand-selected for training and promotion, depending on the subjective decisions of the Managing Partners and Joint-Venture partner.
14. Despite her excellent qualifications, on an ongoing basis, Ms. Joffe was held back from promotions, denied training, and required to undergo training that was not required of her male peers.
15. Ms. Joffe was not promoted to management until September 2004.
16. In order to be promoted to manager, Ms. Joffe was required to undergo training that was not required of her male peers.
17. Following her Manager-In-Training (“MIT”) training, unlike her male peers, Ms. Joffe was not assigned to a restaurant. Rather, Ms. Joffe was assigned as a traveling manager, a less-lucrative and less-prestigious position.
18. From early 2005 through September 2005, Ms. Joffe was denied a promotion to a Front-of-the-House manager position.
19. Despite repeated requests to the Joint-Venture Partner, Ms. Joffe was never invited to attend the Tampa Walkabout, a requirement for further promotion.
20. Male employees with less seniority and qualifications were promoted above Ms. Joffe.

21. Because she was stuck in a low-paying, extremely demanding, dead-end job and had no future with the company, Ms. Joffe was forced to resign her position in September 2005.

**FIRST CLAIM FOR RELIEF  
(Gender Discrimination)**

22. Plaintiff-Intervenor incorporate by reference paragraphs numbered 1 through 21.

23. By virtue of her gender, Plaintiff-Intervenor belongs to a protected group under Title VII.

24. Defendants discriminated against Plaintiff-Intervenor in the terms and conditions of her employment, including paying Plaintiff-Intervenor less than her similarly-situated male counterparts, and denying her training and promotional opportunities.

25. Defendants have created a glass ceiling for its female employees, including Plaintiff-Intervenor.

26. Despite the fact that Plaintiff-Intervenor was qualified, Defendants refused to promote her to the position of Manager or Managing Partner and, instead, promoted less-qualified male employees.

27. Defendants discriminated against Plaintiff-Intervenor with malice and reckless indifference to her federally protected rights, forcing her to constructively discharge her employment.

28. As a proximate result of Defendants' retaliatory actions, Plaintiff-Intervenor suffered and continues to suffer loss of wages, loss of career, loss of benefits, emotional distress, inconvenience, mental anguish, loss of enjoyment of life and other consequential damages.

**WHEREFORE**, Plaintiff-Intervenor respectfully requests the Court to grant the following relief:

1. Award Plaintiff-Intervenor back pay and actual damages in an amount to be shown at trial to compensate her for lost wages, benefits, and employment opportunities;
2. Award Plaintiff-Intervenor front pay in an amount to be shown at trial;
3. Award Plaintiff-Intervenor compensatory and punitive damages;
4. Retain jurisdiction of this matter to ensure full compliance with the Orders of this Court;
5. Award Plaintiff-Intervenor reasonable attorneys' fees and costs of this litigation as provided under Title VII;
6. Award Plaintiff-Intervenor pre-judgment and post-judgment interest and costs of this action together with reasonable expert witness fees as provided by law;
7. Declare that the acts and practices complained of herein are in violation of Title VII and constituted intentional and/or willful conduct by Defendants;
8. Enjoin and permanently restrain these violations of Title VII; and
9. Grant such other and further relief as this Court deems necessary and proper.

**JURY TRIAL DEMAND**

Plaintiff-Intervenor respectfully requests a jury trial on all questions of fact raised by this complaint.

LOHF SHAIMAN JACOBS HYMAN & FEIGER PC

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**CERTIFICATE OF SERVICE**

I hereby certify that on this \_\_\_\_ day of April 2007, I electronically filed the foregoing **COMPLAINT IN INTERVENTION AND JURY DEMAND** with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following email address:

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\_\_\_\_\_ s/ Stephanie Struble