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INDIANAPOLIS DIVISION
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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA**

KEVIN ROESSLER

Plaintiff,

vs.

ROYAL SPA CORPORATION

And

ROBERT DAPPER

Defendants.

CASE NO.

1 : 12 -cv- 0536 TWP -MJD

COMPLAINT

JURY TRIAL DEMAND

Plaintiff, Kevin Roesler ("Plaintiff"), by and through her attorneys, alleges the following against Defendants Robert Dapper ("Dapper") and Royal Spa ("Defendants"):

JURISDICTION and PARTIES

1. This action is brought pursuant to Title VII of the Civil Rights Act of 1964, as amended (42 U.S.C. §2000e, *et seq.*). The jurisdiction of this Court is invoked to secure protection of and redress deprivation of rights guaranteed by federal law, which rights provide for injunctive and other relief for illegal discrimination in employment.

2. Plaintiff is an adult male individual and a citizen of the United States who currently resides at 350 N. 14th Ave, Beach Grove, IN 46107.

3. Defendant Royal Spa is an employer in the State of Indiana at the time the alleged acts of discrimination occurred. Defendant is, and at all time relevant hereto was, a Corporation with its principal place of business in 2041 Epler Ave, Indianapolis, IN 46217, Indiana that engages in an industry affecting commerce and employs more than 50 regular employees. Defendant Dapper is a principal, secretary and registered agent of Royal Spa.

4. Plaintiff has filed a timely charge with the Equal Employment Opportunity Commission and has met all administrative prerequisites for the bringing of this action. A copy of the charge of discrimination and right to sue letter are attached as Exhibit A.

FACTS COMMON TO ALL COUNTS

5. Plaintiff was employed by Defendant as a Director of Business Development from June of 2008 until his involuntary termination on March 11th, 2011.

6. During this period of employment Kevin was highly effective in his position and a valued employee. Just some of his accomplishments at Royal Spa included, negotiating a lease for a new Royal Spa location, managing vendor relationships, maintain the 2nd highest gross on sold deals and serving on several local business development boards.

7. Problems began when Dapper discovered that Kevin and his wife, Marcella Roessler, were involved in an open sexual relationship and frequently participated in events where individuals would share different sexual partners other than their spouses.

8. Upon discovering that Kevin was engaged in this lifestyle, Dapper began to request that Kevin secure him an invite to these events. Kevin was very hesitant to do so. He did not wish to combine his personal and work life.

9. Dapper's requests became more strident in nature. Dapper even went so far as to require the Kevin secure these invitation or lose his employment. Fearing for his position at Royal Spa, Kevin eventually relented and secured him an invitation to several of the events.

10. At these events, Dapper began to display extremely aggressive behavior towards Kevin's wife Marcella. He would continually request that Marcella penetrate him anally with a strap on penis. Marcella would rebuff his advances. But Dapper persisted in his requests. This made Marcella and Kevin very uncomfortable. However fearing for his position at Royal Spa, Kevin was concerned about confronting Dapper directly over this issue.

11. This behavior continued for quite some time. Kevin continued to worry about Dapper's seeming obsession with his wife but could see no clear way to dissuade him without losing his position at Royal Spa.

12. Dapper began to become increasingly obsessed with sex. He eventually approached Kevin about acquiring additional sexual partners for him. Kevin had significant reservations about these requests and initially refused. Dapper became more insistent and Kevin again felt that his employment would be adversely affected if he failed to assist Dapper.

13. Using a variety of websites related to the "swinger lifestyle" Kevin would arrange sexual encounters for Dapper. Kevin was required to attend each of these encounters and to

initiate sex in front of Dapper. While Kevin was initiating sex, Dapper would continually comment about the size of Kevin's penis. Kevin would then be asked to leave the room and Dapper would conclude the sexual encounter. At least one encounter occurred at a Royal Spa location.

14. At no time did Kevin desire to perform these acts in the presence of his employer. At all times he felt uncomfortable and sickened by the behavior he was being forced to engage in. Although, these were consensual sexual encounters he felt that he was being used as "pimp" to acquire sex for Dapper. At all times during these events, Kevin was informed by Dapper that his employment would be adversely affected if he failed to comply.

15. On or about November of 2008, Kevin sustained a back injury and underwent back surgery on or about April 2, 2009. This injury placed the Roessler's in a very delicate situation. If Kevin were to lose his job they would have no health care to pay for his recovery.

16. Several days following his surgery Dapper arrived unannounced and uninvited to the Roessler home. Kevin and Marcella were both present.

17. Dapper immediately began propositioning Marcella for oral sex. Fearing for her husband's job Marcella relented and began to perform oral sex on Dapper. Kevin was ashamed and humiliated by what Dapper was forcing his spouse to do. His humiliation was intensified as Dapper forced him to watch Marcella perform oral sex on him.

18. Finally, Dapper also demanded that Kevin engage in intercourse with Marcella while she inserted a finger in his anus. As before Kevin understood that his employment would be adversely affected if he did not comply.

19. After this episode Dapper continued to demand invitations to events for intercourse and continued attending them until November of 2011.

20. Kevin was eventually terminated for finally taking a stand against Dappers harassing and unlawful behavior.

21. On or about January 28, 2011, Dapper began boasting about his sexual encounters with Marcella to prospective Royal Spa customers. Specifically, Dapper indicated that Marcella had performed anal sex on him while using a strap on penis. This representation was a total fabrication.

22. At a loss as to how to proceed Kevin contacted an attorney. His new attorney contacted Dapper and requested a meeting to discuss the conditions at Royal Spa on March 9, 2011. Dapper refused to meet with Kevin's attorney and instead terminated Kevin's employment.

23. Plaintiff has suffered and will continue to suffer lost income, lost fringe benefits, and lost seniority, and has incurred expenses in searching for replacement employment. In addition,

Plaintiff continues to suffer significant emotional distress. Plaintiff has generally been damaged in amounts that exceed the jurisdictional limits of this Court.

FIRST CAUSE OF ACTION

**Discrimination in Employment
Against All Defendants**

Sexual Harassment

24. Plaintiff re-alleges and incorporates by reference paragraphs 1 through 23, as though set forth in full.

25. In perpetrating the above-described actions, the Defendants, and each of them, and/or their agents and employees, engaged in a continuing and ongoing pattern and practice of unlawful sexual harassment in violation of Title VII of the Civil Rights Act of 1964, as amended (42 U.S.C. §2000e, *et seq.*). Defendant Dapper sexually harassed Plaintiff. The harassment was sufficiently pervasive and severe as to alter the conditions of Plaintiff's employment and to create a hostile, intimidating and/or abusive work environment.

26. By the aforesaid acts and omissions of Defendants, and each of them, Plaintiff has been directly and legally caused to suffer actual damages including, but not limited to, loss of earnings and future earning capacity, attorneys' fees, costs of suit and other pecuniary loss not presently ascertained, for which Plaintiff will seek leave of Court to amend when ascertained.

27. As a further direct and legal result of the acts and conduct of Defendants, and each of them, as aforesaid, Plaintiff has been caused to and did suffer and continues to suffer from severe emotional and mental distress, anguish, humiliation, embarrassment, fright, shock, pain, discomfort, and anxiety. The exact nature and extent of said injuries is presently unknown to Plaintiff, who will seek leave of Court to assert the same when they are ascertained. Plaintiff does not know at this time the exact duration or permanence of said injuries, but is informed and believes, and thereon alleges, that some if not all of the injuries are reasonably certain to be permanent in character.

28. Plaintiff has been generally damaged in an amount within the jurisdictional limits of this Court.

29. Plaintiff is informed and believes, and thereon alleges, that the Defendants, and each them, by engaging in the aforementioned acts and, in the case of Royal Spa, by ratifying such acts, engaged in wilful, malicious, intentional, oppressive and despicable conduct, and acted with wilful and conscious disregard of Plaintiff's rights, welfare, and safety, thereby justifying an award of punitive and exemplary damages in an amount to be determined at trial. As a result of Defendants' conduct as alleged herein, Plaintiff is entitled to reasonable attorneys' fees and costs of suit as provided in Title VII of the Civil Rights Act of 1964, as amended (42 U.S.C. §2000e, *et seq.*).

SECOND CAUSE OF ACTION

**Failure to Take All Reasonable Steps Necessary to Prevent Sexual Harassment from
Occurring
(Against All Defendants)**

30. Plaintiff re-alleges and incorporates by reference paragraphs 1 through 29, as though set forth in full.

31. As alleged herein and in violation of Title VII of the Civil Rights Act of 1964, as amended (42 U.S.C. §2000e, *et seq.*). Defendants, and each of them, breached their affirmative duty to take the reasonable steps necessary to prevent discrimination and harassment from occurring in the workplace. As a direct and proximate result, Plaintiff was subjected to the sexually discriminatory and harassing conduct alleged herein.

32. By the aforesaid acts and omissions of Defendants, and each of them, Plaintiff has been directly and legally caused to suffer actual damages including, but not limited to, loss of earnings and future earning capacity, attorneys' fees, costs of suit and other pecuniary loss not presently ascertained, for which Plaintiff will seek leave of Court to amend when ascertained.

33. As a further direct and proximate result of the acts and conduct of Defendants, and each of them, as aforesaid, Plaintiff has been caused to and did suffer and continues to suffer from severe emotional and mental distress, anguish, humiliation, embarrassment, fright, shock, pain, discomfort, and anxiety. The exact nature and extent of said injuries is presently unknown to Plaintiff, who will seek leave of Court to assert the same when they are ascertained. Plaintiff does not know at this time the exact duration or permanence of said injuries, but is informed and believes, and thereon alleges, that some if not all of the injuries are reasonably certain to be permanent in character.

34. Plaintiff has been generally damaged in an amount within the jurisdictional limits of this Court.

35. Plaintiff is informed and believes, and thereon alleges, that the Defendants, and each them, by engaging in the aforementioned acts and, in the case of Royal Spa, by ratifying such acts, engaged in wilful, malicious, intentional, oppressive and despicable conduct, and acted with wilful and conscious disregard of Plaintiff's rights, welfare, and safety, thereby justifying an award of punitive and exemplary damages in an amount to be determined at trial. As a result of Defendants' conduct as alleged herein, Plaintiff is entitled to reasonable attorneys' fees and costs of suit as provided in Title VII of the Civil Rights Act of 1964, as amended (42 U.S.C. §2000e, *et seq.*).

THIRD CAUSE OF ACTION

**Retaliation for Opposing Sexual Discrimination and Harassment
(Against all Defendants)**

36. Plaintiff re-alleges and incorporates by reference paragraphs 1 through 35, as though set forth in full.

37. As set forth in the facts above, the Defendant did illegally terminate the Plaintiff's conduct in direct retaliation for Plaintiff complaints about harassing conduct.

38. By the aforesaid acts and omissions of Defendants, and each of them, Plaintiff has been directly and legally caused to suffer actual damages including, but not limited to, loss of earnings and future earning capacity, attorneys' fees, costs of suit and other pecuniary loss not presently ascertained, for which Plaintiff will seek leave of Court to amend when ascertained.

39. As a further direct and legal result of the acts and conduct of Defendants, and each of them, as aforesaid, Plaintiff has been caused to and did suffer and continues to suffer severe emotional and mental distress, anguish, humiliation, embarrassment, fright, shock, pain, discomfort, and anxiety. The exact nature and extent of said injuries is presently unknown to Plaintiff, who will seek leave of Court to assert the same when they are ascertained. Plaintiff does not know at this time the exact duration or permanence of said injuries, but is informed and believes, and thereon alleges, that some if not all of the injuries are reasonably certain to be permanent in character.

40. Plaintiff is informed and believes, and thereon alleges, that the Defendants, and each of them, by engaging in the aforementioned acts and, in the case of Royal Spa, by ratifying such acts, engaged in wilful, malicious, intentional, oppressive and despicable conduct, and acted with wilful and conscious disregard of Plaintiff's rights, welfare, and safety, thereby justifying an award of punitive and exemplary damages in an amount to be determined at trial. As a result of Defendants' harassing and discriminatory acts as alleged herein, Plaintiff is entitled to reasonable attorneys' fees and costs of suit.

FOURTH CAUSE OF ACTION

Intentional Infliction of Emotional Distress Against All Defendants

41. Plaintiff repeats and realleges by reference each and every allegation contained in Paragraphs 1 through 40 and incorporates the same herein as though fully set forth.

42. As set forth above, Dapper's conduct in his treatment of Kevin was gross, willful, unlawful, intentional and repugnant by any standard of reasonableness. Due to this conduct Kevin sustained significant permanent and temporary emotional distress.

43. Royal Spa failed to protect Plaintiff from the continuing sexual harassment and other offensive conduct of Dapper described herein, and, further, discharging the Plaintiff in retaliation for making complaints regarding Dapper's behavior agents and managers of Royal Spa abused their special position as Plaintiff's superiors which vested them with substantial power to control his work environment and to damage his interests and well-being.

44. Through the outrageous conduct described above, Defendants, and each of them, acted with the intent to cause, or with reckless disregard for the probability of causing Plaintiff to suffer severe emotional distress.

45. As a direct and proximate result of Defendants' actions, Plaintiff has suffered and will continue to suffer pain and suffering, and extreme and severe mental anguish and emotional distress, include sleeplessness and erectile dysfunction; Plaintiff is thereby entitled to general and compensatory damages in amounts to be proven at trial.

46. Defendants' conduct as described herein was malicious and oppressive, and done with a conscious disregard of Plaintiff's rights. The acts of the agents and managers of Royal Spa were performed with the knowledge of an employer's economic power over its employees. Royal Spa, through its officers, managing agents, and supervisors, authorized, condoned and ratified the unlawful conduct of the Defendants in this action. Consequently, Plaintiff is entitled to punitive damages from all Defendants.

FIFTH CAUSE OF ACTION

Negligent Supervision Against Royal Spa

47. Plaintiff repeats and realleges by reference each and every allegation contained in Paragraphs 1 through 45 and incorporates the same herein as though fully set forth.

48. Beginning in approximately June of 2008, and continuing thereafter, Defendants knew, or reasonably should have known, that Dapper was engaging in the unlawful behavior described herein above.

49. At all times material herein, Defendant Royal Spa knew, or reasonably should have known, that the conduct, acts, and failures to act of all other Defendants and/or supervisors, agents and employees as described herein above violated Plaintiffs rights under federal, state and municipal statutes, codes and ordinances.

50. At all times material herein, Defendants, and each of them, knew, or reasonably should have known, that the incidents, conduct, acts, and failures to act described herein above, would and did proximately result in emotional distress to Plaintiff, including, but not limited to, loss of sleep, anxiety, tension, depression, and humiliation.

51. At all times material herein Defendants, and each of them, knew, or in the exercise of reasonable care should have known, that unless Defendants, and each of them, intervened to protect Plaintiff, and to adequately supervise, prohibit, control, regulate, discipline,

and/or otherwise penalize the conduct, acts, and failures to act, of all other Defendants and/or supervisors, agents or employees as alleged herein above, said conduct, acts, and failures to act would continue, thereby subjecting Plaintiff to personal injury and emotional distress.

52. Defendants, and each of them, knew, or in the exercise of reasonable care should have known, that unless Defendants, and each of them, intervened to protect Plaintiff, and to adequately supervise, prohibit, control, regulate, discipline, and/or otherwise penalize the conduct, acts, and failures to act of the Defendants and others as described herein, Defendants' failure to so protect, supervise, and intervene would have the effect of encouraging, ratifying, condoning, exacerbating, increasing and worsening said conduct, acts, and failures to act.

53. At all times material herein, Defendants, and each of them, had the power, ability, authority, and duty to so intervene, supervise, prohibit, control, regulate, discipline, and/or penalize the conduct of all other Defendants and/or supervisors, agents or employees as described herein above.

54. Despite said knowledge, power, and duty, Defendants and each of them negligently failed to act so as to prevent, supervise, prohibit, control, regulate, discipline, and/or penalize such conduct, acts, and failures to act, or to otherwise protect Plaintiff.

55. As a direct and proximate result of the failure of Defendant Royal Spa to protect Plaintiff, and to adequately supervise, prohibit, control, regulate, discipline, and/or otherwise penalize the conduct, acts, and failures to act of all other Defendants and/or supervisors, agents or employees as alleged herein above, said conduct, acts, and failures to act were perceived by them as, and in fact had the effect of, ratifying, encouraging, condoning, exacerbating, increasing, and/or worsening said conduct, acts, and failures to act.

56. At all times material herein, the failure of Defendant Royal Spa to protect Plaintiff, and to adequately supervise, prohibit, control, regulate, discipline, and/or otherwise penalize the conduct, acts, and failures to act of all other Defendants and/or supervisors, agents or employees violated Plaintiff's rights under federal, state, and municipal statutes, codes and ordinances.

57. As a direct and proximate result of Defendants' actions, Plaintiff has suffered and will continue to suffer pain and suffering, and extreme and severe mental anguish and emotional distress; she has incurred and will continue to incur medical expenses for treatment by psychotherapists and other health professionals, and for other incidental expenses; and she has suffered and will continue to suffer a loss of earnings and other employment benefits and job opportunities. Plaintiff is thereby entitled to general and compensatory damages in amounts to be proven at trial.

58. Defendants' conduct as described herein was malicious and oppressive, and done with a conscious disregard of Plaintiff's rights. The acts of Defendants were performed with the knowledge of an employer's economic power over its employees. Defendants, through their officers, managing agents and/or supervisors, authorized, condoned and ratified the unlawful

conduct of all of the other Defendants in this action. Consequently, Plaintiff is entitled to punitive damages from all Defendants.

SIXTH CAUSE OF ACTION

Defamation Against Robert Dapper

59. Plaintiff repeats and realleges each and every allegation contained in Paragraphs 1 through 57 and incorporates the same by reference as though fully set forth herein.

60. Plaintiff is informed and believes, and based thereon alleges, that Defendant Robert Dapper and each of them, individually and through their officers, partners, agents and employees, acting within the course of their employment, caused to be published false and unprivileged communications tending to directly injure Plaintiff and his business and professional reputations. Specifically, Defendant Dapper made untrue statements to other persons in Plaintiff's profession and peer group, in the County of Marion and State of Indiana that Plaintiff willing made his spouse available for anal sex with Dapper.

61. Plaintiff is informed and believes, and based thereon alleges, that at the time Defendants made these statements they knew or had reason to know that the statements were false. Plaintiff is additionally informed and believes, and based thereon alleges, that Defendants had no legitimate business purpose for the above-mentioned communications, nor were they privileged.

62. Defendants committed these above-said acts deliberately and intentionally, in an effort to injure and defame Plaintiff's good name and professional reputation. As a direct and proximate result of Defendants' defamation, Plaintiff has suffered loss of earnings, injury to her personal and professional reputation, and severe emotional distress, all to her damage in an amount according to proof at trial.

63. Plaintiff is informed and believes, and based thereon alleges, that the conduct of Defendants described above was done with fraud, oppression and malice; and was done, authorized and ratified by the highest levels of Defendants, thereby entitling Plaintiff to punitive or exemplary damages in an amount according to proof at trial, but exceeding the jurisdictional minimum of this court.

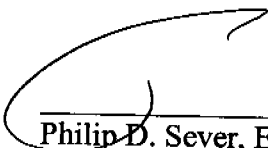
WHEREFORE, Plaintiff hereby requests the following relief:

- (A) An order awarding Plaintiff back pay, pre-judgment interest, fringe benefits, and any other appropriate relief necessary to make Plaintiff whole and compensate him for the civil rights violations described above;
- (B) An order awarding Plaintiff front pay, fringe benefits, and other compensation;
- (C) An order awarding Plaintiff Punitive damages;

(D) An order awarding Plaintiff Damages for the intentional infliction of emotional distress by Dapper.

(E) An order awarding Plaintiff the costs of this action, including reasonable attorney's fees, and such other legal and equitable relief as this Court deems just and proper.

Respectfully submitted,



Philip D. Sever, Esq.

Sever Storey

420 N. Rangeline

Carmel, IN 46032

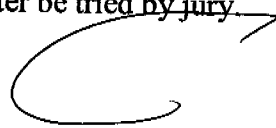
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JURY DEMAND

The Plaintiff hereby requests that this matter be tried by jury.



Philip Sever, Esq.