

**SUPERIOR COURT OF NEW JERSEY
CIVIL DIVISION: HUDSON COUNTY**

<p>LIDIA ROSAS,</p>	<p>Plaintiffs,</p>
<p>- against -</p>	
<p>DEVS FOODS LLC, d/b/a BURGER KING; UNION CITY REST 2660, LLC d/b/a BURGER KING, and LETICIA COLOTL,</p>	<p>Defendants.</p>

DOCKET NO.:

COMPLAINT

Plaintiff demands a trial by jury

Plaintiff, by her attorneys, Virginia & Ambinder, LLP, allege as follows:

PRELIMINARY STATEMENT

1. This action is brought by Plaintiff Lidia Rosas (hereinafter “Plaintiff”) against Defendants Devs Foods LLC d/b/a Burger King and any related corporate entities and Union City Rest 2660, LLC d/b/a Burger King (collectively hereinafter “Burger King”) and Leticia Colotl a/k/a Aida individually (hereinafter “Aida”) (collectively with Burger King the “Defendants”).

2. Plaintiff has initiated this action alleging age discrimination and hostile work environment under the New Jersey Law Against Discrimination (hereinafter “NJLAD”), as well as assault, battery, intentional infliction of emotional distress, and negligent hiring and supervision.

3. Plaintiff has initiated this action seeking loss of past and future earnings and other employment benefits, compensatory and punitive damages, interest, attorneys’ fees and costs.

VENUE

4. Venue herein is proper as Plaintiff resides in Hudson County.

PARTIES

5. Plaintiff is an individual and resident of the state of New Jersey.

6. Defendant Devs Foods LLC is a business incorporated in the State of New Jersey, with its principal place of business located at 3840 Park Ave., Suite B-104, Edison, NJ 08820.

7. Defendant Union City Rest 2660, LLC is a business incorporated in the State of New Jersey, with its principal place of business located at 3501 Bergenline Ave, Union City, NJ 07087.

8. Defendant Aida is an individual employed by Burger King whose current residence is upon information and belief located at 146 49th Street, Apt. 1, West New York, NJ 07093 or alternatively at 505 54th Street, Apt. 7, West New York, NJ 07093.

MATERIAL FACTS

9. Plaintiff is a 46-year-old woman who worked at the Burger King located at 3501 Bergenline Ave, Union City NJ beginning in November 2022.

10. Starting in or around January 2023, Plaintiff was regularly subject to discriminatory and hostile remarks by her co-worker Aida based on her age.

11. For example, Aida would call or refer to Plaintiff as “old lady” and “old bitch” and make statements such as “you feel you are young, but you are old.”

12. Plaintiff reported the discriminatory remarks to her managers, but they did not stop the harassment or remediate the situation and the discriminatory remarks and harassment continued.

13. Upon information and belief, both the General Manager Jessica, and the Floor Manager Rosa are related to Aida.

14. In or around June 2023, Aida threatened to hit Plaintiff. Plaintiff was speaking and laughing with a coworker and Aida falsely claimed they were laughing at her and used it as an

excuse to threaten violence. Aida told the floor manager Rosa that she was “going to hit Lidia” which was said loudly and intended to be overheard by Plaintiff.

15. Rather than condemning the threat of violence, Rosa spoke to Plaintiff and the coworker to question them on whether they were speaking badly about Aida, which they truthfully denied.

16. On July 4, 2023, Plaintiff was at work and laughed out loud in response to gestures being made by another manager Carlos Silva to indicate an order was ready. Aida saw Plaintiff laughing, called her a “pinche crazy old bitch” and then started to physically fight Plaintiff by grabbing and pulling Plaintiff by her hair and hitting her. The manager Carlos and other coworkers witnessed this and attempted to separate them. Plaintiff was told to go to a room downstairs, which she did, and then proceeded to call the police who arrived soon thereafter, and a police report was filed.

17. After the incident, Plaintiff was in considerable pain for many days, and she developed a black eye and multiple bruises on her body.

18. Plaintiff’s injuries were visible to anyone who saw her during the time it took for her injuries to heal causing shame and embarrassment and damage to her reputation.

19. Upon information and belief, Aida was not immediately fired and was simply transferred to work at another Burger King location.

20. As a result of the acts and conduct complained of herein, Plaintiff felt humiliated, degraded, victimized, embarrassed, and emotionally distressed.

21. As a result of the acts and conduct complained of herein, Plaintiff did not work all hours she would have typically worked and lost wages she would have otherwise received.

22. Defendants’ conduct has been malicious, willful, and outrageous. As such, Plaintiff

demands punitive damages against Defendants.

FIRST COUNT
AGE DISCRIMINATION AND HOSTILE WORK ENVIRONMENT UNDER NJLAD
AGAINST BURGER KING

23. Plaintiff repeats and re-alleges all preceding paragraphs.

24. New Jersey's Law Against Discrimination ("NJLAD") Section 10:5-12 prohibits discrimination in employment and a hostile work environment on the basis of one's age.

25. The acts and conduct complained about herein were sufficiently severe or pervasive to alter the condition of employment and create an intimidating, hostile, or offensive, working environment.

26. As such, Plaintiff seeks damages as set forth herein.

SECOND COUNT
NEGLIGENT HIRING AND SUPERVISION AGAINST BURGER KING

27. Plaintiff repeats and re-alleges all preceding paragraphs.

28. Defendant Burger King knew, or had reason to know, that Aida was harassing Plaintiff based on a protected characteristic and that she threatened physical harm against Plaintiff.

29. Defendant Burger King could have reasonably foreseen that Aida's unlawful conduct would continue and that she created a risk of physical harm to Plaintiff yet failed to take any reasonable prevention measures.

30. As a result of Aida's physical assault, Plaintiff suffered physical and emotional trauma, all to her detriment.

31. Aida caused injury to Plaintiff.

32. As such, Plaintiff seeks damages as set forth herein.

THIRD COUNT
ASSAULT AND BATTERY AGAINST DEFENDANT AIDA

33. Plaintiff repeats and re-alleges all preceding paragraphs.

34. Plaintiff was placed in immediate fear that Aida would physically assault Plaintiff and Aida did physically assault Plaintiff.

35. Plaintiff suffered physical injury and emotional trauma as a result.

36. As such, Plaintiff seeks damages as set forth herein.

WHEREFORE, Plaintiff demands judgment as follows:

(1) On her first cause of action against Defendants Burger King jointly and severally, for lost wages, damages for physical injury, compensatory damages, punitive damages, reasonable attorneys' fees and costs, pre and post judgment interest; and

(2) On her second cause of action against Defendants Burger King jointly and severally, for lost wages, damages for physical injury, compensatory damages, punitive damages, reasonable attorneys' fees and costs, pre and post judgment interest; and

(3) On her third cause of action against Defendant Aida for lost wages, damages for physical injury, compensatory damages, punitive damages, reasonable attorneys' fees and costs, pre and post judgment interest; and

(4) Awarding such other and further relief as the court deems just and proper.

Dated: January 9, 2024
New York, New York

VIRGINIA & AMBINDER, LLP

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JURY DEMAND

The plaintiffs demand trial by a jury on all of the triable issues of this complaint, pursuant to New Jersey Court Rules 1:8-2(b) and 4:35-1(a).

Kara Miller

January 9, 2024

CERTIFICATION OF NO OTHER ACTIONS

I certify that the dispute about which I am suing is not the subject of any other action pending in any other court or a pending arbitration proceeding to the best of my knowledge and belief. Also, to the best of my knowledge and belief no other action or arbitration proceeding is contemplated. Further, other than the parties set forth in this complaint, I know of no other parties that should be made a part of this lawsuit. In addition, I recognize my continuing obligation to file and serve on all parties and the court an amended certification if there is a change in the facts stated in this original certification.

Kara Miller

January 9, 2024