

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

)	
Bonnie Brown,)	
2807 Allen St. PMB 325)	
Dallas, TX 75204,)	
Leslie Baginski, Lisa Cummings-Gallina,)	
Laurie Introp, Lisa Levine, Bridget Oliveto,)	
and Lindsay Pihaly on behalf of themselves and)	
all others similarly situated,)	
)	NO. _____
)	CLASS ACTION
Plaintiffs,)	
v.)	
)	
Medicis Pharmaceutical Corporation,)	
)	
Defendant.)	
)	

COMPLAINT

Plaintiffs Bonnie Brown, Leslie Baginski, Lisa Cummings-Gallina, Laurie Introp, Lisa Levine, Bridget Oliveto, and Lindsay Pihaly (collectively “Plaintiffs”), on behalf of themselves and all others similarly situated, allege and state as follows:

INTRODUCTION

1. Plaintiffs are former field sales employees in the Aesthetics and Dermatology divisions of Medicis Pharmaceutical Corporation (“Medicis,” “Company,” or “Defendant”).

2. Medicis was purchased by Valeant Pharmaceuticals International, Inc. (“Valeant”) on December 11, 2012.

3. Prior to Valeant’s purchase of Medicis, the field sales Aesthetics and Dermatology divisions at Medicis had a workplace culture that was hostile to women and caused pervasive sexual harassment. That culture was led by the then Chief Executive Officer of Medicis, Jonah Shacknai. Shacknai and several executives on his management team also

oversaw policies and practices that discriminated against female field sales employees in Aesthetics and Dermatology, impacting selection, compensation, promotion, leave of absence, and termination. After Valeant's acquisition of Medicis, Shacknai was no longer the CEO of Medicis and currently is not employed by the Company. Several male members of the senior management team are also no longer with the Company.

4. This case arises out of Medicis's systemic, nationwide discriminatory treatment of female field sales employees in the Aesthetics and Dermatology divisions in violation of Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§2000e, *et seq.* and applicable state civil rights laws. Having satisfied all administrative prerequisites, Plaintiffs file this Complaint on behalf of themselves individually and on behalf of all women similarly situated.

JURISDICTION

5. The jurisdiction of this Court is invoked pursuant to 28 U.S.C. § 1343(a)(4), which confers original jurisdiction upon this Court in a civil action to recover damages or to secure equitable relief or other relief under any Act of Congress providing for protection of civil rights; pursuant to 28 U.S.C. § 1331, which confers original jurisdiction upon this Court in a civil action arising under the Constitution or laws of the United States; and pursuant to 28 U.S.C. § 1337, which confers original jurisdiction upon this court in a civil action arising under any Act of Congress regulating commerce.

6. This court has supplemental jurisdiction pursuant to 28 U.S.C. § 1367 over the claims brought pursuant to state and local laws prohibiting discrimination in employment.

PARTIES

7. Plaintiff Bonnie Brown is a female resident and citizen of Dallas, Texas. She was employed by Medicis as a Professional Sales Specialist in the Aesthetics Division from approximately September 4, 2005, through May 29, 2010.

8. Plaintiff Leslie Baginiski is a female resident and citizen of Irvine, California. During the time that she was employed by Medicis she was a resident of Boston, Massachusetts. She was employed by Medicis as a Territory Manager in the Dermatology Division beginning on or about September 30, 1997, until on or about November 1, 2006, when she transitioned to a position in the Aesthetics Division. Her last day of employment was approximately December 27, 2011.

9. Plaintiff Lisa Cummings-Gallina is a female resident and citizen of the Township of Washington, New Jersey. She was employed by Medicis as a Professional Sales Specialist in the Aesthetics Division beginning on or about October 13, 2006, through June 30, 2009.

10. Plaintiff Laurie Introp is a female resident and citizen of Melville, New York. She was employed by Medicis beginning approximately July 21, 2003, as a Professional Sales Specialist in the Aesthetics Division, and then was employed as a Regional Sales Manager from approximately July 19, 2006, through December 22, 2008.

11. Plaintiff Lisa Levine is a female resident and citizen of Atlanta, Georgia. She was employed by Medicis as a Sales Specialist in the Dermatology Division beginning on or about January 7, 2008, through August 2, 2010.

12. Plaintiff Bridget Oliveto is a female resident and citizen of Omaha, Nebraska. She was employed by Medicis through a staffing agency named Quintiles as a Sales Specialist in the Dermatology Division of Medicis starting on or about February 28, 2011, to August 4, 2011.

13. Plaintiff Lindsay Pihaly is a female resident of St. Paul, Minnesota. She was employed by Medicis as a Professional Sales Specialist in the Aesthetics Division from approximately May 5, 2008, through May 7, 2010.

14. Defendant Medicis Pharmaceutical Corporation (“Medicis”) is a Delaware corporation with its headquarters in Scottsdale, Arizona. Medicis sells pharmaceutical products throughout the United States. As of December 11, 2012, Medicis was acquired by Valeant Pharmaceuticals International, Inc.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

15. Several Plaintiffs have filed charges of discrimination with the Equal Employment Opportunity Commission (“EEOC”) and applicable state and/or local agencies alleging sexual harassment and sex/pregnancy discrimination against Medicis in compensation, promotion, termination, and other terms and conditions of employment in violation of Title VII and applicable state and/or local civil rights laws.

16. On February 5, 2009, Plaintiff Introp filed a charge of discrimination with the EEOC and the New York State Division of Human Rights alleging that Medicis had a pattern or practice of sex and pregnancy discrimination, and making individual allegations of retaliation. Plaintiff Introp’s charge tolled the charge-filing deadline for a class of all similarly situated female Medicis employees, including Plaintiffs Brown, Baginski, Cummings-Gallina, Levine, Oliveto, and Pihaly. Plaintiff Introp received a Right to Sue notice on April 19, 2012. Plaintiff Introp exhausted all administrative remedies for herself and a class of similarly situated

individuals. The following additional charges of discrimination against Medicis were also filed out of an abundance of caution:

- a. On September 23, 2011, Plaintiff Brown filed a charge with the EEOC and the New York State Division of Human Rights alleging sex discrimination. She received her Right to Sue notice on July 3, 2012. Plaintiff Brown exhausted all administrative remedies.
- b. On September 23, 2011, Plaintiff Baginski filed a charge with the EEOC and the New York State Division of Human Rights alleging sex and age discrimination. Baginski plans to seek a Right to Sue letter from the EEOC if this case is not resolved through negotiated settlement.
- c. On September 26, 2011, Plaintiff Cummings-Gallina filed a charge with the EEOC and the New York State Division of Human Rights alleging sex and pregnancy discrimination. She received her Right to Sue notice on March 30, 2012. Plaintiff Cummings-Gallina exhausted all administrative remedies.
- d. On September 23, 2011, Plaintiff Oliveto filed a charge with the EEOC and the New York State Division of Human Rights alleging sex and pregnancy discrimination. Oliveto plans to seek a Right to Sue letter from the EEOC if this case is not resolved through negotiated settlement.
- e. On November 2, 2011, Plaintiff Pihaly filed a charge with the EEOC and the New York State Division of Human Rights alleging sex discrimination and discrimination with regard to disability/family medical leave. She received her Right to Sue notice on July 2, 2012. Plaintiff Pihaly exhausted all administrative remedies.

17. On November 18, 2011, Counsel for Plaintiffs Brown, Baginski, Cummings-Gallina, Introp, Oliveto and Pihaly and Counsel for Medicis executed a Tolling Agreement. The Tolling Agreement tolled all statute of limitations and filing deadlines under any federal or state anti-discrimination in employment laws effective September 1, 2011 through the 20th day after the expiration of the agreement. The initial Tolling Agreement expired, was renewed several times, and was amended to add Plaintiff Levine as a party. The current tolling agreement, the Eleventh Amended Tolling Agreement tolls all statute of limitations and filing deadlines under any federal or state anti-discrimination in employment laws as of September 1, 2011, through the date this Action is filed.

FACTS UNDERLYING CLASS CLAIMS

18. Medicis executive sales managers, led by its former CEO, implemented and controlled policies and practices generally applicable to the entire field sales force that constituted a pattern or practice of sex discrimination and that resulted in disparate impact sex discrimination against female field sales employees.

19. These same executives fostered a work environment that was hostile to women and perpetuated a sexualized work culture that constituted a pattern or practice of sexual harassment of female field sales employees.

Compensation

20. Female field sales employees have experienced sex discrimination with respect to compensation, particularly incentive compensation, such as sales commission, bonuses (including consistency bonuses) and stock awards.

21. Female field sales employees have experienced sex discrimination with respect to the assignment of accounts/territories, the assignment of sales goals, the assignment of sample

products, and the upkeep or maintenance of accounts/territories while on leaves of absence. Sales goal attainment—which is impacted by the assignment of accounts/territories and sample products and the upkeep of accounts/territories while on leaves of absence—is a substantial factor affecting the compensation of field sales employees. As such, female sales employees experienced discrimination in compensation rooted in discriminatory assignments.

22. Medicis’s nationwide, uniform policies and practices regarding compensation and assignments were controlled by a small group of male executive sales managers.

23. Policies and practices used by Medicis in compensating field sales employees also have a disparate impact on women and/or Medicis has a pattern or practice of applying its compensation policies in a discriminatory way towards women.

Promotions

24. Female field sales employees have experienced sex discrimination with regard to selections and promotions.

25. During the time of Plaintiffs’ investigation, none of the senior or executive level sales management positions, such as Director of Sales, were held by a woman.

26. Female field sales employees are underrepresented in higher-level sales positions, such as Regional Manager, Senior Regional Manager and Executive Regional Manager.

27. Former CEO Shacknai and his centralized executive management team controlled the promotion and selection process of all field sales employees and disfavored female employees during that process.

28. The small group of all-male executive managers personally participated in interviews of promotion candidates and utilized a tap-on-the shoulder process for promotions.

29. Policies and practices used by Medicis in career advancement have a disparate impact on women and/or Medicis has a pattern or practice of applying its policies in a discriminatory way towards women.

Sexual Harassment

30. Female field sales employees endured a systemic sexually hostile and demeaning work environment that altered the terms and conditions of their employment. This included, but was not limited to, unwelcome sexually-charged “jokes” and commentary, name-calling, and offensive stereotypical comments about women, pregnancy, and caregiving. Several senior executives, including the former CEO, created this environment by perpetrating the harassment themselves – sending the message to others that it was acceptable workplace behavior throughout the company. Senior management also had knowledge of sexual harassment perpetrated by others. Nonetheless, Medicis did not take reasonable steps to prevent or correct the hostile work environment.

31. Furthermore, Medicis created a work environment where employees were encouraged to drink alcohol and socialize with co-workers and clients and, in which sexual relationships between female sales representatives and their male supervisors were condoned. Several senior executives engaged in sexual relationship with female sales employees or talked as if they had done so. Female sales employees who did not participate in this culture were disfavored by centralized group of senior sales executives in the terms, conditions and privileges of employment.

CLASS ACTION ALLEGATIONS

32. Plaintiffs incorporate by reference the allegations in the above paragraphs.

33. Plaintiffs bring this class action pursuant to Fed. R. Civ. P. 23(a), (b)(2), and (b)(3) on behalf of a class of all women regularly employed directly by Medicis or by Medicis indirectly through Quintiles, Innovex, or QFR Solutions in the Aesthetics Division or Dermatology Division in the following field sales positions at any time from April 15, 2008 up to and including December 10, 2012: Professional Sales Specialist, Senior Sales Specialist, Executive Sales Specialist, Territory Manager, Professional Territory Manager, Senior Territory Manager, Executive Territory Manager, Regional Manager, Senior Regional Manager and Executive Regional Manager. Plaintiffs do not seek to represent any women who have previously released sex discrimination claims against Medicis for the entirety of the Class Period during which they were employed directly by Medicis or by Medicis indirectly through Quintiles, Innovex, or QFR Solutions; nor do Plaintiffs seek to represent any women who obtained a final judicial determination concerning sex discrimination claims which would otherwise be covered by this Action.

34. Plaintiffs are members of the Class they seek to represent.

35. The members of the Class identified herein are so numerous that joinder of all members is impracticable. The number of women in the class is approximately 225 current and former employees of Medicis or employees of Medicis indirectly through Quintiles, Innovex, QFR Solutions.

36. There are questions of law and fact common to the Class, and these questions predominate over any questions that may affect only individual class members. Common questions include but are not limited to: (1) whether a small group of male decision-makers

systematically favored men in compensation and promotion decisions and whether the same small group of male executives fostered and themselves engaged in a systemic hostile environment against women; (2) whether sex discrimination and sexual harassment was the standard operating procedure at Medicis such that it constituted a general policy of discrimination in violation of Title VII of the Civil Rights Act of 1964; (3) whether Medicis's written and unwritten centralized policies and/or practices regarding compensation, account and territory distribution, sales goal assignment, stock awards, leave of absence, selection, and promotion had a disparate impact on female employees or constituted a pattern or practice of disparate treatment discrimination against female employees; (4) whether the elements of Medicis's compensation, selection, and promotion systems were incapable of separation for analysis; (5) whether Medicis has paid female field sales employees compensation that is disproportionately low compared to the compensation paid to male employees in base pay, commission/incentive compensation and other forms of compensation by, for example, setting higher sales goals for women than men relative to the historical sales of their territories; and (6) whether female field sales employees have been promoted at rates that are disproportionately low compared to the rates at which male employees have been promoted.

37. These common questions can be answered with common proof, including but not limited to: (a) nationwide discriminatory policies and practices that were controlled by a small group of all-male executive sales managers, including CEO Shacknai; (b) statistical evidence of gender disparities adverse to women resulting from these common policies; and (c) evidence of a sexualized work culture, hostile to women, that was perpetuated and controlled by the same group.

38. The Representative Plaintiffs' claims are typical of the claims of the class. Specifically, they have all been subjected to the same company-wide practice of gender discrimination in employment; their claims are based upon allegations that they have been adversely affected by that practice of gender discrimination in a similar manner in that they have received less favorable treatment than their male counterparts with respect to work environment, compensation, selection, and numerous other aspects of employment; and their claims all rest on common evidence and are all based on common legal theories.

39. The Representative Plaintiffs will fairly and adequately represent and protect the interests of the members of the class because: (1) they are willing and able to represent the proposed class and have every incentive to pursue this action to a successful conclusion; (2) their interests are not antagonistic to those of the other class members; and (3) they are represented by counsel experienced in litigating major class actions in the field of employment discrimination.

40. Class certification status is appropriate under Fed. R. Civ. P. 23(b)(2) because Medicis and its senior management team led by Shacknai acted and/or refused to act on grounds generally applicable to the class, making appropriate, declaratory and injunctive relief with respect to Plaintiffs and the class as a whole. The class members are entitled to injunctive relief to secure changes in Medicis's policies and practices regarding field sales employees in the Aesthetics and Dermatology Divisions.

41. Class certification is also appropriate pursuant to Fed. R. Civ. P. 23(b)(3) because common questions of fact and law predominate over any questions affecting only individual members of the class, and because a class action is superior to other available methods for the fair and efficient adjudication of this litigation. The class members have been damaged and are entitled to recovery as a result of Medicis's common, uniform, and discriminatory

policies and practices. Further, the class members were subjected to the same company-wide policy or practice of sex discrimination and requiring each class member to pursue her claim individually would result in needless duplication of proof and would waste the resources of both the parties and the judiciary.

ADDITIONAL ALLEGATIONS OF THE REPRESENTATIVE PLAINTIFFS

Bonnie Brown Additional Factual Allegations

42. As described above and below, Defendant subjected Plaintiff Brown to disparate treatment and sexual harassment because of her sex. Defendant also applied company-wide field sales policies and practices to Plaintiff Brown that had a disparate impact on female employees

43. In 2005, when Plaintiff Brown interviewed for a job with Medicis executive field sales management, including the then and now former Executive Vice President Rick Havens and the then and now former CEO Shacknai for a field sales position, these senior executives interviewing her emphasized the importance of women's appearance and fashion.

44. After Plaintiff Brown was hired by Defendant, the all-male executive field sales management treated male employees more favorably than female sales employees. Management also emphasized the importance of her physical appearance and did not do the same for male employees.

45. In the spring of 2006, managers regularly asked Plaintiff Brown about her wedding plans and whether she intended to have children. Managers did not ask similarly situated male employees such questions.

46. Plaintiff Brown experienced compensation discrimination based on sex. In 2006, Plaintiff Brown was the highest producing sales employee and won four awards, but her

supervisor tried to prevent her from receiving the awards. Ultimately, even though Plaintiff Brown was an outstanding producer, other male employees in her region received larger salary increases.

47. Further, Plaintiff Brown experienced discrimination in compensation related to sales goals and territory. For example, when Plaintiff Brown went on a leave of absence, Medicis did not assign another employee to visit her customers, which negatively impacted her incentive compensation. Medicis managers assigned coverage to male sales employees' territories when male employees were out on a leave of absence. Similarly, Medicis denied Plaintiff Brown "consistency bonus" incentive compensation upon her return from the leave of absence even though she had consistently met her goals prior to the leave.

48. Plaintiff Brown also experienced discrimination in career advancement. For example, even though Plaintiff Brown regularly expressed an interest in promotion to management, she was not promoted. In early 2007, she again requested a promotion to management, but was told that she had not been with the company for a full two years. Shortly thereafter, a male employee with less tenure than her was promoted over her.

49. Regularly, at business meetings, executive managers witnessed male employees engaging in objectively offensive sexual harassment of Plaintiff Brown and the executive managers did not stop or correct the harassment.

50. Plaintiff Brown's immediate supervisor also engaged in the sexual harassment. For example, her supervisor witnessed a customer make an unwelcome, offensive sexual remark to Plaintiff Brown. Instead of addressing and correcting the offensive behavior by the customer, Plaintiff Brown's supervisor regularly made light of the offensive comment. As another

example, Plaintiff Brown's supervisor created nicknames for female sales employees such as "Kitty Cat" and "Ice Queen", which offended her and made Plaintiff Brown uncomfortable.

51. Plaintiff Brown also witnessed male field sales employees make unwelcome sexual advances towards female employees at business functions, which offended her and made her uncomfortable.

52. When Plaintiff Brown took short-term disability leave in 2008, Medicis again did not assign proper coverage of her sales territory. Thus, when she returned around November 2008, the territory was suffering. Plaintiff Brown had to work extra hours in order to resuscitate a neglected territory and to be able to meet the sales goals Medicis imposed. As a result, Plaintiff Brown was unable to receive incentive bonuses for attainment of sales goals in consecutive quarters because Medicis failed to cover her territory.

53. Medicis subjected Plaintiff Brown to disparate treatment in other terms, conditions, and privileges of employment.

54. Medicis wrongfully terminated Plaintiff Brown on May 29, 2010.

Leslie Baginski Additional Factual Allegations

55. As described above and below, Defendant subjected Plaintiff Baginski to disparate treatment and sexual harassment because of her sex. Defendant also applied company-wide field sales policies and practices to Plaintiff Baginski that had a disparate impact on female employees.

56. Plaintiff Baginski began her career at Medicis as a Territory Sales Manager working in the pharmaceutical products subsidiary of Medicis. Eventually, she was promoted to Senior Territory Sales Manager in the Dermatology Division of Medicis. In January 2007, she took a position at Medicis Aesthetics, as Territory Sales Manager. (Territory Sales Manager and

Senior Territory Sales Manager were sales positions, not managerial positions, despite the word “manager”.)

57. Plaintiff Baginski experienced compensation discrimination based on sex and/or age. For example, when Plaintiff Baginski transferred from the Dermatology Division to the Aesthetics Division, Medicis was not permitted to keep her “senior” status and effectively demoted her from “Senior Territory Sales Manager” to “Territory Sales Manager.” This resulted in lost incentive compensation. Another older woman who had been in the Aesthetics Division for several years and always met her goals never received senior sales status while men who had been there for a much shorter period received this status.

58. Further, Plaintiff Baginski experienced compensation discrimination when she went on long-term disability leave. She started on leave several days prior to the close of the quarter, and had already met her sales goal for particular products. However, Medicis decreased her incentive pay because she was not actively working the last few days of the quarter.

59. When Plaintiff Baginski returned to work on or about October 1, 2010 after being on medical leave, Medicis raised her sales goal over twenty-five percent. Plaintiff Baginski learned that other representatives either did not experience an increase in sales goals or had less of an increase. While Plaintiff Baginski was able to meet the sales goal, her health suffered as a result of the intense workplace pressure. During this time she felt that she was being “managed out” by her supervisor.

60. Plaintiff Baginski experienced unwelcome, offensive sexual harassment at Medicis, including offensive sexual comments and gestures, while attending national sales meetings, and Medicis failed to take reasonable steps to prevent and promptly correct the harassment. Plaintiff Baginski felt humiliated in those instances. As another example of the

harassment Baginski endured, the then, but now former CEO made a crude sexual comment at a meeting where Plaintiff Baginski was present.

61. Ultimately, Medicis terminated Plaintiff Baginski on December 27, 2011.

Similarly situated male employees were not terminated.

Lisa Cummings-Gallina Additional Factual Allegations

62. As described above and below, Defendant subjected Plaintiff Cummings-Gallina to disparate treatment and sexual harassment because of her sex. Defendant also applied company-wide field sales policies and practices to Plaintiff Cummings-Gallina that had a disparate impact on female employees.

63. Plaintiff Cummings-Gallina was employed by Medicis as a Professional Sales Specialist in the Aesthetics Division from approximately October 13, 2006 until her constructive discharge on June 30, 2009.

64. During her job interview for her position with the Company in 2006, she met with three male senior executives, including the then, but now former CEO Shacknai. At the interview, Cummings-Gallina was asked why she would want to work when she had young children and her husband was a surgeon.

65. Plaintiff Cummings-Gallina experienced compensation discrimination based on sex. For example from approximately November 5, 2008 to January 31, 2009, Plaintiff Cummings-Gallina took maternity leave. Thus, she was on leave for about one-third of this first quarter of 2009. When she returned to work, she only had approximately two-thirds of the quarter to meet her sales goals, but Medicis did not prorate her sales goal, resulting in lost compensation.

66. Further, Medicis made achieving her sales goal even more difficult by not providing her with the same resources as her peers. Her male supervisor did not provide her with sample syringes or demo units upon her return from her leave of absence. In order to effectively sell Medicis product, Medicis typically provided field sales employees with samples at the beginning of each quarter. The lack of samples made it more difficult for Plaintiff Cummings-Gallina to sell the product to new customers and train existing customers. By the time the Company provided Plaintiff Cummings-Gallina with the samples units, she had less than 10 days in the quarter to meet the sales goal.

67. As another example, when Plaintiff Cummings-Gallina went on a leave of absence, Medicis did not assign another employee to visit her customers, which negatively impacted her incentive compensation. Before she went out on leave, she was the top quarterly seller in her region and nationally, reaching over 100% of her sales goal. While Plaintiff was on leave, Medicis let what had been a top territory fall to less than 60% of the sales goal.

68. Plaintiff Cummings-Gallina experienced unwelcome, offensive sexual harassment at Medicis, including while attending national sales meetings, and Medicis failed to take reasonable steps to prevent and promptly correct the harassment. For example, at Medicis, Plaintiff Cummings-Gallina endured pressure to drink alcohol.

69. Later, Medicis made clear to Plaintiff Cummings-Gallina that she was viewed as a mother or caregiver and not as a valuable employee. For example, on approximately February 27, 2009, a few weeks after she returned from maternity leave, a Human Resources representative told Plaintiff Cummings-Gallina that Ms. Cummings-Gallina seemed to have “many responsibilities at home” and that “maybe it’s time to part ways with Medicis.” The

Human Resources representative made this comment shortly after Plaintiff Cummings-Gallina had engaged in protected activity, making an internal complaint alleging gender discrimination.

70. Ultimately, the working conditions created by Medicis were intolerable and Plaintiff Cummings-Gallina felt that she had no other choice but to resign her employment.

Laurie Introp Additional Factual Allegations

71. As described above and below, Defendant subjected Plaintiff Introp to disparate treatment and sexual harassment because of her sex. Defendant also applied company-wide field sales policies and practices to Plaintiff Introp that had a disparate impact on female employees.

72. Plaintiff Introp, who rose to the position of regional manager, experienced compensation discrimination and discrimination in terms of career advancement based on sex. For example, Medicis compensated some of Plaintiff Introp's direct reports with higher base salaries than Plaintiff Introp. Further, Plaintiff Introp's supervisors prevented her from filling vacant sales positions in her territory, yet male regional managers were able to have their vacancies filled. The result of these open territories was that Plaintiff Introp's region failed to meet Territory Sales Goals, thereby dramatically reducing her compensation, ability for promotion, and upward career mobility.

73. Plaintiff Introp experienced unwelcome, offensive sexual harassment at Medicis, including while attending national sales meetings, and Medicis failed to take reasonable steps to prevent and promptly correct the harassment. For example, while he was Executive Vice President, Rick Havens told her that her "goal was to be in [her] pajamas with [her] top docs at night." As another example, Claude Maraoui, who was the Vice President of Sales at the time, sexually objectified female sales employees by asking, "Is there a lot of skin showing?" referring to required company headshots of field sales employees. As another example, while he

was the Director of Professional Relations, Louis Frisina told Plaintiff Introp that her relationship with Rick Havens, the Executive Vice President at the time, could improve if she were to either “sleep with him, or have a ménage a trois” with him and another female employee. Based on information and belief, Havens, Maraoui, and Frisina are no longer employed by Medicis.

74. Plaintiff Introp experienced heightened scrutiny of her performance, additional work burdens, and was excluded from critical work communications after her pregnancy. Medicis made clear to Plaintiff Introp that she was viewed as a mother or caregiver and not as a valuable employee. For example, upon her return from maternity leave, she learned that her region was being “realigned” and she would be losing New York City, which included her most profitable and successful sales territory. This negatively impacted her ability to earn incentive compensation. Additionally, Ms. Introp was excluded from e-mail distributions and business events and opportunities, in which her male counterparts were included. She was told certain time-consuming conference calls were mandatory even though others were excused when they had competing obligations. She also had to “ride along” with her team members for multi-day field rides, while her male counterparts were not required to do the same.

75. Defendant retaliated against Plaintiff Introp for raising concerns of unlawful discrimination. On or about October 31, 2008, Plaintiff Introp reported unlawful sex discrimination and harassment to Human Resources. Subsequently, Defendant retaliated against Plaintiff Introp by subjecting her to heightened scrutiny. For the first time her supervisor questioned her expense reports. Additionally, her supervisor denied her requests to fill numerous vacant sales positions on her team, which negatively impacted her ability to earn incentive compensation.

76. Ultimately, the working conditions created by Medicis were intolerable and Plaintiff Introp felt that she had no other choice but to resign her employment. She resigned on or about December 22, 2008.

Lisa Levine Additional Factual Allegations

77. As described above and below, Defendant subjected Plaintiff Levine to disparate treatment and sexual harassment because of her sex. Defendant also applied company-wide field sales policies and practices to Plaintiff Levine that had a disparate impact on female employees.

78. Plaintiff Levine experienced compensation discrimination based on sex. For example, in being inappropriately placed on a performance improvement plan she was not eligible to receive the same bonuses and benefits that her male counterparts received.

79. Plaintiff Levine also experienced discrimination in career advancement. For example, Plaintiff Levine, who was a top sales performer, expressed an interest in promotion and career advancement, but her supervisors stopped discussing career advancement with her after her marriage in 2009. Similarly situated male employees who were married received management training and were promoted instead of Plaintiff Levine.

80. In 2009, after her marriage, Medicis managers harassed Plaintiff Levine regarding her gender and subjected her to heightened scrutiny of her performance, but did not treat married male employees similarly. For example, shortly after her marriage her direct supervisor asked her several times when she intended to become pregnant and told her “maybe you are not a good fit for the company.” Even though Plaintiff Levine was in the top 25% of the sales force, she was placed on a performance improvement plan. Lower ranked, poorer performing male employees were not placed on performance improvement plans.

81. Additionally, Plaintiff Levine experienced unwelcome, offensive gender harassment at Medicis, and Medicis failed to take reasonable steps to prevent and promptly correct the harassment. For example, after she married, Plaintiff Levine's supervisor became hypercritical of her and frequently yelled at her. Plaintiff Levine felt threatened by the supervisor. Instead of correcting the behavior, Medicis promoted the supervisor. In May 2010, Plaintiff Levine became pregnant. She asked her supervisor how long she would be on a performance improvement plan even though her performance was excellent. In response, her supervisor claimed that she was on probation and could be on probation indefinitely. Similarly situated male employees were not on probation indefinitely. Afraid that she was being or would be terminated, Plaintiff Levine asked her supervisor, "If you were in my position, would you be looking for a new job?" Her supervisor answered, "Yes."

82. On or about March 2010, Plaintiff Levine complained about the sex discrimination and harassment to Human Resources. Soon thereafter, she was told that she would be on probation for a very long time.

83. Ultimately, the working conditions created by Medicis were intolerable and Plaintiff Levine felt that she had no other choice but to resign her employment. She resigned on or about August 2, 2010.

Bridget Oliveto Additional Factual Allegations

84. As described above and below, Defendant subjected Plaintiff Oliveto to disparate treatment and sexual harassment because of her sex. Defendant also applied company-wide field sales policies and practices to Plaintiff Oliveto that had a disparate impact on female employees.

85. Plaintiff Oliveto experienced sex discrimination in initial hire and placement. On or about February 9, 2011, during her first job interview with Medicis, the interviewer tried to learn whether Plaintiff was married and whether her husband was a high wage earner. The interviewer also asked Plaintiff Oliveto's future colleague whether Plaintiff was a single mother. On or about February 16, 2011, during her second job interview, the then current and now former executive manager Robert Nevin stated, "You probably looked on Café Pharma about how I sleep with all the [sales] representatives, and do this and that. Yeah, I sleep with all these representatives." After these unconventional interviews, Defendant hired Plaintiff Oliveto as a contract employee indirectly through a staffing agency called Quintiles instead of directly hiring her as a permanent employee.

86. During the Spring of 2011, shortly after she began working for Medicis, Plaintiff attended the national field sales meeting in Arizona. Because Plaintiff Oliveto was still breastfeeding her child, her husband and child accompanied her to Arizona and shared her hotel room. Plaintiff Oliveto fully participated in the scheduled meetings. Medicis management pressured her to attend nighttime events that involved alcohol and went late into the evening, but she declined.

87. Additionally, when Defendant required that Plaintiff Oliveto attend a two-week training off-site in May of 2011, Plaintiff requested that her infant and nanny accompany her so that she could breastfeed. Defendant became hypercritical of Plaintiff Oliveto's performance after it became known that she had an infant and was breastfeeding. Her supervisor put pressure on Plaintiff Oliveto to ween her infant. When her supervisor learned that Plaintiff Oliveto needed to bring her infant to the two-week off-site training, the supervisor expressed doubts about Plaintiff Oliveto's ability to handle the job.

88. Plaintiff Oliveto experienced compensation discrimination based on sex. For example, Medicis assigned her a very low-performing sales territory, which made it more difficult for her to earn incentive compensation.

89. Plaintiff Oliveto also experienced discrimination in career advancement. For example, despite her excellent track record and the accolades she received at the national meeting, she was terminated and not offered a permanent full-time position with Medicis. In contrast, a male contract sales employee with similar rankings was offered a full time position.

90. Plaintiff Oliveto experienced unwelcome, offensive sexual harassment at Medicis, including while attending national sales meetings, and Medicis failed to take reasonable steps to prevent and promptly correct the harassment. For example, Plaintiff Oliveto attended a meeting at former executive manager Robert Nevin's home where he hugged and kissed female employees, which made her feel uncomfortable, especially given his comments about sleeping with subordinates.

91. Defendant also subjected Plaintiff Oliveto to retaliation. In late April 2011, Plaintiff Oliveto notified Human Resources that her supervisor had acted inappropriately upon learning that Plaintiff Oliveto intended to bring her infant to the two-week training. Also, on or about May 27 or 28, 2011, Plaintiff Oliveto notified Human Resources that she received only positive feedback during the two-week training, but was ranked last and that she felt she was experiencing sex discrimination or harassment. Additionally, Plaintiff Oliveto spoke with a high-level Human Resources official on the telephone in approximately late May 2011. Subsequently, Plaintiff Oliveto was subjected to heightened scrutiny of her performance and was required to participate in sales drills that were not required of other sales employees.

92. Ultimately, Defendant terminated Plaintiff Oliveto on or about August 4, 2011. Similarly situated male employees were not terminated. Defendant did not pay Plaintiff Oliveto earned commission for the third quarter of 2011 even though she did meet her sales goal.

Lindsay Pihaly Additional Factual Allegations

93. As described above and below, Defendant subjected Plaintiff Pihaly to disparate treatment and sexual harassment because of her sex. Defendant also applied company-wide field sales policies and practices to Plaintiff Pihaly that had a disparate impact on female employees.

94. During Plaintiff Pihaly's job interviews with Medicis prior to being hired, executive managers asked about her marital status and whether she intended to have children. Plaintiff Pihaly asked several of her male co-workers about their interviews and they stated that they were not asked about their marital status or plans to have children.

95. Plaintiff Pihaly experienced compensation discrimination based on sex. For example, Plaintiff Pihaly's sales goals were set higher than her male counterparts, resulting in lower raises and bonuses as compared to those of her similarly situated male employees.

96. Plaintiff Pihaly also experienced discrimination in career advancement. For example, while out on leave, her territory was not covered and therefore her rank dropped which translated to less opportunities for promotion and advancement.

97. Plaintiff Pihaly experienced unwelcome, offensive sexual harassment at Medicis, including while attending national sales meetings, and Medicis failed to take reasonable steps to prevent and promptly correct the harassment. For example, at one national field sales meeting, one of her pregnant co-workers became exhausted after a long day. She needed to excuse herself early one evening due to health reasons. After her co-worker returned to her

hotel room, their manager became angry and claimed that she had no excuse to not be present stating “I didn’t put her in that condition.”

98. Medicis managers subjected Plaintiff Pihaly to heightened scrutiny of her performance and harassment after her marriage in January 2009, but did not treat married male employees similarly. Shortly after her leave of absence related to her marriage, Plaintiff Pihaly needed to take medical leave for an unforeseen medical issue. When she notified her supervisor, he stated, “It’s up to you if you want to do this, but your numbers will suffer, and you have numbers to answer to,” even though, at that time, Plaintiff Pihaly was on track to achieve her sales goals. Plaintiff Pihaly felt pressured to use as little leave time as possible. As a result, she returned to work early and had a life-threatening medical complication that required treatment in an intensive care unit. She notified her supervisor that she was seriously ill, but her supervisor did not notify Human Resources, her customers, or her colleagues. Subsequently, Plaintiff Pihaly learned from co-workers that her supervisor said he was trying to manage her out. Her supervisor did not discriminate against male employees who used leave. Ultimately, the working conditions created by Medicis were intolerable and Plaintiff Pihaly felt that she had no other choice but to resign her employment. She resigned on or about May 7, 2010.

CAUSES OF ACTION

COUNT I

EMPLOYMENT DISCRIMINATION ON THE BASIS OF SEX Pattern or Practice Discrimination – Systemic Disparate Treatment Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000(e) *et seq.* (On Behalf of All Plaintiffs and the Class)

99. On behalf of themselves and the Class, Plaintiffs incorporate by reference the allegations set forth throughout this Complaint.

100. Plaintiffs and members of the proposed Class are female and are or were field sales employees of Medicis within the meaning of 42 U.S.C. §2000(e) *et seq.* and are members of a protected class.

101. Medicis has engaged in a pattern and practice of intentional discrimination against female sales employees. Medicis's male sales executives adopted and/or maintained and implemented uniform employment practices that discriminate against women with respect to compensation, promotion, and other terms and conditions of employment.

102. The discriminatory practices of Medicis, as set forth herein, have denied Plaintiffs and the members of the proposed Class, their right to equal employment opportunity in violation of 42 U.S.C. §2000(e) *et seq.*, in that qualified women received lower compensation than equally or less qualified males for the same or essentially the same work, have been denied promotions/career advancement opportunities that were given to equally or less qualified males, have been given less desirable sales goals, accounts, territories or assignments, and have been denied support and opportunities provided to equally or less qualified males in the same position.

103. The pattern of inequity in compensation, promotion and access to opportunities, on the basis of sex is not the result of random or non-discriminatory factors. Rather, it is the result of an ongoing and continuous pattern and practice of sex discrimination led by a small group of male senior sales executives who disfavor women.

104. Defendant's discriminatory conduct caused Plaintiffs and the Class, to suffer injury, including but not limited to loss of wages and other job benefits, and emotional and physical distress.

105. On behalf of themselves and the Class, Plaintiffs request relief as provided in the Prayer for Relief below.

COUNT II

EMPLOYMENT DISCRIMINATION ON THE BASIS OF SEX

Disparate Impact

**Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000(e) *et seq.*
(On Behalf of All Plaintiffs and the Class)**

106. On behalf of themselves and the Class, Plaintiffs incorporate by reference the allegations set forth throughout this Complaint.

107. Medicis's male sales executives adopted and/or maintained and implemented uniform employment practices that have a disparate impact on female field sales employees with respect to compensation, promotion, and other terms and conditions of employment.

108. The underpayment of female employees, the underrepresentation of female employees in sales management positions, and other disparities disfavoring women were not the result of chance, rather they were caused by Medicis's reliance on policies and practices that had an adverse impact on female employees that cannot be justified by business necessity, and for which alternative policies and practices with less discriminatory impact could be utilized that equally serve any asserted justification.

109. The elements of Medicis's compensation and promotion systems were incapable of separation for purposes of analysis.

110. Medicis's discriminatory practices described herein have resulted in loss of wages and other job benefits for female field sales employees.

111. On behalf of themselves and the Class, Plaintiffs request relief as provided in the Prayer for Relief below.

COUNT III

EMPLOYMENT DISCRIMINATION ON THE BASIS OF SEX

Systemic Sexual Harassment

Title VII of the Civil Rights Act of 1964, 42 U.S.C. §2000(e) *et seq.*

(On Behalf of All Plaintiffs and the Class)

112. On behalf of themselves and the Class, Plaintiffs incorporate by reference the allegations set forth throughout this Complaint.

113. This is a claim against Medicis arising under Title VII, as amended, prohibiting sexual harassment in the workplace.

114. Defendant created a hostile work environment that discriminated against women based on sex that altered the terms, conditions and privileges of their employment by exposing them to offensive, unwelcome sexual harassment.

115. Management, including the former CEO and male executive sales managers, perpetuated the sexual harassment and condoned sexual harassment perpetrated by others.

116. Defendant is liable for the sexual harassment because it was perpetrated by the company's alter ego (i.e. the former CEO) and/or because it knew or should have known of the sexual harassment and failed to exercise reasonable care to take prompt corrective action.

117. Defendant's actions and inactions created a work environment hostile to female field sales employees where sexual harassment was the company's standard operating procedure. In other words, Defendant had a general policy of discrimination against female field sales employees in the form of sexual harassment.

118. Defendant's discriminatory conduct caused Plaintiffs and the Class, to suffer injury, including but not limited to loss of wages and other job benefits, and emotional and physical distress.

119. On behalf of themselves and the Class, Plaintiffs request relief as provided in the Prayer for Relief below.

COUNT IV

EMPLOYMENT DISCRIMINATION ON THE BASIS OF GENDER

Termination - Wrongful Discharge

Title VII of the Civil Rights Act of 1964, 42 U.S.C. §2000(e) *et seq.*

(On Behalf of Plaintiffs Brown, Baginski, and Oliveto)

120. Plaintiffs Brown, Baginski and Oliveto incorporate by reference the allegations set forth throughout this Complaint.

121. Plaintiffs Brown, Baginski and Oliveto are members of a group protected under Title VII of the Civil Rights Act of 1964, 42 U.S.C. §2000(e) *et seq.* (“Title VII”) from discrimination on the basis of sex.

122. Plaintiffs Brown, Baginski and Oliveto were qualified for their jobs and their job performance was more than satisfactory.

123. Plaintiffs Brown, Baginski and Oliveto were discharged from Medicis due to sex.

124. Male employees were retained under similar circumstances.

125. Plaintiffs Brown, Baginski and Oliveto suffered injuries as a result, including but not limited to lost pay (past and future), lost benefits, and physical injury and emotional distress.

126. Plaintiffs request relief as provided in the Prayer for Relief below.

COUNT V

EMPLOYMENT DISCRIMINATION ON THE BASIS OF GENDER

Constructive Discharge

**Title VII of the Civil Rights Act of 1964, 42 U.S.C. §2000(e) *et seq.*
(On Behalf of Plaintiffs Cummings-Gallina, Introp, Levine, and Pihaly)**

127. Plaintiffs Cummings-Gallina, Introp, Levine and Pihaly incorporate the allegations set forth throughout this Complaint.

128. As described herein, Defendant's sex discrimination and sexual harassment and other unfavorable treatment of Plaintiffs Cummings-Gallina, Introp, Levine and Pihaly caused their working conditions to become intolerable.

129. Plaintiffs Cummings-Gallina, Introp, Levine and Pihaly reasonably concluded that they had no option but to end their employment with Defendant.

130. As a result of the intolerable treatment by Defendant, Plaintiffs Cummings-Gallina, Introp, Levine and Pihaly suffered physical and emotional distress.

131. Given the ongoing hostility they experienced at work, as well as the physical and emotional ramifications of such hostility, Plaintiffs' working conditions were intolerable.

132. Defendant's failure to ensure tolerable working conditions free of discrimination, harassment and retaliation was intentional, malicious, deliberate, willful and oppressive, and was carried out with the intent to cause Plaintiffs Cummings-Gallina, Introp, Levine and Pihaly to resign their positions with Defendant.

133. Because of the intolerable working conditions, Plaintiffs Cummings-Gallina, Introp, Levine and Pihaly were forced to resign their positions on or about June 30, 2009, December 22, 2008, August 2, 2010, and May 7, 2010 respectively.

134. Defendants' wrongful and illegal conduct caused Plaintiffs Cummings-Gallina, Introp, Levine and Pihaly injury including, but not limited to, lost income (past and future), lost benefits, emotional distress and physical injury.

135. Plaintiffs request relief as provided in the Prayer for Relief below.

COUNT VI

EMPLOYMENT DISCRIMINATION – RETALIATION

Retaliation

**Title VII of The Civil Rights Act of 1964, 42 U.S.C. § 2000e-3 *et seq.*
(On Behalf of Cummings-Gallina, Introp, Levine and Oliveto)**

136. Plaintiffs Cummings-Gallina, Introp, Levine and Oliveto incorporate by reference the allegations set forth throughout this Complaint.

137. Plaintiffs Cummings-Gallina, Introp, Levine and Oliveto complained to managers, Defendant's human resources personnel and others about the sex discrimination, including pregnancy and caregiver discrimination, they were experiencing and as such engaged in protected activity under 42 U.S.C. § 2000e-3.

138. Defendant retaliated against Plaintiffs Cummings-Gallina, Introp, Levine and Oliveto by taking actions that would dissuade the reasonable worker from making or supporting a claim of discrimination under Title VII. For example, in response to Plaintiff Cummings-Gallina's complaints to Human Resources, it was suggested that she resign her position. Defendant subjected Plaintiff Introp to heightened scrutiny of her expense reports and refused to provide support for reassignment of accounts to her team. Similarly, Defendant subjected Plaintiff Oliveto to heightened scrutiny of her performance, required her to participate in drills that similarly situated employees did not endure, and ultimately terminated her employment.

With respect to Plaintiff Levine in response to her complaints to Human Resources she was kept on probation even when her performance did not warrant probation.

139. Defendant subjected Plaintiffs Cummings-Gallina, Introp, Levine and Oliveto to these adverse actions in retaliation against them because of their complaints of unlawful discrimination.

140. Plaintiffs Cummings-Gallina, Introp, Levine and Oliveto suffered injuries as a direct and proximate result of Defendant's unlawful retaliatory conduct, including but not limited to loss of income, humiliation, loss of reputation, loss of income, emotional distress and physical illness.

141. Plaintiffs Cummings-Gallina, Introp, Levine and Oliveto request relief as provided in the Prayer for Relief below.

COUNT VII

EMPLOYMENT DISCRIMINATION ON THE BASIS OF AGE

Termination

Age Discrimination in Employment Act of 1967, 29 U.S.C. § 621*et seq.* (On Behalf of Plaintiff Baginski)

142. Plaintiff Baginski incorporates by reference the allegations set forth throughout this Complaint.

143. At all times relevant for purposes of this Complaint, Defendant was an employer under the Age Discrimination in Employment Act of 1967, 29 U.S.C. § 630(b).

144. Plaintiff Baginski is over forty years of age and, as such, is a person protected by the provisions of the Age Discrimination in Employment Act of 1967, 29 U.S.C. § 621 *et seq.* from discrimination on the basis of age.

145. Plaintiff Baginski was qualified for her job and her job performance was more than satisfactory.

146. Plaintiff Baginski was discharged from Medicis due to her age and replaced by a younger employee under 40 years of age. Defendant's conduct against Plaintiff Baginski was willful.

147. Plaintiff Baginski suffered injuries as a result, including but not limited to lost pay (past and future), embarrassment, humiliation, loss of self-esteem, emotional distress, frustration, and lost benefits.

148. Plaintiff Baginski requests relief as provided in the Prayer for Relief below.

COUNT VIII

EMPLOYMENT DISCRIMINATION IN VIOLATION OF THE TEXAS LABOR CODE

Sex Discrimination

Texas Labor Code, 2 Texas Lab. Code § 21.001 et seq.

(On Behalf of Plaintiff Brown)

149. Plaintiff Brown incorporates by reference the allegations set forth throughout this Complaint.

150. At all times relevant for purposes of this Complaint, Plaintiff Brown was an employee and Defendant was an employer under the Texas Labor Code, Section 21.002.

151. Plaintiff Brown was and is a resident of Texas. Plaintiff Brown was employed to do work for Defendant within Texas and was denied equal employment opportunities by Defendant within Texas.

152. As described herein, Defendant subjected to Plaintiff Brown to discrimination in compensation, career advancement, termination, and other terms, conditions and privileges of employment because of her sex.

153. As described herein, Defendant subjected Plaintiff Brown to unwelcome sexual harassment because of her sex.

154. Defendant's actions and inactions violated the Texas Labor Code, Section 21.051 et seq.

155. As a result of Defendant's unlawful conduct, Plaintiff Brown suffered injuries, including but not limited to lost pay (past and future), lost benefits, and physical injury and emotional distress.

156. Plaintiff Brown requests relief as provided in the Prayer for Relief below.

COUNT IX

**EMPLOYMENT DISCRIMINATION IN VIOLATION OF THE MASSACHUSETTS
FAIR EMPLOYMENT PRACTICES LAW**
Sex Discrimination, Age Discrimination
Massachusetts Fair Employment Practices Law, Mass Gen. Laws Ch. 151B *et seq.*
(On Behalf of Plaintiff Baginski)

157. Plaintiff Baginski incorporates by reference the allegations set forth throughout this Complaint.

158. At all times relevant for purposes of this Complaint, Plaintiff Baginski was an employee and Defendant was an employer within the meaning of the Massachusetts Fair Employment Practices Law, Ch. 151B § 1.

159. During the relevant time period, Plaintiff Baginski was a resident of Massachusetts. Plaintiff Baginski was employed to do work for Defendant within Massachusetts and was denied equal employment opportunities by Defendant within the state of Massachusetts.

160. As described herein, Defendant subjected to Plaintiff Baginski to discrimination in compensation, career advancement, termination, and other terms, conditions and privileges of employment because of her sex and age.

161. As described herein, Defendant subjected Plaintiff Baginski to unwelcome sexual harassment because of her sex.

162. Defendant's actions and inactions violated the Massachusetts Fair Employment Practices Law, ch. 151B § 4 *et seq.*

163. As a result of Defendant's unlawful conduct, Plaintiff Baginski suffered injuries, including but not limited to lost pay (past and future), lost benefits, and physical injury and emotional distress.

164. Plaintiff Baginski requests relief as provided in the Prayer for Relief below.

COUNT X

EMPLOYMENT DISCRIMINATION IN VIOLATION OF THE NEW YORK HUMAN RIGHTS LAW

Sex Discrimination and Retaliation

New York State Human Rights Law, Executive Law § 290 *et seq.*

(On Behalf of Plaintiff Cummings-Gallina and Introp)

165. Plaintiffs Cummings-Gallina and Introp incorporate the allegations set forth throughout this Complaint.

166. At all times relevant for purposes of this Complaint, Plaintiffs Cummings-Gallina and Introp were employees and Defendant was an employer as defined by the New York State Human Rights Law, Section 292.

167. Plaintiffs Cummings-Gallina and Introp were employed to do work for Defendant within New York and were denied equal employment opportunities by Defendant within New York. Plaintiff Introp was and is a resident of New York.

168. As described herein, Defendant subjected Plaintiffs Cummings-Gallina and Introp to discrimination in compensation, career advancement, and other terms, conditions and privileges of employment because of their sex, including because of their pregnancy and caregiver status. Defendant took retaliatory actions against Plaintiffs Cummings-Gallina and Introp after they engaged in protected activity within the meaning of the New York State Human

Rights Law, Section 290 *et seq.* Defendant's treatment of Plaintiffs Cummings-Gallina and Introp culminated in constructive discharge.

169. As described herein, Defendant subjected Plaintiffs Cummings-Gallina and Introp to unwelcome sexual harassment because of their sex.

170. Defendant's actions and inactions violated the New York State Human Rights Law, Section 290 *et seq.*

171. As a result of Defendant's unlawful conduct, Plaintiffs Cummings-Gallina and Introp suffered injuries, including but not limited to lost pay (past and future), lost benefits, and physical injury and emotional distress.

172. Plaintiffs Cummings-Gallina and Introp requests relief as provided in the Prayer for Relief below, for harm caused by Defendant, as permitted by the New York State Human Rights Law, Section 290 *et seq.*

COUNT XI

EMPLOYMENT DISCRIMINATION IN VIOLATION OF THE NEW YORK CITY HUMAN RIGHTS LAW

Sex Discrimination and Retaliation The New York City Human Rights Law, New York City Administrative Code § 8-107 *et seq.* (On Behalf of Plaintiffs Cummings-Gallina and Introp)

173. Plaintiffs Cummings-Gallina and Introp incorporate the allegations set forth throughout this Complaint.

174. At all times relevant for purposes of this Complaint, Plaintiffs Cummings-Gallina and Introp were employees and Defendant was an employer as defined by the New York City Human Rights Law, Section 8-108 *et seq.*

175. Plaintiffs Cummings-Gallina and Introp were employed to do work for Defendant within New York City and were denied equal employment opportunities by Defendant within New York City.

176. As described herein, Defendant subjected Plaintiffs Cummings-Gallina and Introp to discrimination in compensation, career advancement, and other terms, conditions and privileges of employment because of their sex, including because of their pregnancy and caregiver status. Defendant took retaliatory actions against Plaintiffs Cummings-Gallina and Introp after they engaged in protected activity within the meaning of the New York City Human Rights Law, Section 8-107 *et seq.* Defendant's treatment of Plaintiffs Cummings-Gallina and Introp culminated in constructive discharge.

177. As described herein, Defendant subjected Plaintiffs Cummings-Gallina and Introp to unwelcome sexual harassment because of their sex.

178. Defendant's actions and inactions violated the New York City Human Rights Law, Section 8-107 *et seq.*

179. As a result of Defendant's unlawful conduct, Plaintiffs Cummings-Gallina and Introp suffered injuries, including but not limited to lost pay (past and future), lost benefits, and physical injury and emotional distress.

180. Plaintiffs Cummings-Gallina and Introp requests relief as provided in the Prayer for Relief below, for harm caused by Defendant as permitted by the New York City Human Rights Law, Section 8-107 *et seq.*

COUNT XII

**EMPLOYMENT DISCRIMINATION IN VIOLATION OF THE NEBRASKA FAIR
EMPLOYMENT PRACTICE ACT**

Sex Discrimination and Retaliation

**The Nebraska Fair Employment Practice Act, Nebraska Code § 48-1101 *et seq.*
(On Behalf of Plaintiff Oliveto)**

181. Plaintiff Oliveto incorporates by reference the allegations set forth throughout this Complaint

182. At all times relevant for purposes of this Complaint, Plaintiff Oliveto was a person and Defendant was an employer within the meaning of the Nebraska Fair Employment Practice Act, 48-1102.

183. Plaintiff Oliveto was and is a resident of Nebraska. Plaintiff Oliveto was employed to do work for Defendant within Nebraska and was denied equal employment opportunities by Defendant within Nebraska.

184. As described herein, Defendant subjected Plaintiff Oliveto to discrimination in compensation, career advancement, termination, and other terms, conditions and privileges of employment because of her sex, including because of pregnancy and caregiver status.

185. As described herein, Defendant subjected Plaintiff Oliveto to unwelcome sexual harassment because of her sex, including because of her pregnancy and caregiver status.

186. Defendant's actions and inactions violated the Nebraska Fair Employment Practice Act, Section 48-1104.

187. Defendant took retaliatory actions and discriminated against Plaintiff Oliveto after she opposed unlawful sex discrimination within the meaning of the Nebraska Fair Employment Practice Act, Section 48-1114.

188. As a result of Defendant's unlawful conduct, Plaintiff Oliveto suffered injuries, including but not limited to lost pay (past and future), lost benefits, and physical injury and emotional distress.

189. Plaintiff Oliveto requests relief as provided in the Prayer for Relief below.

COUNT XIII

EMPLOYMENT DISCRIMINATION IN VIOLATION OF THE MINNESOTA HUMAN RIGHTS ACT

Sex Discrimination

Minnesota Human Rights Act, Minn. Stat. § 363A *et seq.*

(On Behalf of Plaintiff Pihaly)

190. Plaintiff Pihaly incorporates by reference the allegations set forth throughout this Complaint.

191. At all times relevant for purposes of this Complaint, Plaintiff Pihaly was an employee and person and Defendant was an employer within the meaning of the Minnesota Human Rights Act, Section 363A.03.

192. Plaintiff Pihaly was and is a resident of Minnesota. Plaintiff Pihaly was employed work for Defendant within Minnesota and was denied equal employment opportunities by Defendant within Minnesota.

193. As described herein, Defendant subjected Plaintiff Pihaly to discrimination in compensation, career advancement, and other terms, conditions and privileged and employment because of her sex, which culminated in constructive discharge.

194. As described herein, Defendant subjected Plaintiff Pihaly to unwelcome sexual harassment because of her sex.

195. Defendant's actions and inactions violated the Minnesota Human Rights Act, Section 363A *et seq.*

196. As a result of Defendant's unlawful conduct, Plaintiff Pihaly suffered injuries, including but not limited to lost pay (past and future), lost benefits, and physical injury and emotional distress.

197. Plaintiff Pihaly requests relief as provided in the Prayer for Relief below.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray for the following relief:

1. That this case be maintained and certified as a class action on behalf of the proposed class, that Plaintiffs be designated as representatives of the class, and that their counsel of record be designated as Class Counsel;
2. That the practices of the Defendant complained of herein be determined and adjudged to be in violation of the rights of the Plaintiffs and members of the Class under Title VII of the Civil Rights Act of 1964, and of the rights of Plaintiff Baginski under the Age Discrimination in Employment Act, and of the rights of Plaintiffs under the state and local laws identified above prohibiting discrimination and retaliation in employment;
3. That an injunction be issued prohibiting Defendant and its officers agents, employees, and successors from engaging in the employment practices complained of herein and requiring the adoption of appropriate policies and programs consistent with Defendant's legal obligations to operate a work environment free from employment discrimination and retaliation;
4. That judgment be entered in favor of Plaintiffs and the members of the Class set forth herein, and against Defendant, for back pay (including interest or an appropriate inflation factor), front pay, benefits and all other amounts owed to Plaintiffs and the members of the Class;
5. That the Plaintiffs and the members of the Class be awarded compensatory damages for their hostile environment claims;
6. That the Plaintiffs be awarded compensatory damages for their retaliation, termination and constructive discharge claims;
7. That the Plaintiffs and the members of the Class be awarded punitive damages;
8. That the Plaintiffs and the members of the Class be awarded pre and post judgment interest;
9. That Plaintiff Baginski be awarded liquidated damages pursuant to the Age Discrimination in Employment Act;

10. That the Plaintiffs and the members of the Class be awarded such other and further legal and equitable relief as may be found appropriate and as the Court may deem just or equitable;

11. That the Court award Plaintiffs and the members of the Class reasonable attorneys' fees and costs associated with this matter, including but not limited to expert fees' and costs;

12. That the Court retain jurisdiction over Defendant until such time as it is satisfied that it has remedied the practices complained of and is determined to be in full compliance with the law.

JURY DEMAND

Plaintiffs demand a trial by jury on all issues triable of right by jury.

Respectfully submitted this 5th day of September 2013,

/s/ Cyrus Mehri
Cyrus Mehri (D.C. Bar No. 420970)
Michael D. Lieder (D.C. Bar No. 444273)
Ellen L. Eardley (D.C. Bar No. 488741)
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JS-44
 (Rev. 1/05 DC)

I (a) PLAINTIFFS BONNIE BROWN ET AL. AND ALL OTHERS SIMILARLY SITUATED (see attachment)	DEFENDANTS MEDICIS PHARMACEUTICAL CORPORATION
(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF <u>88888</u> (EXCEPT IN U.S. PLAINTIFF CASES)	COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT (IN U.S. PLAINTIFF CASES ONLY) <u>88888</u> NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED
(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER) Cyrus Mehri and Ellen Eardley Mehri and Skalet, PLLC 1250 Connecticut Ave. NW, Ste. 300 Washington, DC 20036 (202) 822-5100 (see attachment)	ATTORNEYS (IF KNOWN) James Nagle and Wilfred Benoit Goodwin Procter LLP

II. BASIS OF JURISDICTION (PLACE AN X IN ONE BOX ONLY)	III CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN X IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT) FOR DIVERSITY CASES ONLY!																								
<input type="radio"/> 1 U.S. Government Plaintiff <input type="radio"/> 2 U.S. Government Defendant <input checked="" type="radio"/> 3 Federal Question (U.S. Government Not a Party) <input type="radio"/> 4 Diversity (Indicate Citizenship of Parties in item III)	<table style="width:100%; border-collapse: collapse;"> <thead> <tr> <th></th> <th style="text-align: center;">PTF</th> <th style="text-align: center;">DFT</th> <th></th> <th style="text-align: center;">PTF</th> <th style="text-align: center;">DFT</th> </tr> </thead> <tbody> <tr> <td>Citizen of this State</td> <td style="text-align: center;"><input type="radio"/> 1</td> <td style="text-align: center;"><input type="radio"/> i</td> <td>Incorporated or Principal Place of Business in This State</td> <td style="text-align: center;"><input type="radio"/> 4</td> <td style="text-align: center;"><input type="radio"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td style="text-align: center;"><input type="radio"/> 2</td> <td style="text-align: center;"><input type="radio"/> 2</td> <td>Incorporated and Principal Place of Business in Another State</td> <td style="text-align: center;"><input type="radio"/> 5</td> <td style="text-align: center;"><input type="radio"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td style="text-align: center;"><input type="radio"/> 3</td> <td style="text-align: center;"><input type="radio"/> 3</td> <td>Foreign Nation</td> <td style="text-align: center;"><input type="radio"/> 6</td> <td style="text-align: center;"><input type="radio"/> 6</td> </tr> </tbody> </table>		PTF	DFT		PTF	DFT	Citizen of this State	<input type="radio"/> 1	<input type="radio"/> i	Incorporated or Principal Place of Business in This State	<input type="radio"/> 4	<input type="radio"/> 4	Citizen of Another State	<input type="radio"/> 2	<input type="radio"/> 2	Incorporated and Principal Place of Business in Another State	<input type="radio"/> 5	<input type="radio"/> 5	Citizen or Subject of a Foreign Country	<input type="radio"/> 3	<input type="radio"/> 3	Foreign Nation	<input type="radio"/> 6	<input type="radio"/> 6
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IV. CASE ASSIGNMENT AND NATURE OF SUIT

(Place a X in one category, A-N, that best represents your cause of action and one in a corresponding Nature of Suit)

<input type="radio"/> A. Antitrust <input type="checkbox"/> 410 Antitrust	<input type="radio"/> B. Personal Injury/Malpractice <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Medical Malpractice <input type="checkbox"/> 365 Product Liability <input type="checkbox"/> 368 Asbestos Product Liability	<input type="radio"/> C. Administrative Agency Review <input type="checkbox"/> 151 Medicare Act Social Security: <input type="checkbox"/> 861 HIA ((1395m)) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) Other Statutes <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 890 Other Statutory Actions (If Administrative Agency is Involved)	<input type="radio"/> D. Temporary Restraining Order/Preliminary Injunction Any nature of suit from any category may be selected for this category of case assignment. *(If Antitrust, then A governs)*
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E. General Civil (Other) OR **F. Pro Se General Civil**

Real Property <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent, Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property Personal Property <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	Bankruptcy <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 Prisoner Petitions <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition Property Rights <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark Federal Tax Suits <input type="checkbox"/> 870 Taxes (US plaintiff or defendant) <input type="checkbox"/> 871 IRS-Third Party 26 USC 7609	Forfeiture/Penalty <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 RR & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other Other Statutes <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 430 Banks & Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation	<input type="checkbox"/> 470 Racketeer Influenced & Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Satellite TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 900 Appeal of fee determination under equal access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions (if not administrative agency review or Privacy Act)
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<input type="radio"/> G. Habeas Corpus/ 2255 <input type="checkbox"/> 530 Habeas Corpus-General <input type="checkbox"/> 510 Motion/Vacate Sentence	<input checked="" type="radio"/> H. Employment Discrimination <input checked="" type="checkbox"/> 442 Civil Rights-Employment (criteria: race, gender/sex, national origin, discrimination, disability age, religion, retaliation) *(If pro se, select this deck)*	<input type="radio"/> I. FOIA/PRIVACY ACT <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 890 Other Statutory Actions (if Privacy Act) *(If pro se, select this deck)*	<input type="radio"/> J. Student Loan <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (excluding veterans)
<input type="radio"/> K. Labor/ERISA (non-employment) <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Labor Railway Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="radio"/> L. Other Civil Rights (non-employment) <input type="checkbox"/> 441 Voting (if not Voting Rights Act) <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 445 American w/Disabilities-Employment <input type="checkbox"/> 446 Americans w/Disabilities-Other	<input type="radio"/> M. Contract <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholder's Suits <input type="checkbox"/> 190 Other Contracts <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<input type="radio"/> N. Three-Judge Court <input type="checkbox"/> 441 Civil Rights-Voting (if Voting Rights Act)

V. ORIGIN

- 1 Original Proceeding
 2 Removed from State Court
 3 Remanded from Appellate Court
 4 Reinstated or Reopened
 5 Transferred from another district (specify)
 6 Multi district Litigation
 7 Appeal to District Judge from Mag. Judge

VI. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE)
 42 U.S.C. § 2000(e) et seq., Title VII of the Civil Rights Act of 1964; Class action sex discrimination

VII. REQUESTED IN COMPLAINT CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 DEMAND \$ _____ JURY DEMAND: YES NO

VIII. RELATED CASE(S) IF ANY (See instruction) YES NO If yes, please complete related case form.

DATE September 5, 2013 SIGNATURE OF ATTORNEY OF RECORD 

INSTRUCTIONS FOR COMPLETING CIVIL COVER SHEET JS-44
 Authority for Civil Cover Sheet

The JS-44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. Listed below are tips for completing the civil cover sheet. These tips coincide with the Roman Numerals on the Cover Sheet.

- I. COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF/DEFENDANT (b) County of residence: Use 11001 to indicate plaintiff is resident of Washington, D.C.; 88888 if plaintiff is resident of the United States but not of Washington, D.C., and 99999 if plaintiff is outside the United States.
- III. CITIZENSHIP OF PRINCIPAL PARTIES: This section is completed only if diversity of citizenship was selected as the Basis of Jurisdiction under Section II.
- IV. CASE ASSIGNMENT AND NATURE OF SUIT: The assignment of a judge to your case will depend on the category you select that best represents the primary cause of action found in your complaint. You may select only one category. You must also select one corresponding nature of suit found under the category of case.
- VI. CAUSE OF ACTION: Cite the US Civil Statute under which you are filing and write a brief statement of the primary cause.
- VIII. RELATED CASES, IF ANY: If you indicated that there is a related case, you must complete a related case form, which may be obtained from the Clerk's Office.

Because of the need for accurate and complete information, you should ensure the accuracy of the information provided prior to signing the form.