

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
No. 5:16-cv-00654-BO

U.S. EQUAL EMPLOYMENT)
OPPORTUNITY COMMISSION,)
))
Plaintiff,)
))
v.)
))
BOJANGLES’ RESTAURANTS, INC.,)
))
Defendant.)

**PLAINTIFF’S APPENDIX TO LOCAL
CIVIL RULE 56.1 STATEMENT OF
MATERIAL FACTS**

Pursuant to Local Civil Rule 56.1(a)(4), Plaintiff U.S. Equal Employment Opportunity Commission (the “EEOC” or “Commission”), submits its Appendix to Local Civil Rule 56.1 Statement of Material Facts.

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APPENDIX 1

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

Case No. 5:16-cv-00654-BO

U.S. EQUAL EMPLOYMENT)
OPPORTUNITY COMMISSION,)
)
Plaintiff,)
)
v.)
)
BOJANGLES' RESTAURANTS, INC.,)
)
Defendant.)

DEPOSITION
OF
ELLA RIGGINS

Taken at:

Robinson, Bradshaw & Hinson, P.A.
101 North Tryon Street, Suite 1900
Charlotte, North Carolina

On Wednesday, April 26, 2017

REPORTER: CHRISTINE A. TAYLOR, RPR
Notary Public

1 Q. What's the address for that location?

2 A. 938 Berkley Hall Way, Fayetteville, North Carolina.

3 Q. Why is it called the Santa Fe store?

4 A. Because it's right off Santa Fe.

5 Q. Even though the physical address is on Berkley?

6 A. Yes.

7 Q. When did you go to the Santa Fe restaurant?

8 A. Four years ago.

9 Q. And so you are now currently the unit director for the
10 Santa Fe restaurant?

11 A. Yes.

12 Q. But in March 2012 through February 2013 you were the
13 unit director at the Owen Drive restaurant?

14 A. Yes.

15 Q. Okay. As the unit director, what do you do?

16 A. I run the store. I make sure labor is under control,
17 food is under control. I hire. I train, I'm a
18 training unit director. So I train -- I train
19 managers. I train my crew. I just make sure the
20 store maintains, truck orders, food, I mean,
21 everything.

22 Q. Now, are you always in charge of just one restaurant
23 location at a time or are you ever in charge of more
24 than one restaurant location?

25 A. Just one.

APPENDIX 2

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
No. 5:16-cv-0064-BO

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,

Plaintiff,

v.

BOJANGLES' RESTAURANTS, INC.,

Defendant.

DEPOSITION
OF
SHARON MCCOLLOUGH IRWIN

Taken at:

Robinson, Bradshaw & Hinson
101 North Tryon Street, Suite 1900
Charlotte, North Carolina 28246

On Tuesday, April 25, 2017

REPORTER: SALLY W. LOWRANCE, CVR-M
Notary Public

1 Q. Okay, so it's your word versus Ms. Wolfe's word?

2 MR. CHURCH: Objection to the form.

3 A. Absolutely.

4 Q. And what does the word "gay" mean?

5 MR. CHURCH: Objection to the form.

6 A. When two people of the same sex are together or have
7 intercourse together -- together.

8 Q. And what about the word "bisexual"?

9 A. When someone of the -- of one sex is attracted to people
10 of the same sex or the opposite sex.

11 Q. And the word heterosexual?

12 A. When you are attracted to the opposite sex.

13 Q. So which one of those labels would you apply to Jonathan
14 Wolfe in 2013: transgender, gay, bisexual, or
15 heterosexual?

16 MR. CHURCH: Objection to the form.

17 A. I wouldn't apply any of them to Jonathan Wolfe because I
18 don't know anything about Jonathan's personal life.

19 Q. You don't know anything about Jonathan's personal life?

20 A. I know that Jonathan is a great cashier, and I know what
21 Jonathan -- the little bit that I do know, Jonathan told
22 me that he was in a relationship with a gentleman at one
23 point in time, and that's all I know about Jonathan.

24 Q. How did you come to learn that Jonathan was in a
25 relationship with a gentleman?

1 A. Because there was an incident that happened at Owen
2 Drive, and I was on vacation, and Jonathan reached out
3 to the new store that I had took him to to open. He
4 called the manager in charge there and asked him to call
5 me. So he -- they called me. He had locked himself in
6 the bathroom because he engaged in a -- he started a
7 conversation with two gentlemen in the kitchen about a
8 sexual encounter that he was having with his boyfriend.
9 So when the two gentlemen in the kitchen started asking
10 him questions that he didn't feel comfortable answering,
11 he got upset and locked himself in the bathroom and
12 wanted me to come handle it. And that's how I
13 discovered he was in a relationship with a man.

14 Q. And what were your thoughts on the fact that Jonathan
15 was in a relationship with a man?

16 A. I didn't have any thoughts about it.

17 Q. Had you ever personally seen Ms. Wolfe wearing makeup in
18 the store?

19 A. I have not.

20 Q. Jewelry?

21 A. Nope.

22 Q. Fake fingernails?

23 A. Nope.

24 Q. Have you ever personally seen Ms. Wolfe dressed in
25 female clothing?

1 response?

2 MR. CHURCH: Objection to the form.

3 A. I would investigate.

4 Q. Why would you have investigated?

5 A. Because then that would be a harassment.

6 Q. You would perceive that statement as harassment?

7 A. I would.

8 Q. Okay. Well, what you have done to investigate?

9 A. I would have went to the restaurant, took statements
10 from everyone there to see if Ella made the statement or
11 not and to see if any other statements were made.

12 Q. And you never spoke to Shimika Singleton about the
13 events of February 21st?

14 A. I did not.

15 Q. Even though Ms. Singleton gave you the picture of
16 Ms. Wolfe?

17 A. I did not.

18 Q. About how long does it take you to drive from the Owen
19 Drive store to store 735 on Raeford Road?

20 A. About 14 minutes.

21 Q. And how long does it take you to drive from the Owen
22 Drive store to the other restaurant located at
23 4554 Raeford Road?

24 A. About five minutes.

25 Q. And what about to the restaurant on Corporation Drive?

1 A. Ten minutes.

2 Q. And what about the restaurant on North Main Street in
3 Hope Mills?

4 A. Eight minutes.

5 Q. And the Owen Drive restaurant, restaurant 735, the
6 restaurant at 4554 Raeford Road, and the Corporation
7 Drive in Hope Mills and North Main Street in Hope Mills,
8 these are all restaurants in your area, correct?

9 A. They are.

10 Q. And they were all restaurants in your area in February
11 2013?

12 A. They were.

13 Q. Okay. And it's your position that when you talked to
14 Ms. Wolfe on February 21st she agreed to transfer to the
15 Raeford Road 735 store?

16 A. Jonathan approached me with moving to 735. It was his
17 idea.

18 Q. When did she approach you?

19 A. On the phone I asked Jonathan, "What do you want me to
20 do? What -- how do you want me to solve this for you?
21 What can I do?"

22 "Can I tran-" -- his response to me was, "Can I
23 transfer to restaurant 735? Me and my boyfriend are
24 moving to Raeford Road. It would make my life easier."

25 "Yes, you can. Call her Thursday for your

1 those kids being kids having conversations that they
2 really shouldn't be having, and it was nothing. Some of
3 that was just blown into something bigger than it was.
4 Stop it and be done.

5 Q. You have an employee calling you saying that he's really
6 scared and you didn't think it was a big deal?

7 MR. CHURCH: Objection to the form.

8 A. I thought that he -- no, I didn't think it was a big
9 deal, because again, he started the conversation. He
10 started the conversation. You're in here telling these
11 two boys how you have sex, and of course they're curious
12 and they ask questions, and now you're upset because
13 they're asking you questions? You shouldn't start these
14 conversations.

15 Q. Did Ms. Wolfe confirm that she started the conversation?

16 A. Yes, he did.

17 Q. What specifically was reported to you about this
18 conversation?

19 A. He told me while they were all three out there that he
20 started -- he was explaining to them how do men have
21 sex.

22 Q. But Ms. Wolfe also told you that at some point the
23 conversation became uncomfortable, correct?

24 A. It did.

25 Q. And how did you address that with Ms. Wolfe?

1 A. How did I address it with him?

2 Q. Yes.

3 A. When it became uncomfortable?

4 Q. When Ms. Wolfe reported to you had become uncomfortable,
5 that she no longer wanted to participate in this type
6 talk, how did you address that with Ms. Wolfe?

7 A. She -- Jonathan never told the guys that he got
8 comfortable. He just left.

9 Q. And hid in the bathroom?

10 A. And went to the bathroom. He never told the guys that
11 he was uncomfortable with them asking questions, because
12 one of the guys even said, "If you would have said you
13 didn't want us to ask questions we wouldn't have asked
14 questions.

15 Q. But he reached out to you, and how did you respond to
16 him?

17 A. "Don't talk about this kind of stuff anymore. This is
18 not what we discuss here. This is a place of business,
19 guys," because all these kids were under 21. We don't
20 talk about these things. "If you guys want to hang out
21 after work at home and discuss this type of business
22 that's on you-all. Here we discuss Bojangles' and we
23 don't get in these types of messes." That's how I
24 handled it. "We wouldn't be here if you guys didn't
25 open the door to this. So we don't discuss this." But

1 he never -- Jonathan never once told these guys that he
2 was uncomfortable with what they were asking. He didn't
3 say that to them, he just fled.

4 Q. Earlier you had said that when employees gossip, talk
5 rumors, talk anything other than chicken, sweet tea,
6 biscuits, and customer service they're terminated. Why
7 didn't you just terminate them all then?

8 MR. CHURCH: Objection to the form.

9 A. I didn't say they got terminated. I said it was against
10 company policy.

11 Q. Okay. So would you consider this conversation a
12 terminable offense?

13 A. No, it's not. It's not a terminable offense for them to
14 do it. We've got people all the time that are doing
15 stuff that they shouldn't be doing, that, say -- that
16 gossip or talk. Let's not even say gossip. Let's just
17 talk about something they shouldn't talk about. That
18 happens. Does that mean every time that someone says,
19 "Hey, I went on a date last night," that I'm going to
20 terminate them? No. Am I going to document it?
21 Probably not.

22 When he called me and said, "Hey, I'm scared, can
23 you come help me," am I'm going to come help.

24 Absolutely I'm coming. Absolutely. I don't take that
25 lightly that he was scared. Am I going to leave him to

1 going to ask questions. They are. That's human nature.
2 I mean you can't start it -- you can't open a door and
3 expect people not to want to walk in. You just can't.
4 He's like, "I understand that but I felt uncomfortable."

5 And, "I understand what you're saying but you have
6 to understand where they're coming from too, and you
7 should have said hey -- people don't know that they're
8 stepping on your feelings or making you feel some type
9 of way until you tell them. When you started talking
10 about the encounter they thought you were perfectly
11 comfortable talking about it because you were talking
12 about it, so how were they supposed to know you're not
13 comfortable when you don't say it? To me that's like
14 harassment. No one knows you're harassing me until I
15 say, "I don't like what you're doing. Stop it." It's
16 the same thing.

17 Q. Would you consider the questions that these two boys
18 asked Ms. Wolfe to be harassment?

19 MR. CHURCH: Objection to the form.

20 A. I don't know.

21 Q. Well, they were comments about sex, correct?

22 A. They were asking questions, yes.

23 Q. There were asking questions about sex, and Ms. Wolfe was
24 uncomfortable, correct?

25 A. Correct, but he was engaging. He was in the

1 conversations.

2 Q. But at some point it made him uncomfortable to the point
3 where she locked herself in the bathroom and called you,
4 correct?

5 MR. CHURCH: Objection to the form.

6 A. Correct.

7 Q. Would you consider that harassment?

8 A. I would not.

9 Q. Why not?

10 A. Because he started the conversations.

11 Q. So can it never be harassment if a person starts a
12 conversation?

13 MR. CHURCH: Objection to the form.

14 A. It can't be harassment until you say I don't like what
15 you're doing, can you please stop; until you put the
16 person on notice that they're harassing you.

17 Q. When you first called Ms. Wolfe at the Owen Drive
18 restaurant how did she sound?

19 A. Okay.

20 Q. Did she sound scared?

21 A. She didn't.

22 Q. Did she sound like she was crying?

23 A. (Shakes head negatively.)

24 Q. Sound like she was okay?

25 A. She said can you come here.

1 A. I wouldn't be able to answer that.

2 Q. Exhibit 15, if you want to take a look at it really
3 quick. It says it's from Sharon McCollough. That's
4 you, correct?

5 A. It is.

6 Q. Would this have been sent from a corporate email
7 address --

8 A. It would have.

9 Q. -- or a personal email address?

10 A. From my professional.

11 Q. What is your professional email address?

12 A. At that time it was SMcCollough@Bojangles.com.

13 Q. And do you know anything about how the Bojangles' email
14 system operates?

15 A. I do not.

16 Q. In its position statement, Bojangles' represents to the
17 EEOC that when it was investigating Ms. Wolfe's Charge
18 their investigation revealed that Ms. Wolfe frequently
19 discussed matters of an inappropriate and highly sexual
20 nature in the workplace. You told me about one
21 conversation that Ms. Wolfe allegedly engaged in with
22 the two other boys where she called you and she was
23 hiding in the bathroom, correct?

24 A. Correct.

25 Q. What other inappropriate highly sexual conversations do

1 you have direct knowledge of that Ms. Wolfe participated
2 in?

3 A. I don't have any knowledge of any other conversations.

4 Q. So just the one example, correct?

5 A. Correct.

6 Q. Bojangles' also represented to the EEOC that Ms. Wolfe
7 had sent inappropriate pictures to other employees, and
8 we talked about the one picture that you received from
9 Shimika Singleton. Do you remember discussing that
10 picture?

11 A. I do.

12 Q. Have you seen any other pictures that Ms. Wolfe has sent
13 to employees?

14 A. I have not.

15 Q. So you just have personal knowledge of one picture?

16 A. Correct.

17 Q. In its position statement Bojangles' represented to the
18 EEOC that shortly after Ms. Wolfe was hired Ms. Wolfe
19 announced, to use her words, that she was a cross-
20 dresser. Did Ms. Wolfe ever make that announcement to
21 you?

22 A. He did not.

23 Q. Do you know anything about that statement?

24 A. I do not.

25 Q. Were you aware that when Ms. Wolfe came into the store

APPENDIX 3

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
5:16-cv-00654-BO

U.S. EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION,
Plaintiff,

-vs-

BOJANGLES' RESTAURANTS, INC.,
Defendant.

DEPOSITION

OF

JONATHAN WOLFE

April 27, 2017

Charlotte, North Carolina

MICHELLE S. THOMPSON
Certified Verbatim Reporter-Master
THOMPSON & MILLS COURT REPORTERS
6205 Morrison Boulevard, Suite 826
Charlotte, North Carolina 28211
704.564.5249

1 show up, I was always the one they called in. My
2 hours, I guess, changed.

3 Q. Why did you leave employment at McDonald's?

4 A. For a better job at Grace Foods.

5 Q. And how was the job better at Grace Foods?

6 A. I was going to train to be a manager.

7 Q. Who hired you at Grace Foods?

8 A. Caitlin Spain.

9 Q. Is she still there?

10 A. No.

11 Q. Did she leave when the new owners came in?

12 A. Before.

13 Q. Before you worked at McDonald's where did you work?

14 A. Bojangles'.

15 Q. And your employment at Bojangles' ended in February
16 2013, is that right?

17 A. Correct.

18 Q. Where did you work before you went to work at
19 Bojangles'?

20 A. Family Dollar.

21 Q. Where was the Family Dollar store where you worked?

22 A. On Raleigh Road in Fayetteville.

23 Q. During what period of time did you work at Family
24 Dollar?

25 A. I don't remember.

1 A. No. It wasn't really much of the conversation.

2 She said what she said.

3 Q. What did you say?

4 A. I didn't really say anything. I just asked what
5 was wrong with what I had on.

6 Q. After that conversation with Ms. Riggins, did you
7 complain to anyone about it?

8 A. I believe I complained to Ms. Sharon, about more
9 than just that incident, though.

10 Q. When did you say you complained to Sharon?

11 A. I don't remember exactly when.

12 Q. Was it on the same day as the conversation with Ms.
13 Riggins?

14 A. No.

15 Q. Was it within the same week?

16 A. I don't remember.

17 Q. Was it within the same month?

18 A. I don't remember.

19 Q. When you say you'd complained to Sharon, did you do
20 that in person or by phone?

21 A. By phone.

22 Q. Did you call her?

23 A. No. I had a co-worker to have her to call the
24 store.

25 Q. Who was the co-worker?

1 A. Shimika.

2 Q. What did you say to Shimika?

3 A. At the time I was very upset. I was crying,
4 because that was not the first incident that
5 happened. An incident had involved another co-
6 worker. His name was Marquise. He was telling me
7 that I was gay and I should kill myself because I
8 was going to hell. So at that point in time the
9 manager on duty, Jermel, said he couldn't -- there
10 was really not much he could do. And I asked him
11 if he could call Ella, and she said she wouldn't do
12 anything because she wasn't in the store. So then
13 on my break I called Shimika, still crying, and I
14 told her -- I was like, "Hey, Shimika, look,
15 Marquise has been bothering me all day. I can't
16 continue my work there like this. Is there any way
17 you can contact Sharon and ask her to call the
18 store?"

19 Q. And Sharon called the store after that?

20 A. Yes.

21 Q. Do you recall in what year that took place?

22 A. It had to be 2012, beginning of 2013.

23 Q. Do you recall what month that took place?

24 A. I don't. October, roughly.

25 Q. Did Sharon call the store?

1 A. Yes, she did.

2 Q. And you spoke with her?

3 A. Yes.

4 Q. What do you say you said to Sharon in that phone
5 conversation?

6 A. I told her basically what I just said, along the
7 lines of what occurred with Marquise, and I also
8 had let her know that like, hey, look, Ella was
9 telling me that she hired me as a man, I got to
10 stay a man if I'm going to work for her. And she
11 told me that she would launch an investigation and
12 I was not to repeat anything that I've told her to
13 anybody but her. But she never launched an
14 investigation.

15 Q. Where were you when you had the conversation with
16 Sharon?

17 A. At work.

18 Q. Where at work?

19 A. I'm -- I believe I was actually standing beside the
20 biscuit warmer, because she knew -- because when
21 she called the store phone, Shimika gave me the
22 phone, and so I kind of paused where I was at and
23 talked to her.

24 Q. Shimika gave you her phone?

25 A. No, I'm sorry. It wasn't Shimika. I believe it

1 was Jermel gave me the phone and said it was Sharon
2 for me, and I was standing beside the biscuits,
3 where the Boberry biscuits and stuff go, and I was
4 on the phone and I let her know everything that had
5 happened.

6 Q. Was that the company phone in the store?

7 A. Yes.

8 Q. And you say Jermel gave you the phone?

9 A. Yes.

10 Q. Did Jermel hear your end of the conversation?

11 A. I don't know. He was on drive-through.

12 Q. So he was just a couple feet away from you, right?

13 A. Yes.

14 Q. Was anybody else present who could overhear your
15 conversation?

16 A. Not that I know of.

17 Q. Who was the manager on duty at that time?

18 A. Jermel.

19 Q. How long do you say this conversation with Sharon
20 lasted?

21 A. Probably about five minutes.

22 Q. Do you recall anything else that you said in the
23 conversation?

24 A. That was all she said.

25 Q. Do you recall anything else you said?

1 A. What I said, no. That was basically the gist of
2 the conversation.

3 Q. Is that the only time you complained to anyone in
4 Bojangles' management about Marquise?

5 A. No. I complained to Jermel when the incident
6 happened. When he told me there was nothing that
7 no one could really do, because Ella wasn't in the
8 store and not anyone to talk to, that's when I
9 reached out to Ms. Sharon.

10 Q. Was that the same day that you talked to Sharon?

11 A. Yes, I believe so.

12 Q. Aside from the complaints you've described to
13 Jermel and to Sharon, did you ever complain to
14 anyone else in Bojangles' management about
15 Marquise?

16 A. Ella Riggins.

17 Q. And when do you say you complained to Ella Riggins
18 about Marquise?

19 A. After talking to Sharon.

20 Q. How long after you talked to Sharon?

21 A. I don't remember, because me and Ms. Riggins didn't
22 work together too often.

23 Q. I thought you testified you typically worked
24 daytime hours at the store, is that right?

25 A. Yes, but me and Ms. Riggins didn't work too often.

1 She moved me between shifts. It was more where I
2 was needed than anything else.

3 Q. Ms. Riggins worked regular daytime hours at the
4 store, didn't she?

5 A. To my knowledge, no, she wasn't there every day.

6 Q. But when she worked, she was there during daytime
7 hours, correct?

8 A. Yes.

9 Q. How many conversations did you have with Ms.
10 Riggins about Marquise?

11 A. Just that one.

12 Q. What did you say to her?

13 A. I told her what had happened with Marquise, what he
14 had said to me, and I also let her know that I
15 spoke with Sharon and what Sharon had said to me.
16 And she told me that then, since I had already took
17 the complaint up to Sharon, Sharon would
18 investigate.

19 Q. Do you recall what year it was that you had this
20 conversation with Ms. Riggins?

21 A. Towards the end of 2012, beginning of 2013. It had
22 to be before 2013 because it was before I
23 transferred.

24 Q. Before you were transferred to the Corporation
25 Drive store?

1 Ms. Riggins?

2 A. I don't know. It was more of an argument than a
3 conversation.

4 Q. What did you do after the argument with Ms.
5 Riggins?

6 A. I left the store.

7 Q. You did what?

8 A. Left the store.

9 Q. Following your argument with Ms. Riggins did you
10 communicate with anyone else at Bojangles'?

11 A. I'm not sure if that was the day that Sharon called
12 me and I was going to be transferred or not.

13 Between the 21st and the 27th so much happened it's
14 hard to recollect when everything happened.

15 Q. What happened to you between the 21st and the 27th?

16 A. First Ms. Riggins told me that I had to remove my
17 hair if I wanted to continue working with her and I
18 had to act like a male, dress, walk and talk like a
19 male. I was involuntarily transferred by Ms.

20 Sharon to the Raeford Road location. I let her
21 know I did not have transportation to get that far.
22 She told me that going back to the Owen Drive store
23 was no longer an option because tempers were
24 flared. Then she called me back -- well, first she
25 tried to terminate me before the whole transferring

1 conversation?

2 A. She told me that she could not terminate me because
3 it was he said/she said, so I was going to be
4 transferred. I let her -- she told me it would be
5 the Raeford Road location with Ms. Bowden. I told
6 her I did not have reliable transportation for the
7 transfer. She told me that it wasn't an option to
8 go back to Owen Drive, so I was going to be
9 transferred anyway. And I -- I object to that
10 transfer more than once in the phone call. I let
11 her know on multiple occasions I did not have
12 transportation.

13 And the phone was on speakerphone and Ms.
14 Malloy and Ms. Hall both heard it, because in the
15 incident that had happened between the 21st and the
16 27th, I kept a witness with me so they can hear
17 what was being said at all times during the
18 conversations on both sides.

19 Q. Do you recall anything else that was said in that
20 conversation that you had with Sharon?

21 A. No.

22 Q. Did you after that conversation report to work at
23 the Raeford Road location?

24 A. No. I never began there. I was terminated before
25 I could. So I cut my hair to try to conform to the

1 MS. STEENBERGH: Object to the form.

2 A. That's correct.

3 Q. (By Mr. Johnson) After your employment was
4 terminated at Bojangles' did you look for another
5 job?

6 A. Yes.

7 Q. How long did it take you to find another job?

8 A. I don't remember.

9 Q. More than a month?

10 A. I don't remember.

11 Q. After leaving Bojangles' was your first job at
12 McDonald's?

13 A. Yes.

14 Q. Did you apply for any other jobs before you took
15 the job at McDonald's?

16 A. Yes.

17 Q. How many other jobs did you apply for?

18 A. I can't count. Numerous.

19 Q. What types of jobs did you apply for?

20 A. All types.

21 Q. Do you recall any of the places where you applied
22 for work during that period?

23 A. Yes. I applied at Smithfield Chicken and Barbecue,
24 Wendy's, Subway, Food Lion. That's just a few of
25 the places I applied at.

1 Q. You didn't get any of those jobs, is that right?

2 A. Correct.

3 Q. Were you ever told why you didn't get any of those
4 jobs?

5 A. No.

6 Q. Were there periods of time where you didn't look
7 for other jobs?

8 A. No. I still looked for other jobs while I was
9 working at McDonald's and I currently still look
10 for jobs even though I'm employed now.

11 Q. Why is that?

12 A. Because I like to work.

13 Q. And at any time during your employment with
14 Bojangles' did you obtain medical or mental health
15 treatment from a physician, psychologist, therapist
16 or counselor?

17 MS. STEENBERGH: Object to the form.

18 A. I received treatment for -- medical treatment for
19 my knee.

20 Q. (By Mr. Johnson) For your knee?

21 A. Yes.

22 Q. Any other medical or mental health treatment during
23 that period?

24 A. To my knowledge, no.

25 Q. After your employment with Bojangles' did you

1 Q. Why did you tell Ms. Sharon that you liked the
2 Corporation Drive location?

3 A. Because people didn't on pick on me or try to
4 correct me when I identified as a she.

5 Q. Did you tell Ms. Sharon that co-workers at the Owen
6 Drive store picked on you?

7 A. Yes.

8 Q. What did Ms. Sharon say when you asked her if you
9 could stay at the Corporation Drive store?

10 A. She told me that we were just there to help open.

11 Q. And you went back to the Owen Drive location?

12 A. Yes.

13 Q. Earlier during your deposition you stated that you
14 complained to Ella Riggins about Marquise, correct?

15 A. Yes.

16 Q. Did you complain about any other employee or
17 manager at the Owen Drive location to Ms. Riggins?

18 A. Before me and Ms. Bowden, Kristin, we had an
19 incident, but like after that incident occurred she
20 apologized for the incident and told me --
21 basically she just apologized and told me it would
22 never happen again, but that incident was where she
23 told me that I needed to pray, I was going to hell,
24 and I had let Ms. Ella know that and she would talk
25 to Kristen. And I'm assuming from the gesture

1 Kristin made that they did talk, and when she told
2 me it would never happen again it kind of just --
3 it never happened again.

4 Q. Why did Ms. Bowden say those things to you?

5 A. Because I identified as female and my fellow co-
6 workers called me she, and she told me that God
7 made me a man.

8 Q. And during your deposition today you testified that
9 you complained to Jermel that Marquise was
10 harassing you, correct?

11 A. Yes.

12 Q. And you complained to Ella that Marquise was
13 harassing you, correct?

14 A. Yes.

15 Q. And you complained to Ella that Ms. Bowden was
16 harassing you, correct?

17 A. Yes.

18 Q. And you complained to Ms. Sharon that Marquise was
19 harassing you, correct?

20 A. Yes.

21 Q. And you complained to Ms. Sharon that Ella was
22 harassing you, correct?

23 A. Yes.

24 Q. And you complained to Ms. Sharon that Kristin
25 Bowden was harassing you, correct?

1 A. To my knowledge, no, because it never happened
2 again after she apologized for it.

3 Q. Okay. And you complained to Ms. Eubanks that Ms.
4 Riggins harassed you, correct?

5 MR. JOHNSON: Objection to the form.

6 A. Yes.

7 Q. (By Ms. Steenbergh) And other than Ms. Riggins
8 talking to Ms. Bowden, what other steps did
9 Bojangles' take to address your complaints of
10 harassment?

11 A. Ms. Sharon told me that she would open an
12 investigation, that I was not supposed -- I was not
13 to speak to anyone but her about what we had talked
14 about.

15 Q. And you subsequently learned that Ms. Sharon had
16 not in fact opened an investigation?

17 MR. JOHNSON: Objection to the form.

18 A. Yes.

19 Q. (By Ms. Steenbergh) And who told you that Ms.
20 Sharon had not opened an investigation?

21 A. Ms. Jeannine Eubanks.

22 Q. During your employment with Five Guys, have any of
23 your former co-workers from Bojangles' come in to
24 the Five Guys restaurant?

25 A. Yes.

APPENDIX 4

MAY 2 2013

DEPOSITION
EXHIBIT
45
6-19-17
FENGAD 800-631-6681

CHARGE OF DISCRIMINATION

This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.

Charge Presented To: Agency(ies) Charge No(s):

FEPA
 EEOC

433-2013-01334

and EEOC

State or local Agency, if any

Name (indicate Mr., Ms., Mrs.)

Ms. Jonathan Wolfe

Home Phone (Incl. Area Code)

Date of Birth

Street Address

City, State and ZIP Code

Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)

Name

BOJANGLES STORE #274

No. Employees, Members

15 - 100

Phone No. (Include Area Code)

(910) 483-1913

Street Address

City, State and ZIP Code

1901 Owen Drive, Fayetteville, NC 28304

Name

No. Employees, Members

Phone No. (Include Area Code)

Street Address

City, State and ZIP Code

DISCRIMINATION BASED ON (Check appropriate box(es).)

RACE COLOR SEX RELIGION NATIONAL ORIGIN
 RETALIATION AGE DISABILITY GENETIC INFORMATION
 OTHER (Specify)

DATE(S) DISCRIMINATION TOOK PLACE
Earliest Latest

10-01-2012 02-27-2013

CONTINUING ACTION

THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)):

I. On May 09 2012, I was hired by the above employer as a Biscuit Maker. Since October 2012, I have been harassed by Unit Director Ella Riggins who has threatened my job and ridiculed my appearance and behaviors as being gender non-conforming. In January 2013, I reported this harassment to Area Director Sharron [LNU] but nothing was done. On February 21, 2013, I was transferred. On February 27, 2013, I was discharged.

II. Ms. Riggins told me that I would be fired if I didn't remove the braids from my hair, change my manner of talking, walking and standing in order to look like a male because of the older clientele. On February 21, 2013, Ms. Sharron told me that I was transferred because people's tempers were flared. On February 27, 2013, Ms. Sharron told me that I was discharged for returning to my old store, after being told not to, and intentionally starting an argument with Ms. Riggins. I deny that I was told not to return to the store or that an argument with Ms. Riggins occurred.

III. I believe I was discriminated against based on my sex (gender identity) and retaliated against for opposing unlawful employment practices in violation of Title VII of the Civil Rights Act of 1964, as amended.

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

NOTARY - When necessary for State and Local Agency Requirements

I declare under penalty of perjury that the above is true and correct.

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.
SIGNATURE OF COMPLAINANT

025 April 13 *Jonathan Wolfe*
Date Charging Party Signature

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE
(month, day, year)

EEOC v. Bojangles_PLT_000022

APPENDIX 5

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
No. 5:16-cv-00654-BO

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,

Plaintiff,

v.

BOJANGLES' RESTAURANTS, INC.,

Defendant.

30(b)(6) DEPOSITION
OF
BOJANGLES' RESTAURANTS
BY ITS CORPORATE DESIGNEE,

JEANNINE EUBANKS

Taken at:

U.S. Equal Employment Opportunity Commission
129 West Trade Street, Suite 400
Charlotte, North Carolina 28202

On Monday, June 19, 2017

REPORTER: SALLY W. LOWRANCE, CVR-M
Notary Public

Ms. Eubanks

A P P E A R I N G

For the Plaintiff: Rachael Steenbergh, Esq.
Ylda Kopka, Esq.
United States EEOC
129 West Trade Street
Suite 400
Charlotte, North Carolina 28202
rachael.steenbergh@eoc.gov
ylda.kopka@eoc.gov

For the Defendant: Brian Church, Esq.
Robinson, Bradshaw & Hinson, PA
101 North Tryon Street
Suite 1900
Charlotte, North Carolina 28246
bchurch@robinsonbradshaw.com

Also Present: Ms. Rachel LaBruyere
Mr. Nick Allen (at 1:36 p.m.)

* * * * *

1 If you prepared in any other way about testifying
2 about the Charge, you can answer.

3 A. Looking at Exhibit A that accompanied the notice of my
4 deposition, I went back to a file to verify when this
5 was received. So we initially received a no action
6 required, a preliminary Charge, in April and
7 subsequently received the perfected Charge I want to say
8 around early May 2013. Those -- that's what I checked.

9 Q. When in April did you receive the no action notice?

10 A. I frankly don't remember the exact date, some -- I want
11 to say sometime after April 15th because it seems like
12 the perfected Charge arrived relatively soon. That's
13 not always the case.

14 Q. And this was 2013?

15 A. Yes, 2013, I apologize.

16 Q. That's okay. So mid April of 2013 you received the no
17 action notification?

18 A. Uh-huh, the initial claim.

19 Q. And then you received a perfected Charge of
20 Discrimination in early May 2013?

21 A. Yes, ma'am.

22 Q. And do you remember the date that you received the
23 perfected Charge?

24 A. No. I used May 1st but I don't remember the exact date.

25 Q. And so Bojangles' did receive a copy of the Charge of

1 says May 2, 2013. The M-a-y in May has been cut off by
2 a whole bunch.

3 A. I do see the date stamp.

4 MR. CHURCH: Objection to the form.

5 Q. Would you agree that you can read M 2nd, 2013 at the top
6 of the form?

7 A. I agree that I can read that, yes.

8 Q. And I'll represent to you the Charge shows on its face
9 that Jonathan Wolfe alleges that she was discharged
10 February 27, 2013. Would you agree that May 2, 2013 is
11 less than 180 days after February 27, 2013?

12 MR. CHURCH: Objection to the form.

13 A. Yes, I agree that that's less than 180 days.

14 Q. And if I represent to you that February 27, 2013 is 64
15 days apart from May 2, 2013, would you have any grounds
16 to disagree with that?

17 MR. CHURCH: Objection to the form.

18 A. I have no grounds to disagree. I haven't counted the
19 days.

20 Q. So we can agree that Ms. Wolfe filed her Charge
21 approximately two months after she was terminated?

22 A. Yes.

23 Q. And is it fair to say that upon receipt of the Charge of
24 Discrimination Bojangles' had notice that Ms. Wolfe was
25 alleging harassment, a transfer, and a discharge?

1 MR. CHURCH: Objection to the form.

2 A. Ms. Wolfe/Mr. Wolfe, I'm used to calling him Mr. Wolfe,
3 you'll have to bear with me, had not filed a complaint
4 of harassment or discrimination. Those words had never
5 been used in my previous conversation with him.

6 Q. So you would disagree that the face of this Charge does
7 not indicate that Ms. Wolfe was filing a Charge alleging
8 harassment, transfer, and discharge?

9 A. What I'm saying is I agree that on the face of the
10 Charge that's what Mr. Wolfe is alleging. Again, that
11 is not anything I have prior knowledge of.

12 Q. Well, do you believe that the face of this Charge of
13 Discrimination that's marked as Exhibit 45 differs in
14 any way from the Charge of Discrimination that
15 Bojangles' received in May 2013?

16 MR. CHURCH: Objection to the form.

17 A. I don't believe this is different in any way, no.

18 Q. So the Charge of Discrimination marked as Exhibit 44
19 accurately reflects the Charge of Discrimination that
20 Bojangles' received in and around May 2013?

21 A. Excuse me for correcting you, it's Exhibit 45.

22 Q. Thank you.

23 A. And I do believe this is the document that we received
24 in early May 2013.

25 Q. I'm going to mark and hand to you Exhibit 46. I'll give

1 you an opportunity to review the document that has been
2 marked as Exhibit 46, and let me know after you've had
3 the opportunity to review.

4 A. Yes, ma'am. I'm familiar with this.

5 Q. How are you familiar with this document?

6 A. This is page 1 of the Charge, Exhibit 45 that you just
7 presented to me. They usually come together. So this
8 would have been the cover page with the detail attached.

9 Q. And Bojangles' would have received this in or around May
10 2013?

11 A. Yes, ma'am.

12 Q. Did you review this document in order to prepare for
13 your deposition today?

14 A. No, ma'am.

15 Q. Does the document that has been marked as Exhibit 46
16 fairly and accurately reflect the Notice of Charge that
17 Bojangles' received around May 2013?

18 A. Yes, ma'am.

19 Q. Do you see any differences between the document that's
20 been marked as Exhibit 46 and the notice that Bojangles'
21 received in or around May 2013?

22 A. No, ma'am.

23 Q. Would you agree that this notice identifies the person
24 filing the Charge is Jonathan Wolfe?

25 A. Yes, ma'am.

1 Q. Would you agree that the face of this notice states,
2 "This is a notice that a Charge of employment
3 discrimination has been filed against your organization
4 under," and the box is checked for Title VII of the
5 Civil Rights Act?

6 A. Yes, ma'am.

7 Q. And as you stated earlier, a copy of the Charge that you
8 looked at as Exhibit 45 was attached to this notice
9 marked as Exhibit 46?

10 A. Yes, ma'am.

11 Q. Would you agree that the date on this notice is May 7,
12 2013?

13 A. Yes, ma'am.

14 Q. Does that help you refresh your recollection as to the
15 exact day that you received a copy of the documents
16 marked as Exhibit 46 and 45?

17 A. I cannot remember the exact date, no, ma'am. If the
18 director signed it or approved it on May 7th, clearly it
19 would have had to have been after that date. But as you
20 look at box 3, the response was due on the 28th of May.
21 Generally I'm allowed a couple of weeks to respond, and
22 so I'm assuming it was still, you know, close to the
23 15th, maybe something like that. I don't know the exact
24 dates. I didn't write it down for my deposition.

25 Q. Would you agree that May 7, 2013 and May 2, 2013 are

1 less than ten days apart?

2 A. Less than ten days apart, yes, ma'am.

3 Q. Okay. Did Bojangles' conduct any investigation upon
4 receipt of the EEOC Charge?

5 A. Did we personally conduct an investigation?

6 Q. Yes.

7 A. No, ma'am.

8 Q. There was no investigation conducted by Bojangles' in
9 response to the EEOC Charge filed by Jonathan Wolfe?

10 A. I would remind you that I had previous notes from
11 Ms. Irwin when the incident, the original incident
12 around his termination had occurred. I did have those
13 notes as required by company policy, I submitted this
14 Charge to our legal department.

15 Q. And I'm going to mark for you Exhibit 47. Does Exhibit
16 47 reflect the notes that you were just describing for
17 me?

18 A. Yes, ma'am.

19 Q. It's a full complete set of the notes that you took with
20 regard to Ms. Wolfe?

21 A. These are definitely my notes that came from my
22 notebook, that's my handwriting, and I do believe those
23 to be my complete notes.

24 Q. At what point did Bojangles' retain outside counsel to
25 assist in responding to your Charge -- or the Charge of

1 A. You're asking me if it says it here. I'm sorry, I
2 misunderstood the question.

3 Q. That's okay.

4 A. The position statement does suggest that he sent
5 inappropriate, provocative pictures of himself via text
6 message.

7 Q. And that Bojangles' had received employee complaints?

8 A. Yes, it does say that.

9 Q. What employee complaints was Bojangles' referring to in
10 its position statement?

11 MR. CHURCH: Objection to the form. To
12 the extent you can answer on behalf of
13 Ms. Vincent-Hamacher feel free.

14 A. I'm not answering on behalf of her. This is really
15 awkward. There's no point in pretending otherwise. All
16 right, yes, I'm here today as a representative of the
17 company but it is very hard for me to separate that from
18 my role in this case because I am the director of human
19 resources.

20 Q. Well, to the extent you have personal knowledge that you
21 can testify to as well, you are a representative
22 Bojangles' in that capacity. You may provide that
23 information.

24 A. That's where I'm confused, because in your initial
25 statement you told me there would be questions for me,

1 received employee complaints about Ms. Wolfe?

2 A. Yes.

3 Q. What complaints did Bojangles' receive about Ms. Wolfe?

4 A. I do know for a fact as a representative of the company
5 and as the director of human resources that Jonathan had
6 text messaged a picture of himself. He was bare from
7 the waist up, the portion of the picture I saw, and that
8 is in violation of our harassment policy. I am not sure
9 I know the name of the complaining employee. I believe
10 the complaint was filed with Sharon Irwin.

11 Q. Okay, so we have the picture. What other complaints did
12 Bojangles' receive about Jonathan Wolfe from other
13 employees?

14 A. I have no knowledge.

15 Q. So you only have knowledge of the one picture?

16 A. You asked me to address the inappropriate, provocative
17 picture and I do have knowledge that he did that.

18 Q. All right. So there is the one picture that you know
19 of. Does Bojangles' have knowledge of any other
20 inappropriate, provocative pictures?

21 A. No.

22 Q. There is a separate clause that received employee
23 complaints. In addition to the picture that we just
24 discussed what other employee complaints did Bojangles'
25 receive regarding Jonathan Wolfe?

1 A. I don't know. Those complaints went to someone that
2 Ms. Vincent-Hamacher interviewed. They didn't share
3 them with me.

4 Q. What documentation does Bojangles' have regarding any
5 other employee complaints regarding Jonathan Wolfe?

6 A. I'm not aware of any documentation.

7 Q. And to the extent that no other witnesses provide
8 testimony about complaints, Bojangles' does not intend
9 to produce Ms. Hamacher as a witness to that fact,
10 correct?

11 MR. CHURCH: Objection to the form.

12 A. I'm not sure I understand the question, but why would we
13 want to introduce an attorney that we have attorney-
14 client privilege with? I'm not familiar with that.

15 Q. I leave Bojangles' strategy to Bojangles', but to the
16 extent that Bojangles' is trying to say that
17 Ms. Hamacher is the person discussing these facts, you
18 don't intend to proffer her as a witness in order to
19 convey these facts to a jury, that's --

20 A. That is a decision that would be made by counsel.

21 MR. CHURCH: I think we can let the
22 record to be clear that Ms. Hamacher will not be a
23 witness at trial, nor has she been identified by
24 either party as a person of knowledge in the case.

25 Q. I'm going to direct your attention to Exhibit B to

1 Bojangles' position statement, and it's on the page that
2 ends in number 77. You would agree that this is the
3 picture that Bojangles' contends is the inappropriate,
4 provocative picture that Ms. Wolfe sent to a coworker,
5 correct?

6 A. It is a very poor copy, but I believe it to be the
7 picture that was shared with us.

8 Q. Does Bojangles' have in its possession any other
9 pictures that it contends are inappropriate or
10 provocative of Ms. Wolfe?

11 A. No.

12 Q. How did Bojangles' obtain the picture that's shown in
13 Exhibit B to its position statement?

14 A. The employee that alleged to be offended by the picture
15 forwarded it to Sharon McCollough Irwin, who forwarded
16 it to the support center.

17 Q. Who was the employee that alleged she was offended by
18 this picture?

19 A. I believe her name was Shimika.

20 Q. Does Shimika Singleton sound correct?

21 A. That does sound correct, to the best -- yes.

22 Q. Did Shimika Singleton tell Bojangles' the picture
23 offended her?

24 A. To my knowledge she told Sharon Irwin. I did not speak
25 to Shimika Singleton.

1 Q. Who from Bojangles' spoke to Shimika Singleton about the
2 photograph?

3 A. To my knowledge, Sharon McCollough.

4 Q. And on page 2 of Bojangles' position statement
5 Bojangles' asserts the fact that, "Wolfe frequently
6 discussed matters of an inappropriate, highly sexual
7 nature in the workplace." Did I read that correctly?

8 A. Page 2? (Examines document.) Which paragraph is that?

9 Q. It's the paragraph that continues over from page 1.

10 A. (Examines document.) It states, "Bojangles'
11 investigation of this matter has also revealed that
12 Mr. Wolfe frequently discussed matters of an
13 inappropriate, highly sexual nature in the workplace."
14 It does say that on page 2 of the position statement.

15 Q. Which Bojangles' employee provided the fact that
16 Mr. Wolfe frequently discussed matters of an
17 inappropriate, highly sexual nature in the workplace?

18 A. I don't know.

19 Q. You're not prepared to speak on that question?

20 A. Do you want me to speak as the representative of the
21 company or as Jeannine Eubanks?

22 Q. As a representative of the company.

23 A. As a representative of the company I don't know who made
24 that statement.

25 Q. What about as Jeannine Eubanks?

1 A. As Jeannine Eubanks I am assuming that it was Sharon
2 McCollough Irwin because she would have been the person
3 that had to discipline Jonathan if he was doing such
4 things.

5 Q. Was Ms. Irwin the only Bojangles' employee who knew
6 whether or not Wolfe engaged in inappropriate, highly
7 sexual conversations?

8 A. Common sense would tell you the only other people that
9 would know would be whoever was engaged in the
10 conversation, and apparently Ms. McCollough shared that
11 information with Ms. Vincent-Hamacher.

12 Q. So this fact came from Ms. McCollough?

13 A. That is what I believe, yes.

14 Q. And the fact that Bojangles' terminated Mr. Wolfe's
15 employment, that fact came from Ms. McCollough as well,
16 too, correct?

17 A. That's my assumption.

18 Q. In the following paragraph on page 2, Bojangles' asserts
19 as a fact that Wolfe never engaged in any protected
20 activity. Is that accurate?

21 A. Yes.

22 Q. That was Bojangles' position as of June 28, 2013 --

23 A. Yes.

24 Q. -- that Wolfe had never engaged in any protected
25 activity?

1 to terminate Mr. Wolfe's employment based on his
2 disruption of Bojangles' business and service of its
3 customers and his insubordination." Is that correct?

4 A. It does say that.

5 Q. And that was Bojangles' position as of June 28, 2013?

6 A. Yes, ma'am.

7 Q. Returning to Exhibit B to Bojangles' position statement,
8 who is the current custodian of this picture --

9 MR. CHURCH: Objection to the form.

10 Q. -- within Bojangles'?

11 MR. CHURCH: Objection to the form.

12 A. I'm sure it's in the legal file that was created when
13 the Charge was filed, but I have not been through that
14 file extensively so I can only assume it's either in our
15 legal department internally or it's with Ms. Vincent-
16 Hamacher.

17 Q. When did Bojangles' first obtain a copy of this picture?

18 A. I don't remember the exact date.

19 Q. Did you review the exact date in preparation for today's
20 deposition?

21 A. I did not.

22 Q. Did Bojangles' receive a copy of this picture before or
23 after Ms. Wolfe's termination?

24 A. I believe it would have been before, because the
25 discussion was about the braids, nothing else. And the

1 picture, although you can't tell it here, the picture
2 did show the length of the braids.

3 Q. So Bojangles' received a copy of this picture prior to
4 Ms. Wolfe's termination?

5 A. That is my understanding.

6 Q. Did Bojangles' take any steps to discipline Ms. Wolfe
7 for this picture?

8 A. I do not believe so but you have to look at the context.
9 Things were happening very quickly and within a very
10 short period of time. Conversations were occurring
11 between Ms. McCollough and Mr. Wolfe. A decision was
12 made during one of their conversations that he was not
13 going to return to Ms. Riggins' restaurant. It was not
14 until he disregarded Ms. McCollough's directions, went
15 to the restaurant and was disruptive, that he was
16 terminated, but that was probably within about a week's
17 period of time. It is my understanding they had
18 multiple conversations during that period, but I wasn't
19 present. I can't say for sure.

20 Q. Well, it's Bojangles' position in its position statement
21 that Wolfe violated its harassment policy with his
22 braids, correct?

23 A. Not the braids.

24 Q. Oh, right, with the picture, you're correct.

25 A. Yes. If you will look, the picture that was sent to me

1 was cropped, because it is my understanding that the
2 picture was far more provocative than what I saw, and
3 that would clearly violate our harassment policy. We
4 discourage employees from sharing those kinds of images.

5 Q. So did Bojangles' only have a cropped version of the
6 picture?

7 A. That's the only thing I saw.

8 Q. Do you know whether or not Ms. Irwin had received a
9 cropped version of the picture?

10 A. I do not know.

11 Q. And when you say cropped version, looking at Exhibit B,
12 is Exhibit B cropped?

13 A. I would assume it's cropped because I believe you could
14 only see from the waist down, and it's my understanding
15 it was much more highly inappropriate than that.

16 Q. And if Bojangles' is saying in its position statement
17 that this picture alone was sufficient to discharge
18 Ms. Wolfe why wasn't Ms. Wolfe discharged for the
19 picture?

20 MR. CHURCH: Objection to the form.

21 A. Ms. Wolfe would not have been immediately terminated
22 because of the picture because she had already filed a
23 complaint saying she was being mistreated about her
24 braids, and we would have been concerned about
25 retaliation so we would have looked at the context of

1 everything together before we made a final decision.

2 Q. So Bojangles' would not have fired Ms. Wolfe for sending
3 this picture?

4 MR. CHURCH: Objection to the form.

5 A. I'm not saying that. I'm saying it was subsequent to
6 another allegation that was already being considered and
7 so we did not terminate because of the picture. In a
8 different scenario we could have terminated for that
9 picture.

10 Q. And at that time, Bojangles' was concerned about a
11 retaliation claim?

12 MR. CHURCH: Objection to the form.

13 A. Of course. We are always concerned about those.

14 Q. I'm going to have you flip to Exhibit C. And I know we
15 covered some of this in Jeannine Eubanks' deposition so
16 I'm just going to run through this really quick --

17 A. Okay.

18 Q. -- with you as a representative of Bojangles'. The
19 Equal Employment Opportunity policy provided to the EEOC
20 in Exhibit C to Bojangles' position statement is a
21 correct reflection of Bojangles' policy, correct?

22 A. That is correct. That's page 7 of the employee
23 handbook.

24 Q. And that was the policy that was in place in 2012?

25 A. That is correct.

1 A. Yes.

2 Q. And in response to the Charge of Discrimination filed by
3 Bojangles'?

4 A. Yes.

5 Q. Is this a complete and accurate representation of the
6 August 11, 2015 letter that was sent on behalf of
7 Bojangles' to the EEOC?

8 A. I believe it is, yes.

9 Q. Did Bojangles' review this document prior to its
10 submission to the EEOC?

11 A. Yes.

12 Q. Who from Bojangles' reviewed this document prior to its
13 submission to the EEOC?

14 A. Laura Roberts, associate counsel.

15 Q. Any other person from Bojangles'?

16 A. I believe I saw a copy of it.

17 Q. You as in Jeannine Eubanks?

18 A. As senior director of HR.

19 Q. I'm going to mark Exhibit 54.

20 A. (Examines document.) Okay. Yes, ma'am.

21 Q. I'll represent to you that Exhibit 54 is a Letter of
22 Determination issued in Charge Number 433-2013-01334 by
23 the EEOC. Would you agree that this determination is
24 dated July 1, 2015?

25 A. It is.

1 Q. And would you agree that this determination is signed by
2 Thomas M. Colclough, Deputy Director for the Charlotte
3 District Office?

4 A. Yes.

5 Q. Did Bojangles' receive a copy of this letter of
6 determination?

7 A. Yes. Obviously, we did because Exhibit 53, I believe,
8 was in response to Exhibit 54.

9 Q. Who from Bojangles' received a copy of this letter of
10 determination?

11 A. The letter of determination went to Angie
12 Vincent-Hamacher at Robinson Bradshaw and Hinson.

13 Q. Did any Bojangles' employees receive a copy of this
14 letter of determination?

15 A. I don't think we got the copy till later. I believe
16 Ms. Vincent-Hamacher contacted our attorney to inform us
17 that the determination had been made.

18 Q. Regardless of whether or not Bojangles' agrees with the
19 contents of the determination, does Bojangles' agree
20 that the EEOC found that charging party is transgender?

21 A. I believe that's what EEOC believes, yes, and that's
22 what's stated.

23 Q. And the determination states that the, "Charging party
24 alleges she was subjected to a hostile work
25 environment"?

1 A. (Examines document.) Are you at a specific paragraph?

2 Q. The third paragraph: "Charging party alleges that she
3 was subjected to a hostile work environment because of
4 her sex in violation of Title VII"?

5 A. Yes, I see it now. That's what's contained in the
6 determination.

7 Q. And the determination also states that, "Charging party
8 alleges she was involuntarily transferred and discharged
9 in retaliation for complaining about the harassment"?

10 A. That's what the determination states, yes.

11 Q. And the determination also states that the EEOC found
12 that charging party was subjected to repeated comments
13 about her appearance because her appearance did not
14 conform to male stereotypes. Is that accurate?

15 A. That what this statement says, the determination says.

16 Q. And the determination also says that the EEOC determined
17 that the charging party's supervisor participated in the
18 harassment?

19 A. That's what the determination states.

20 Q. And the determination states that the EEOC determined
21 that the charging party complained about the harassment?

22 A. The determination states that.

23 Q. And the determination also states the EEOC determined
24 that as a result of charging party's complaints charging
25 party was transferred and ultimately terminated?

1 A. That's what the statement says.

2 Q. And the statement also says that EEOC found a reasonable
3 cause to believe Title VII was violated?

4 A. That is what it says, yes.

5 Q. And the determination also says that the EEOC invited
6 Bojangles' to conciliate the Charge of Discrimination?

7 A. It does say that.

8 Q. So at the time Bojangles' received the determination
9 from the EEOC, Bojangles' was aware of the EEOC's
10 findings?

11 A. Yes.

12 Q. And Bojangles' was aware it had the opportunity to
13 conciliate the Charge of Discrimination?

14 A. Yes, ma'am.

15 Q. Did Bojangles' participate in conciliation in an attempt
16 to resolve this Charge of Discrimination?

17 A. I believe we did attempt to resolve it through
18 conciliation.

19 Q. Is that a yes or no answer?

20 A. Yes.

21 Q. Bojangles' was provided the opportunity to participate
22 in conciliation?

23 A. Yes.

24 Q. An attempt to participate in conciliation?

25 A. Yes.

1 Q. I'm going to mark and hand you Exhibit Number 55.

2 A. (Examines document.) Yes, ma'am.

3 Q. Have you had the opportunity to review the document that
4 has been marked as Exhibit 55?

5 A. I gave.

6 Q. Did Bojangles' receive a copy of the document that has
7 been marked as Exhibit 55?

8 A. Eventually. It was initially sent to Ms. Vincent-
9 Hamacher on behalf of Bojangles'.

10 Q. Would you agree that Exhibit 55 is a notice of
11 conciliation failure sent by the EEOC?

12 A. Yes, it is.

13 Q. And that the date of the conciliation failure is
14 December 4, 2015?

15 A. That's the date it was signed, yes.

16 Q. And that the notice of conciliation failure was signed
17 by Thomas M. Colclough, Deputy Director for the
18 Charlotte District Office?

19 A. Yes.

20 Q. At the time Bojangles' received a copy of the notice of
21 conciliation failure Bojangles' was notified that the
22 EEOC would no longer attempt conciliation in this
23 matter?

24 A. Yes.

25 Q. Bojangles' understood that?

1 A. Yes.

2 Q. As you stated, the notice of conciliation failure was
3 originally sent to Robinson Bradshaw. Who from
4 Bojangles' received a copy of this notice of
5 conciliation failure?

6 A. Again, it would have been communicated to Laura Roberts,
7 our associate counsel.

8 Q. Did Jeannine Eubanks receive a copy of the notice of
9 conciliation failure?

10 A. I would have eventually received a copy for the file but
11 the initial communication were between the attorneys.

12 Q. And at the time Bojangles' received the notice of
13 conciliation failure Robinson Bradshaw was still being
14 retained by Bojangles?

15 A. Absolutely, yes.

16 Q. Was still an agent of Bojangles'?

17 A. Yes, ma'am.

18 Q. Was still assisting Bojangles' throughout the EEOC
19 investigative process?

20 A. Yes.

21 Q. I'm going to mark and hand to you Exhibit Number 56.

22 A. (Examines document.)

23 Q. Have you had the opportunity to review the document that
24 has been marked as Exhibit 56?

25 A. Yes, ma'am.

1 A. GYA Foods, I'm not familiar with a subpoena to them.

2 Q. Has Bojangles' received a response to its subpoena to
3 McDonald's Restaurants of North Carolina, Inc.?

4 A. I don't know who those are or why we would subpoena
5 them, but again I relied on our -- or Bojangles' relied
6 on outside counsel to make those decisions.

7 Q. And has Bojangles' received any response to its subpoena
8 to Grace Foods NC, Incorporated?

9 A. Again, I don't know who that is, and I don't know if
10 there's been an answer.

11 Q. Has Bojangles' received a response to its subpoena to
12 Worth the Wait, Incorporated?

13 A. Worth the Wait, is that -- I don't know who that is, and
14 I don't know if we've gotten a response.

15 Q. If Bojangles' had received a response, would it have
16 transmitted the documents it received in response to the
17 subpoena to the EEOC?

18 MR. CHURCH: Objection to the form.

19 A. I would rely on our counsel to do that, yes.

20 Q. I'm going to mark and hand you Exhibit 63. I'll
21 represent to you that this is Bojangles' Answer in
22 response to the EEOC's Complaint filed in this case. In
23 its Answer Bojangles' has asserted numerous defenses,
24 and I'm going to draw your attention to Bojangles' Third
25 Defense, which appears on page 6 of Bojangles' Answer.

1 Does Bojangles' still assert this defense, its Third
2 Defense?

3 MR. CHURCH: Objection to the form.

4 A. (Examines document.) Again, this is a legal matter with
5 regard to whether or not some of these items are time-
6 barred, whether or not they would be actionable. I can
7 only assume that, in the Charge there are indications
8 that there were acts of discrimination or harassment
9 that occurred more than 180 days prior to the filing,
10 and so we have objected to those.

11 Q. Does Bojangles' continue to assert the Third Defense?

12 MR. CHURCH: Objection to the form.

13 A. Yes.

14 Q. What facts does Bojangles' contend support its Third
15 Defense?

16 A. That is a matter for our law firm -- for our legal
17 counsel to address.

18 Q. Bojangles', sitting here today, cannot tell the EEOC
19 what facts it has in its possession that it would use to
20 support its defense?

21 MR. CHURCH: Objection to the form.

22 A. Bojangles' has relied on its counsel to handle these
23 matters and to make sure that we were in compliance, in
24 full compliance, with the requirements.

25 Q. Has Bojangles' been prepared for today's deposition to

1 address the defenses it has alleged in its Answer to
2 EEOC's Complaint?

3 A. Bojangles' has reviewed the defenses with legal counsel,
4 but I am not prepared to get into all kinds of factual
5 information such as you're requiring. I'm deferring to
6 legal counsel.

7 Q. So Bojangles' is unable to provide any factual or
8 substantive answers to any questions that EEOC may have
9 regarding the defenses stated in its Answer?

10 MR. CHURCH: Objection to the form.

11 A. I have on most of these defenses deferred to our legal
12 counsel for their guidance and for the factual
13 information that they have accumulated through the
14 course of their investigation.

15 Q. Does Bojangles' still assert its Fourth Defense, as seen
16 on page 6?

17 MR. CHURCH: Objection to the form.

18 A. Again, I defer to our legal counsel for guidance on any
19 factual basis.

20 Q. But does Bojangles' continue to assert the Fourth
21 Defense?

22 A. Yes.

23 Q. Does Bojangles' continue to assert the Fifth Defense in
24 its Answer?

25 MR. CHURCH: Objection to the form.

1 A. At all times Bojangles' did exercise reasonable care to
2 prevent, correct, any sexually harassing behavior.

3 Mr. Wolfe had multiple opportunities he could have
4 reported such behavior. He did not do so.

5 Q. So Bojangles' continues to assert its Fifth Defense as
6 articulated in the Answer?

7 A. Yes.

8 Q. Does Bojangles' continue to assert the Sixth Defense
9 articulated in its Answer to EEOC's Complaint?

10 A. We have no factual information that indicates any of the
11 behavior that occurred was unwelcome to Wolfe. He never
12 reported any unwelcome behavior. He never took
13 advantage of the Bojangles' policies to report such
14 behavior.

15 Q. And so Bojangles' continues to assert the Sixth Defense
16 articulated in its Answer?

17 A. Yes.

18 Q. Does Bojangles' continue to assert the Seventh Defense
19 articulated in its Answer?

20 A. Yes, we do.

21 Q. And what about the Eighth Defense, does Bojangles'
22 continue to assert the Eighth Defense in its Answer?

23 A. Yes, we do. I don't believe that any issues that
24 Jonathan has were the result of actions by Bojangles'
25 Restaurants.

1 Q. So Bojangles' continues to assert its Eighth Defense?

2 A. Yes.

3 Q. Does Bojangles' continue to assert the Ninth Defense
4 articulated in its Answer?

5 A. Yes, we do assert that.

6 Q. Does Bojangles' continue to assert the Tenth Defense
7 articulated in its Answer?

8 A. Yes, ma'am.

9 Q. Would you agree that Wolfe's Charge was filed with the
10 EEOC on or around May 2, 2012?

11 A. Yes. No, not May '12.

12 Q. May 2, 2012?

13 A. No, it wasn't filed on May 2, 2012. His Charge with the
14 EEOC was filed in 2013, wasn't it?

15 Q. I think you're correct, but let's go back and revisit
16 just to make sure. I'll direct your attention to the
17 document --

18 A. The behavior was in February of 2013, and he filed in
19 May of 2013.

20 Q. Okay, so that Exhibit 45 we agree shows a Charge of
21 Discrimination being filed May 2, 2013?

22 A. Yes.

23 Q. And then during Bojangles' deposition we reviewed the
24 Letter of Determination in Exhibit 54, which shows the
25 Determination being issued in or around July of 2015?

1 A. That is correct. It was signed on July 1, 2015 by the
2 deputy director.

3 Q. And would you agree that between the time Wolfe filed
4 her Charge and the time EEOC issued its Letter of
5 Determination, EEOC was investigating Wolfe's Charge?

6 MR. CHURCH: Objection to the form.

7 A. Do I agree that EEOC was investigating?

8 Q. Yes.

9 A. Yes.

10 Q. And in fact, EEOC interviewed some of Bojangles'
11 employees, correct?

12 A. I believe that's correct, yes.

13 Q. And it had requested information from Bojangles',
14 correct?

15 A. Yes.

16 Q. And Bojangles' submitted information in connection with
17 the EEOC's request, correct?

18 A. Yes.

19 Q. And today we have also reviewed the document marked as
20 Exhibit 55, which is the conciliation failure notice
21 that was issued by EEOC on or around December 4, 2015,
22 correct?

23 A. Yes, ma'am.

24 Q. Then I'll represent to you that the EEOC filed its
25 lawsuit on July 6, 2016. Would you agree with that?

1 A. I didn't know the exact date, but yes, I agree that the
2 EEOC filed the lawsuit.

3 Q. Okay. At any time during the period from which
4 Bojangles' first received notice of Ms. Wolfe's Charge
5 through the date that the EEOC filed the lawsuit --

6 A. So that would be May 2, 2013 to July 6th of 2016?

7 Q. Correct.

8 A. Okay.

9 Q. Did any critical witness pass away or become
10 unreachable?

11 MR. CHURCH: Objection to the form.

12 Q. Any witness that Bojangles' feels is important to this
13 case?

14 MR. CHURCH: Objection to the form.

15 A. The only witness I can think of that we named was Janice
16 Locklear, and you already know she was terminated in
17 early 2017. I can't think of anyone else.

18 Q. Does Bojangles' represent that Ms. Locklear cannot be
19 reached at present?

20 A. I have not personally attempted to reach her. I don't
21 know if she's unreachable.

22 Q. Was there any witness during that time period who became
23 unavailable to Bojangles'?

24 A. The only other person I can think of is Kristen Bowden,
25 because she was out of the country.

1 Q. And when did Ms. Bowden leave employment with
2 Bojangles'?

3 A. I don't remember. I really don't remember. This
4 incident occurred in February of 2013, so I would say it
5 was not too long after that that her husband was
6 transferred sometime in 2013. The spring of 2013, I
7 think she probably left.

8 Q. Between Ms. Wolfe's termination and Ms. Bowden's leaving
9 employment with Bojangles', was there any reason that
10 Bojangles' would not have been able to interview or
11 contact Ms. Bowden?

12 A. I don't know. I didn't attempt to contact her.

13 Q. But Bowden was an active employee at that time, correct?

14 A. I believe so, without checking the records.

15 Q. Okay. During the period from when Ms. Wolfe filed her
16 Charge of Discrimination with the EEOC and the EEOC
17 filing lawsuit, did any evidence that Bojangles'
18 contends is important, was it lost, or in any way
19 destroyed?

20 A. Absolutely not.

21 Q. And so returning to the document that's been marked as
22 Exhibit 63, which is Bojangles' Answer to EEOC's
23 Complaint, does Bojangles' continue to assert its
24 Eleventh Defense as stated on the Answer?

25 A. Yes, we have at all times and in good faith acted in

1 full compliance with the law.

2 Q. So Bojangles' continues to assert its Eleventh Defense
3 as stated in the Answer?

4 A. Yes, ma'am.

5 Q. Does Bojangles' continue to assert its Twelfth Defense
6 as stated in its Answer?

7 A. (Examines document.) Well, it is interesting to us that
8 we do have after-acquired evidence that came through
9 information I believe you provided, maybe in Mr. Wolfe's
10 -- or maybe it came through in Mr. Wolfe's testimony.
11 We have since learned since this case was filed that
12 Mr. Wolfe worked for Family Dollar. I believe he was
13 terminated from Family Dollar because of some kind of
14 cash issue.

15 In going back and looking at his application for
16 employment, he never listed them as an employment
17 reference, so that was an omission of important
18 information. And in fact, he lied on the application
19 and said he was applying for his first job. It's highly
20 possible we would have never hired Mr. Wolfe had we
21 known some of the things we know now.

22 Q. What other after-acquired evidence does Bojangles'
23 intend to produce in support of its defense?

24 A. At this time I believe that's the most crucial.

25 Q. Is that the only after-acquired evidence Bojangles'

1 intends to produce?

2 A. It's the only after-acquired evidence that I discussed
3 with our counsel, and I won't go any further.

4 Q. Does Bojangles' continue to assert its Fourteenth
5 Defense as articulated in the Answer to EEOC's
6 Complaint?

7 A. Fourteenth, yes.

8 Q. Does Bojangles' continue to assert the Fifteenth Defense
9 that it articulates in its Answer?

10 A. Yes.

11 Q. Now, were hourly employees at the Owen Drive location
12 and the Raeford Road location subject to the same terms,
13 conditions of employment?

14 A. Yes, all hourly employees are.

15 Q. The employees at both stores would have fallen under the
16 same pay rules or pay policies?

17 A. Yes.

18 Q. So if I talk about an hourly crew member generally, the
19 information that Bojangles' would provide would apply
20 regardless of whether this person was employed at Owen
21 Drive or Raeford Road?

22 A. Yes, and that would apply if they worked in Columbia,
23 South Carolina versus Fayetteville, North Carolina.

24 Q. As a crew member was Jonathan Wolfe entitled or eligible
25 for any insurance coverage?

1 Q. Well, sitting here today are you able to tell me
2 specific details about Owen Drive's use of in-store
3 video footage?

4 A. No, I'm not.

5 Q. And from what I'm hearing, there was no consistent
6 policy about use, retention, and preservation of
7 in-store video footage across the various Bojangles'
8 restaurants in 2013?

9 A. In-store video, I think that's a true statement,
10 actually.

11 Q. Okay. I want to go back to the document that has been
12 marked as Exhibit 47, and those are your handwritten
13 notes regarding Ms. Wolfe.

14 A. Uh-huh.

15 Q. Does Bojangles' have in its possession, custody, or
16 control any other written notes beyond your handwritten
17 notes, beyond Ms. Eubanks' handwritten notes?

18 A. Everything that Ms. Eubanks had was submitted, as
19 required by our legal counsel and by the EEOC.

20 Q. And does any other employee at Bojangles' have
21 handwritten notes regarding Ms. Wolfe?

22 A. Not to my knowledge. I believe everything has been
23 submitted, everything that we had knowledge of.

24 Q. And Exhibit 47, as you stated earlier, is Ms. Eubanks'
25 complete notes, correct?

1 A. Yes.

2 Q. And all these notes were taken in February 2013,
3 correct?

4 A. Yes.

5 Q. All right, I'm going to take a quick break and make sure
6 we got everything covered, and hopefully you'll be out
7 the door soon. Does that sound okay?

8 A. That would be nice.

9 (A recess was taken from 4:05 to 4:11 p.m.)

10 Q. No further questions for me, Ms. Eubanks. Thank you for
11 your time.

12 A. I appreciate it.

13 EXAMINATION BY MR. CHURCH

14 Q. Ms. Eubanks, bear with me for just a moment and we'll
15 clean this up and be on our way. First thing, if you
16 could find Exhibit 58 for me for just a moment. And it
17 looks sort of like this (indicating). I'll hold it up
18 for everybody if you're looking for it. And Exhibit 58
19 is a record from the L and T system?

20 A. Yes. I'd like to clarify, it's LMT. It's labor
21 management tool.

22 Q. And is Exhibit 58 a complete record from the LMT tool?

23 A. No.

24 Q. If you had a complete record, what other information
25 would you be seeing in the LMT record?

APPENDIX 6

U.S. Equal Employment Opportunity Commission

<p>Ms. Jeannie Eubanks Human Resources BOJANGLES SUPPORT CENTER P.O. Box 240239 Charlotte, NC 28224</p>	<p style="text-align: center;">PERSON FILING CHARGE</p> <p style="text-align: center;">Jonathan Wolfe</p> <hr/> <p>THIS PERSON (check one or both)</p> <p><input type="checkbox"/> Claims To Be Aggrieved</p> <p><input type="checkbox"/> Is Filing on Behalf of Other(s)</p> <hr/> <p>EEOC CHARGE NO. 433-2013-01334</p>
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NOTICE OF CHARGE OF DISCRIMINATION

(See the enclosed for additional information)

This is notice that a charge of employment discrimination has been filed against your organization under:

- Title VII of the Civil Rights Act (Title VII)
 The Equal Pay Act (EPA)
 The Americans with Disabilities Act (ADA)
- The Age Discrimination in Employment Act (ADEA)
 The Genetic Information Nondiscrimination Act (GINA)

The boxes checked below apply to our handling of this charge:

1. No action is required by you at this time.
2. Please call the EEOC Representative listed below concerning the further handling of this charge.
3. Please provide by **28-MAY-13** a statement of your position on the issues covered by this charge, with copies of any supporting documentation to the EEOC Representative listed below. Your response will be placed in the file and considered as we investigate the charge. A prompt response to this request will make it easier to conclude our investigation.
4. Please respond fully by to the enclosed request for information and send your response to the EEOC Representative listed below. Your response will be placed in the file and considered as we investigate the charge. A prompt response to this request will make it easier to conclude our investigation.
5. EEOC has a Mediation program that gives parties an opportunity to resolve the issues of a charge without extensive investigation or expenditure of resources. If you would like to participate, please say so on the enclosed form and respond by to
If you **DO NOT** wish to try Mediation, you must respond to any request(s) made above by the date(s) specified there.

For further inquiry on this matter, please use the charge number shown above. Your position statement, your response to our request for information, or any inquiry you may have should be directed to:

Thomas M. Colclough,
Area Office Director

EEOC Representative

Telephone **(919) 856-4085**

Raleigh Area Office
434 Fayetteville Street, Suite 700
Raleigh, NC 27601

Fax: **(919) 856-4151**

Enclosure(s): Copy of Charge

CIRCUMSTANCES OF ALLEGED DISCRIMINATION

- Race
 Color
 Sex
 Religion
 National Origin
 Age
 Disability
 Retaliation
 Genetic Information
 Other

See enclosed copy of charge of discrimination.

Date May 7, 2013	Name / Title of Authorized Official Thomas M. Colclough, Director	Signature <i>Thomas M. Colclough</i>
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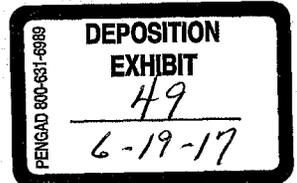
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APPENDIX 7

**Robinson
Bradshaw**

Angelique Vincent-Hamacher
Charlotte Office
704.377.8357 Direct Phone
704.373.3957 Direct Fax
avincent@rbh.com
rbh.com

June 28, 2013



VIA REGULAR MAIL

Ms. Carlisa Broadway, Investigator
Equal Employment Opportunity Commission
Raleigh Area Office
434 Fayetteville Street
Raleigh, North Carolina 27601-1701

Re: Charge No. 433-2013-01334
Charging Party - Jonathan Wolfe
Respondent - Bojangles' Restaurants, Inc.

Dear Ms. Broadway:

Our firm represents Respondent Bojangles' Restaurants, Inc. ("Bojangles'") in defense of the above-referenced charge of discrimination filed by Jonathan Wolfe. This letter shall set forth Bojangles' position and provide relevant information and documents.

In his charge of discrimination, Mr. Wolfe alleges that he was subjected to harassment and discrimination based on his gender identity and terminated in retaliation for alleged protected activity – in violation of Title VII of the Civil Rights Act of 1964, as amended ("Title VII"). (A copy of the charge is attached hereto as Exhibit A.) Bojangles' expressly denies Mr. Wolfe's allegations. His charge is baseless, has no factual support and should be dismissed.

In this case, it is uncontroverted that Bojangles' terminated Mr. Wolfe's employment because he came to the restaurant (when he was not scheduled to work), was loud and disruptive to the restaurant's business, held up the line for Bojangles' paying customers, and was insubordinate to the restaurant's manager in front of Bojangles' customers. Management's decision to terminate Mr. Wolfe's employment was made in good faith and in full compliance with Bojangles' policies and applicable law.

Following his termination, Bojangles' received employee complaints and proof that Mr. Wolfe also sent inappropriate, provocative pictures of himself via text message to his Bojangles' co-workers while he was employed – in clear violation of Bojangles' sexual harassment policy and for which Mr. Wolfe would have been subject to immediate termination. (A copy of one of

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Charlotte • Research Triangle • Rock Hill

the pictures sent by Mr. Wolfe is attached hereto as Exhibit B.) Bojangles' investigation of this matter has also revealed that Mr. Wolfe frequently discussed matters of an inappropriate, highly sexual nature in the workplace – also in violation of Bojangles' sexual harassment policy.

At all times relevant to this matter, Bojangles' has applied its employment standards and policies to Mr. Wolfe without regard to his sex, his gender identity or his alleged "gender non-conformity." Bojangles' took no action against Mr. Wolfe in retaliation for any protected activity under Title VII. In fact, Mr. Wolfe never engaged in any protected activity. Mr. Wolfe has no viable claims against Bojangles', and his charge should be dismissed.

Equal Employment Opportunity and Anti-Harassment/Discrimination Policies

Bojangles' is an equal employment opportunity employer and strictly prohibits discrimination and harassment against any person on the basis of race, color, religion, sex, gender, age, national origin, disability, genetic information, pregnancy or any other characteristic prohibited by federal, state or local law. Bojangles' equal employment opportunity policy applies to all terms and conditions of employment.

Bojangles' employees are required to immediately report all incidents of harassment, discrimination or retaliation to his/her Unit Director, Area Director, Regional Vice-President or the Director of Human Resources. Employees also may report violations of the policy to the Human Resources Hotline or the Employee Awareness Hotline. Bojangles' commits to conduct a prompt investigation of all complaints, to keep the matters related to the investigation confidential to the extent reasonably possible; and to take prompt corrective action in response to valid complaints. (A copy of Bojangles' Equal Employment Opportunity and Anti-Harassment/Discrimination Policies are attached hereto as Exhibit C.)

Mr. Wolfe's Employment with Bojangles'

Bojangles' hired Mr. Wolfe on May 9, 2012 as an hourly team member at the restaurant located at 1901 Owen Drive, Fayetteville, North Carolina. At all times during his employment, Mr. Wolfe's immediate supervisor was Unit Director, Ella Riggins and his second-level supervisor was Area Director, Sharon McCollough. Shortly after he was hired, Mr. Wolfe announced (to use his words) that he was a "cross dresser."¹ Mr. Wolfe's self-proclaimed status was never a consideration at any time during Mr. Wolfe's employment with the Company. Bojangles' certainly did not take any action against Mr. Wolfe because of his sex, appearance or behavior as gender non-conforming - as Mr. Wolfe now alleges.

To the contrary, Bojangles' trained Mr. Wolfe as a cashier, which required that he greet, talk to and interact with customers. Bojangles' also gave Mr. Wolfe a raise in October 2012. Because of Mr. Wolfe's ability to perform the duties of a cashier in a challenging environment,

¹ Mr. Wolfe's status as a cross dresser is not protected under Title VII. To the extent he is attempting to maintain a claim based on that status, his EEOC charge must be dismissed as a matter of law.

Ms. McCollough even invited Mr. Wolfe to assist in a new restaurant opening in December 2012 in Hope Mills, North Carolina.

Though Mr. Wolfe generally performed his job duties at cashier in a satisfactory manner, Bojangles' management did counsel him on several occasions to maintain professional working relationships at all times as required under Bojangles' policies. In early February 2013, Ms. McCollough issued a verbal warning to Mr. Wolfe and another Bojangles' crew member after she learned that they engaged in a personal conversation of a sexual nature. Ms. McCollough warned both employees that they could be fired if they continued to engage in inappropriate conversations.

Mr. Wolfe's Disruptive Behavior and Termination from Employment

On February 21, 2013, Mr. Wolfe came to the restaurant even though he was not scheduled to work to show off long cornrow hair extensions he had recently gotten to Bojangles' employees. (See Exhibit B showing Mr. Wolfe's long extensions.) Mr. Wolfe was loud and disruptive at the frontline of the restaurant causing his manager, Ms. Riggins to come to the frontline. When Ms. Riggins saw Mr. Wolfe's hair extensions, she expressed concern about the hair extensions in light of Bojangles' personal appearance policy. In particular, Ms. Riggins wanted to ensure that when Mr. Wolfe's returned to work, his hair would be in compliance with Bojangles' Personal Appearance Policy. (A copy of the Personal Appearance Policy is attached hereto as Exhibit D.) Under the policy, all Bojangles' employees are required to have their hair "combed/brushed, and neat and under control at all times" and "all team members' hair must be covered by a hat." (See Exhibit D.) Mr. Wolfe's long hair extensions (as they were on February 21) clearly could not be covered by a hat. (See Exhibit B.) Mr. Wolfe was fully aware of Bojangles' Personal Appearance Policy because he received a copy of the Company's Employee Handbook, which contains all the Company's policies, including the Personal Appearance policy, and this policy was also discussed with Mr. Wolfe during his employee training. In response to Mr. Riggins' concerns, Mr. Wolfe responded that he would "trim up" his hair when he returned to work.

Following the incident on February 21, Mr. Wolfe contacted Bojangles' Human Resources Department by telephone to file a complaint against Ms. Riggins. Mr. Wolfe complained that another employee at the restaurant told him that Ms. Riggins was going to fire him because of his hair extensions. Mr. Wolfe did not suggest or complain that Ms. Riggins herself made any direct threats to terminate his employment or otherwise take action against him. During his call to Human Resources, Mr. Wolfe made no complaint or allegation whatsoever that Ms. Riggins or any other Bojangles' employee harassed or discriminated against him because of his sex, his gender identity or gender nonconformity at any time. His sole complaint was that another Bojangles' employee told him Ms. Riggins would fire him because of his hair extensions.

After speaking with Mr. Wolfe, Bojangles' Director of Human Resources immediately discussed the matter with Ms. McCollough and asked her to investigate the incident reported by

Mr. Wolfe. Ms. McCollough commenced an immediate investigation of Mr. Wolfe's complaint that included interviews of Bojangles' employees who were working at the restaurant during Mr. Wolfe's visit on February 21. None of the employees corroborated Mr. Wolfe's contention that Ms. Riggins threatened to terminate Mr. Wolfe because of his hair extensions. Ms. McCollough also interviewed Mr. Wolfe about the incident that occurred on February 21. During his interview with Ms. McCollough, Mr. Wolfe did not make any specific allegations or complaints that he had in any way been discriminated against or harassed because of his sex, his gender identity or his alleged gender non-conformity. Again, Mr. Wolfe only complained that he heard from another Bojangles' employee that Ms. Riggins said she was going to terminate him because of his hair extensions. At the outset of the conversation, Mr. Wolfe demanded without any valid justification that Ms. Riggins be terminated – clearly indicating that he would not work with Ms. Riggins moving forward. Ms. McCollough and Mr. Wolfe discussed his potential transfer to another restaurant location given his indication that he could not work with Ms. Riggins as the manager of his existing restaurant location. Ms. McCollough and Mr. Wolfe agreed that he would transfer to the Raeford Road restaurant in Fayetteville. Mr. Wolfe indicated he was moving to the Raeford Road area, so that restaurant would be closer to his new home. Mr. Wolfe's decision to transfer restaurants was completely voluntary. Ms. McCollough advised Mr. Wolfe to contact the Unit Director for the Raeford Road restaurant location for his new schedule. Mr. Wolfe never contacted the Unit Director at that restaurant and never went to work at the new location.

The following week, on or about February 27, 2013, Mr. Wolfe returned to the Owen Drive restaurant location he claims to purchase a drink (though he did not order anything). Mr. Wolfe engaged in an inappropriate conversation with a restaurant crew member working on the frontline about Ms. Riggins (intended for her to hear), was loud and disruptive, and blocked Bojangles' paying customers from placing their orders. Ms. Riggins came to the frontline and instructed Mr. Wolfe to continue his conversation outside the restaurant. Mr. Wolfe became louder and insubordinate in front of Bojangles' customers and eventually left the restaurant. Ms. Riggins immediately reported the incident to Ms. McCollough. After learning of the incident, Ms. McCollough decided to terminate Mr. Wolfe's employment based on his disruption of Bojangles' business and service of its customers and his insubordination. Ms. McCollough contacted Mr. Wolfe to discuss the matter. Mr. Wolfe openly admitted to talking about Ms. Riggins at the frontline of the restaurant in front of customers and responded to Ms. McCollough in a disrespectful manner that he could talk about whomever he wanted to. Ms. McCollough subsequently notified Mr. Wolfe that his employment with Bojangles' was terminated.

Mr. Wolfe Has No Claim of Harassment, Discrimination or Retaliation

Mr. Wolfe has no viable claims against Bojangles' under Title VII. Title VII prohibits an employer from "discriminating against any individual with respect to his compensation, terms, conditions or privileges of employment, because of such individual's ... sex. 42 U.S.C. § 2000e-2(a)(1)." *Hopkins v. Baltimore Gas & Elec. Co.*, 77 F.3d 745, 749 (4th Cir. 1996). First, Mr. Wolfe's claim of harassment must fail as a matter of law because he cannot establish any

evidence that he was subjected to any conduct on the basis of his sex, let alone conduct that rose to the level of severe or pervasive as required to state a harassment claim under Title VII. *See Spicer v. Commonwealth of Virginia, Dep't of Correction*, 66 F.3d 705, 709-10 (4th Cir. 1995).

Moreover, even if Mr. Wolfe could establish evidence sufficient to support a claim of harassment under Title VII, his claims fail because Bojangles' exercised reasonable care to prevent and promptly correct any sex-based harassing behavior and Mr. Wolfe's failed to otherwise avoid harm. *See Faragher v. City of Boca Raton*, 534 U.S. 775, 786, 118 S. Ct. 2275, 2283, 141 L.Ed.2d 662 (1998); *Burlington Indus., Inc. v. Ellerth*, 524 U.S. 742, 764-65, 118 S. Ct. 22567, 2268, 141 L.Ed.2d 663 (1998). At all times, Bojangles' had an effective anti-harassment policy in place that forbids gender-based and all other forms of illegal harassment. *See Barrett v. Applied Radiant Energy Corp.*, 240 F.3d 262, 266 (4th Cir. 2001) (holding that policy which provided clear direction as to how to report harassment and included a confidentiality and anti-retaliation provision was reasonable calculated to prevent and promptly correct sexual harassment). Mr. Wolfe signed and acknowledged Bojangles' anti-harassment policy on May 4, 2012. (A copy of Mr. Wolfe's signed anti-harassment policy is attached hereto as Exhibit E.)

Mr. Wolfe never complained as directed by Bojangles' policies that Ms. Riggins harassed him based on his sex, his gender identity or alleged gender non-conformity at any time during his employment with Bojangles'. As such, his claim of harassment must fail.

Similar, Mr. Wolfe's claim of sex discrimination also fails as a matter of law. Based on his own allegations, Bojangles' did not take any action against him based on his sex. The only complaint Mr. Wolfe made against Ms. Riggins was made after the February 21 incident. Mr. Wolfe only complained that he heard Ms. Riggins was going to fire him because of his hair extensions. Ms. Riggins never threatened Mr. Wolfe's job, but she did express concerns about the length of his hair extensions in light of Bojangles' policies. Ms. Riggins' concerns had nothing whatsoever to do with Mr. Wolfe's sex. Bojangles' requirement that all team members' hair be covered by a hat applies to both men and women alike and without regard to their sex. Based on Mr. Wolfe's own allegations, Bojangles' has taken no action against him based on his sex as required to maintain a claim of sex discrimination under Title VII.

Finally, Mr. Wolfe has no claim of retaliation against Bojangles. First, he did not engage in any protected activity under Title VII where he never complained that Ms. Riggins in any way harassed or discriminated against him based on his sex, his gender identity or gender non-conformity. Even if he had had engaged in a protected activity, he is not shielded from termination because he violated Bojangles' policy, was loud and disruptive to Bojangles' business operations and service of its customers. *See, e.g. Davis v. State Univ. of N.Y.*, 802 F.2d 638, 644, 42 FEP 77 (2nd Cir. 1986) (denial of merit increase and disciplinary documentation was the result of an atmosphere of acrimony threatening the integrity of the institution, not the result of retaliation for filing a charge). Employees who disrupt Bojangles' restaurant operations and service of its customers and who are insubordinate may be terminated in accordance with Bojangles' policy, even if they have engaged in some protected activity. *See, e.g. Johnson v.*

Ms. Carlisa Broadway, Investigator
June 28, 2013
Page 6

Allyn & Bacon, 731 F.2d 64, 34 FEP 804 (1st Cir.), *cert. denied*, 469 U.S. 1018, 105 S. Ct. 433, 83 L. Ed.2d 359 (1984). Here, Mr. Wolfe engaged in no protected activity.

The uncontroverted evidence in this case shows that Bojangles' terminated Mr. Wolfe for legitimate, nondiscriminatory and nonretaliatory business reasons having nothing to do with his sex or gender identity or any purported prior complaints of harassment. Based on Mr. Wolfe's own allegations, Bojangles' took no action against him based on his sex as required to maintain a claim of sexual harassment or discrimination. Bojangles' decisions with respect to Mr. Wolfe were made in good faith and in accordance with the Company's employment policies. For all these reasons, Mr. Wolfe has no actionable claim against Bojangles'. Bojangles' respectfully requests that his charge be dismissed.

Please do not hesitate to contact me should you have any questions.

Sincerely,

ROBINSON BRADSHAW & HINSON, P.A.

Angelique Vincent-Hamacher
Angelique Vincent-Hamacher

AVH/
Enclosures

cc: Bojangles' Restaurants, Inc. (w/ enclosures)

BOJANGLES'-00000073

EXHIBIT A

MAY 2 2013

EEOC Form 5 (1/09)

CHARGE OF DISCRIMINATION		Charge Presented To: Agency(ies) Charge No(s):	
This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and for information before completing this form.		<input type="checkbox"/> FEPA	433-2013-01334
		<input checked="" type="checkbox"/> EEOC	and EEOC
<i>State or local Agency, if any.</i>			
Name (Indicate Mr., Ms., Mrs.)		Home Phone (Incl. Area Code)	Date of Birth
Ms. Jonathan Wolfe		(910) 850-8835	02-21-1992
Street Address		City, State and ZIP Code	Cell #
[REDACTED]		[REDACTED]	[REDACTED]
Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)			
Name		No. Employees, Members	Phone No. (Include Area Code)
BOJANGLES STORE #274		15 - 100	(910) 483-1913
Street Address		City, State and ZIP Code	
1901 Owen Drive, Fayetteville, NC 28304			
Name		No. Employees, Members	Phone No. (Include Area Code)
Street Address		City, State and ZIP Code	
DISCRIMINATION BASED ON (Check appropriate box(es).)		DATE(S) DISCRIMINATION TOOK PLACE	
<input type="checkbox"/> RACE <input type="checkbox"/> COLOR <input checked="" type="checkbox"/> SEX <input type="checkbox"/> RELIGION <input type="checkbox"/> NATIONAL ORIGIN <input checked="" type="checkbox"/> RETALIATION <input type="checkbox"/> AGE <input type="checkbox"/> DISABILITY <input type="checkbox"/> GENETIC INFORMATION <input type="checkbox"/> OTHER (Specify)		Earliest Latest 10-01-2012 02-27-2013 <input type="checkbox"/> CONTINUING ACTION	
THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)):			
<p>I. On May 09 2012, I was hired by the above employer as a Biscuit Maker. Since October 2012, I have been harassed by Unit Director Ella Riggins who has threatened my job and ridiculed my appearance and behaviors as being gender non-conforming. In January 2013, I reported this harassment to Area Director Sharron [LNU] but nothing was done. On February 21, 2013, I was transferred. On February 27, 2013, I was discharged.</p> <p>II. Ms. Riggins told me that I would be fired if I didn't remove the braids from my hair, change my manner of talking, walking and standing in order to look like a male because of the older clientele. On February 21, 2013, Ms. Sharron told me that I was transferred because people's tempers were flared. On February 27, 2013, Ms. Sharron told me that I was discharged for returning to my old store, after being told not to, and intentionally starting an argument with Ms. Riggins. I deny that I was told not to return to the store or that an argument with Ms. Riggins occurred.</p> <p>III. I believe I was discriminated against based on my sex (gender identity) and retaliated against for opposing unlawful employment practices in violation of Title VII of the Civil Rights Act of 1964, as amended.</p>			
I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.		NOTARY - When necessary for State and Local Agency Requirements	
I declare under penalty of perjury that the above is true and correct.		I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.	
		SIGNATURE OF COMPLAINANT	
025 April 13 Jonathan Wolfe Date Charging Party Signature		SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE (month, day, year)	

BOJANGLES'-00000075

EXHIBIT B



BOJANGLES'-0000077

EXHIBIT C

HISTORY OF BOJANGLES'

In 1977, Bojangles' Famous Chicken N' Biscuits was founded in Charlotte, NC. The first restaurant was built at the corner of West Blvd. and South Tryon. Bojangles' began as the dream of two veteran food operators who foresaw a rising consumer demand for wholesome, "made-from-scratch" meals offered in the convenience of a quick-service environment.

Today, Bojangles' has grown to become a major restaurant chain operating under the name of Bojangles' Restaurants, Inc. Approaching 500 restaurants, company-owned and franchised, Bojangles' has successfully expanded the concept throughout the Southeast.

PURPOSE OF HANDBOOK

The purpose of Bojangles' Employee Handbook is to provide you with general information on our policies and procedures. Because of the nature of our operations, the work environment and the accommodations necessary for individual situations, the policies and procedures set out in the Handbook may not apply to every employee or to every situation.

Bojangles' may change or revise policies or procedures relating to your employment as we consider necessary, using sole discretion, either in individual or company wide situations, with or without notice in accordance with applicable law.

EMPLOYMENT INFORMATION

The Company is committed to a work environment in which all employees are treated with respect and dignity. Each employee has the right to work in a professional setting that promotes equal employment opportunities and prohibits all forms of discrimination and harassment. The Company expects that all relationships among employees will be business-like and free of prejudice and harassment.

EQUAL EMPLOYMENT OPPORTUNITIES

It is the policy of Bojangles' to provide equal employment opportunities, consistent with federal, state and municipal equal employment opportunity laws, to all persons regardless of race, color, religion, sex, gender, age, national origin, disability, genetic information, pregnancy or any other characteristic protected by law. The Company prohibits and will not tolerate discrimination or harassment based on any of these protected characteristics. This policy applies to all terms and conditions of employment.

Any disabled person requiring a reasonable accommodation under the Americans with Disabilities Act, as amended, to perform the essential functions of his/her position should make a request for accommodation to the Director of Human Resources at 1-800-849-3360, Ext. 8634.

EMPLOYMENT INFORMATION (Cont'd.)

ANTI-HARASSMENT/DISCRIMINATION POLICY

Bojangles' does not tolerate any form of illegal workplace harassment and/or discrimination by any of its employees, customers or vendors. Any form of illegal harassment or discrimination that is related to an individual's race, color, religion, sex, gender, age, national origin, disability, genetic information, pregnancy, or any other characteristic protected by law is a violation of this policy for which appropriate disciplinary action will be taken.

For purposes of this policy, harassment includes any type of misconduct based on any protected characteristic that is unwelcome to any employee. No policy can identify the full range of behaviors that are unacceptable in the workplace or that constitute harassment. Prohibited acts can take a variety of forms. Harassment on the basis of any protected characteristic is strictly prohibited. Harassment can include verbal or physical conduct that demeans or shows hostility or dislike toward another employee because of his/her race, color, religion, sex, age, national origin, disability, genetic information, pregnancy or any other characteristic protected by law, or that of his/her relatives, friends or associates, and that;

- (i) has the purpose or effect of creating an intimidating, hostile or offensive work environment;
- (ii) has the purpose or effect of unreasonably interfering with an individual's work performance; or
- (iii) otherwise adversely affects an individual's employment opportunities.

Harassing conduct includes, but is not limited to: epithets, slurs, negative stereotyping; threatening, intimidating or hostile acts; demeaning jokes; displaying written or graphic materials in the workplace that demeans or shows hostility toward an individual employee or group of employees.

Sexual harassment constitutes discrimination based on sex or gender and is illegal under federal, state and local laws. For the purposes of this policy, sexual harassment is defined to include unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual or gender-based nature when, for example;

- (i) submission to such conduct is made either explicitly or implicitly a term or condition of employment;
- (ii) submission to or rejection of such conduct is used as the basis for decisions affecting an individual's employment; or
- (iii) such conduct has the purpose or effect of creating an intimidating, hostile or offensive working environment.

Sexual harassment may include a range of behaviors and may involve individuals of the same or different gender. These behaviors may include, but are not limited to, unwanted physical conduct, including touching, pinching, brushing the body, blocking movement or any physical interference with normal movement. Verbal harassment includes offensive comments, jokes, innuendoes and sexually oriented statements and comments that ridicule, insult or otherwise

EMPLOYMENT INFORMATION (Cont'd.)

demeans an employee's gender. Sexual harassment may also include non-verbal conduct such as displaying sexually suggestive objects, pictures, graffiti or making obscene gestures.

This policy applies to all applicants and employees, and prohibits harassment, discrimination and retaliation whether engaged in by an employee, by a manager or supervisor or by someone not directly connected to the Company (a vendor, consultant or customer). Conduct described in this policy is unacceptable in the workplace and in any work-related setting, such as business trips, meetings and business-related social events.

RETALIATION

The Company prohibits retaliation against any individual who makes a good faith report of discrimination or harassment in the workplace. Likewise, the Company prohibits retaliation against any individual who assists or participates in the investigation of such reports. Retaliation is a serious violation of this policy, and anyone engaging in such conduct will be subject to disciplinary action, up to and including immediate termination of employment.

Reporting an Incident of Harassment, Discrimination or Retaliation

The Company requires employees to immediately report all incidents of harassment, discrimination or retaliation, regardless of the offender's identity or position within the Company. Any person who believes they have experienced or witnessed harassment, discrimination, retaliation or other conduct that is contrary to this policy must report it to his/her Unit Director, Area Director, Regional Vice-President or the Director of Human Resources at 1-800-849-3360, Ext. 8634. Employees may also call the Human Resources Hotline at 1-800-849-3360, Ext. 8401 or the Employee Awareness Hotline at 1-800-514-4227 to make a report. No one is authorized to tell or even suggest to any employee that he/she not report a violation of this policy. Any employee who has any questions or concerns about this policy may contact the Human Resources Department.

Immediate reporting and intervention are the most effective method of resolving actual or perceived incidents of harassment, discrimination or retaliation. The Company will conduct a prompt investigation of all complaints of harassment, discrimination and retaliation. Every effort will be made to keep matters related to the investigation confidential to the extent reasonably possible. Appropriate corrective or disciplinary action will be taken against any employee who has violated this policy.

FRATERNIZATION

Working relationships must remain on a professional, business-like basis at all times to avoid the perception of sexual harassment, discrimination or the appearance of preferential treatment. Personal relationships between supervisors and subordinates are strongly discouraged particularly where a direct reporting relationship is present. At its discretion, the Company may prohibit such relationships and/or appropriate action will be taken in the event the relationship causes a business concern.

EMPLOYMENT INFORMATION (Cont'd.)

6. Employment Eligibility Verification (I-9 Form): You must present proof of identity and employment eligibility prior to your first day of work. The Company participates in the federal E-Verify program where required by state law.
7. Transfers and Rehires: All transfers from one restaurant to another restaurant must be approved by the Area Director.

No former management employee will be rehired without prior approval from the Regional Vice President and/or Vice President of Human Resources. No former crew member will be rehired without prior approval from the Area Director and Human Resources Department. Former employees who are eligible for rehire must successfully complete the online application and criminal background check before being considered for rehire. Former employees who were terminated for cause or who failed to give and work a two-week notice will not be eligible for rehire.
8. Seasonal Employees: A seasonal employee is one who is attending school in another city. The employee remains actively employed but on a "seasonal leave" while at school. The employee will be permitted to work while home during the summer months or during school breaks.

ON THE JOB

STAR SERVICE

Star Service is an important element of the Company's operating philosophy. The Company has clearly defined our service culture with five points of difference. *Speak to Me* establishes the all important first impression between Bojangles' and the customer. *Act Like You Care* is being nice and interacting positively with the customers. *Hurry* is providing quick, efficient service to each guest. *Get It Right* is providing the customer with a great experience through quality products, accuracy and speed of service. *Bring Me Back* makes customers visit us again and again. Finding ways to say *Yes* to our customers instead of no will make them lifelong fans. Make it your mission every day to give customers what they want and what they expect.

PERSONAL APPEARANCE

1. Grooming: Good grooming and a neat personal appearance are extremely important and reflect pride in your work in the restaurant. They also project a positive image to our customers. Therefore, you should always present a clean and professional appearance.

Hair should be clean, combed/brushed, and neat and under control at all times. Rubber bands, hair bands, bows, a hairnet, etc. may be necessary to properly secure the hair and all team members' hair must be covered by a hat. Managers must meet the same requirements when working in food preparation positions.

Men may have a mustache and/or goatee. However, both must be neat and trimmed regularly.

ON THE JOB (Cont'd.)

Excessive makeup or jewelry should not be worn. Watches, wedding rings, engagement rings or class rings are permitted, but not recommended. No bracelets are allowed other than medical ID's. Necklaces may be worn inside your uniform. Dime sized hoop earrings and/or small stud post earrings may be

worn and no more than two per ear at a time. Gauge earrings, nose, lip, eyebrow, tongue, etc. rings are not permitted.

Fingernails must be neatly trimmed and clean. Artificial nails (including acrylic or sculptured nails) and/ or nail polish may not be worn in food preparation areas.

Otherwise, nails may not be longer than ¼ inch beyond the fingertip and may not include jewels. Employees should use good judgment when selecting nail color.

Tattoos must be in good taste. The manager will determine if the tattoo should be covered because the design or slogan may be offensive to customers.

Note: State regulatory requirements take precedence over these policies.

2. Hygiene: Personal hygiene is extremely important in the food service industry. Harmful bacteria are easily transferred when good personal hygiene is not practiced. One sick or infected employee who does not follow good hygiene habits could be responsible for the outbreak of disease or food borne illness that could affect many customers and employees. Good personal hygiene starts at home before the work day begins. A personal hygiene regime should include:

- Bathing daily and using deodorant
- Brushed teeth
- Clean hands and nails
- Clean-shaven
- Clean pressed clothing

Washing your hands is mandatory before preparing and handling food, or after any of the following activities:

- Breaks and smoking
- Visiting the restroom
- Handling money
- Performing maintenance or cleaning duties

To avoid possible contamination of food products, you should also wash your hands if you cough or sneeze on them; put your hands in your pockets; or touch them to any part of your body, including your face or hair.

3. Official Bojangles' Uniform: As a new employee, you will receive a Bojangles' uniform consisting of a Bojangles' shirt, hat and name tag which must be worn at any time that

ON THE JOB (Cont'd.)

you are at work. You will be responsible for the rest of your work clothing, including the following:

Crew members:

- Black pants
- Solid dark belt (Pants must be belted at the waist when pants have belt loops. Pants must be worn properly, not low on the hips.)
- Bojangles' approved jackets and/or sweaters
- Proper undergarments
- Solid dark brown or black leather shoes with hard top, closed toes and non-skid soles. No sandals, flip-flops, mules or canvas shoes may be worn in the restaurant.

Management Uniform (including Shift Managers):

- Cotton twill pants (khaki, dark blue and black)
- Solid dark belt (Pants must be belted at the waist when pants have belt loops. Pants must be worn properly, not low on the hips.)
- Bojangles' approved jackets and/or sweaters
- Proper undergarments
- Solid dark brown or black leather shoes with hard top, closed toes and non-skid soles. No sandals, flip-flops, mules or canvas shoes may be worn in the restaurant.

The number of uniforms you receive will be determined by your work schedule. However, you will receive a minimum of two shirts. You are responsible for keeping your uniforms neat and clean. Lost or damaged uniforms must be replaced or repaired at your expense unless the uniform is damaged while you are on the job.

4. Employees are required to dress appropriately; wear the official uniform when at work or business attire when attending other Company functions. Please use good judgment in your choice of work clothes and conduct yourself professionally and in a way that best represents Bojangles'.

NOTICE OF STATUS CHANGE

Please keep Bojangles' informed of any change that may affect your benefits or payroll tax withholdings. It is very critical that we always have your correct address (for mailing your W-2) and phone number in case of emergency.

EMPLOYEE COMPLAINT PROCEDURES

In any organization of our size, where people work closely together as a team, misunderstandings may arise. You may have a problem or concern regarding your employment or an employment-related issue. In most cases, you should first discuss the problem with your manager. If that fails, go to the next level of supervision as indicated below:

EXHIBIT E



ANTI-HARASSMENT/DISCRIMINATION POLICY

Bojangles' does not tolerate any form of illegal workplace harassment and/or discrimination by any of its employees, customers or vendors. Any form of illegal harassment or discrimination that is related to an individual's race, color, religion, sex, gender, age, national origin, disability, genetic information, pregnancy, or any other characteristic protected by law is a violation of this policy for which appropriate disciplinary action will be taken.

For purposes of this policy, harassment includes any type of misconduct based on any protected characteristic that is unwelcome to any employee. No policy can identify the full range of behaviors that are unacceptable in the workplace or that constitute harassment. Prohibited acts can take a variety of forms. Harassment on the basis of any protected characteristic is strictly prohibited. Harassment can include verbal or physical conduct that demeans or shows hostility or dislike toward another employee because of his/her race, color, religion, sex, age, national origin, disability, genetic information, pregnancy or any other characteristic protected by law, or that of his/her relatives, friends or associates, and that:

- (i) has the purpose or effect of creating an intimidating, hostile or offensive work environment;
- (ii) has the purpose or effect of unreasonably interfering with an individual's work performance; or
- (iii) otherwise, adversely affects an individual's employment opportunities.

Harassing conduct includes, but is not limited to: epithets, slurs, negative stereotyping; threatening, intimidating or hostile acts; demeaning jokes; displaying written or graphic materials in the workplace that demeans or shows hostility toward an individual employee or group of employees.

Sexual harassment constitutes discrimination based on sex or gender and is illegal under federal, state and local laws. For the purposes of this policy, sexual harassment is defined to include unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual or gender-based nature when, for example:

- (i) submission to such conduct is made either explicitly or implicitly a term or condition of employment;
- (ii) submission to or rejection of such conduct is used as the basis for decisions affecting an individual's employment; or
- (iii) such conduct has the purpose or effect of creating an intimidating, hostile or offensive working environment.

Sexual harassment may include a range of behaviors and may involve individuals of the same or different gender. These behaviors may include, but are not limited to, unwanted physical conduct, including touching, pinching, brushing the body, blocking movement or any physical interference with normal movement. Verbal harassment includes offensive comments, jokes, innuendoes and sexually oriented statements and comments that ridicule, insult or otherwise demeans an employee's gender. Sexual harassment may also include non-verbal conduct such as displaying sexually suggestive objects, pictures, graffiti or making obscene gestures.

This policy applies to all applicants and employees, and prohibits harassment, discrimination and retaliation whether engaged in by an employee, by a manager or supervisor or by someone not directly connected to the Company (a vendor, consultant or customer). Conduct described in this policy is unacceptable in the workplace and in any work-related setting, such as business trips, meetings and business-related social events.

RETALIATION

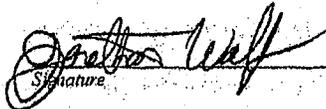
The Company prohibits retaliation against any individual who makes a good faith report of discrimination or harassment in the workplace. Likewise, the Company prohibits retaliation against any individual who assists or participates in the investigation of such reports. Retaliation is a serious violation of this policy, and anyone engaging in such conduct will be subject to disciplinary action, up to and including immediate termination of employment.

Reporting an Incident of Harassment, Discrimination or Retaliation

The Company requires employees to immediately report all incidents of harassment, discrimination or retaliation, regardless of the offender's identity or position within the Company. Any person who believes they have experienced or witnessed harassment, discrimination, retaliation or other conduct that is contrary to this policy must report it to his/her Unit Director, Area Director, Regional Vice-President or the Director of Human Resources at 1-800-849-3360, Ext. 8634. Employees may also call the Human Resources Hotline at 1-800-849-3360, Ext. 8401 or the Employee Awareness Hotline at 1-800-514-4227 to make a report. No one is authorized to tell or even suggest to any employee that he/she not report a violation of this policy. Any employee who has any questions or concerns about this policy may contact the Human Resources Department.

Immediate reporting and intervention are the most effective method of resolving actual or perceived incidents of harassment, discrimination or retaliation. The Company will conduct a prompt investigation of all complaints of harassment, discrimination and retaliation. Every effort will be made to keep matters related to the investigation confidential to the extent reasonably possible. Appropriate corrective or disciplinary action will be taken against any employee who has violated this policy.

By signing below, I acknowledge that I have read and understand the company's policy on harassment, discrimination and retaliation. I further acknowledge my understanding of the reporting requirements of this policy.


Signature

5/4/2012

Date


Social Security Number

BOJANGLES'-00000087

APPENDIX 8

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
NO. 5:16-cv-00654-BO

U.S. EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION,

Plaintiff,

v.

BOJANGLES' RESTAURANTS, INC.,

Defendant.

DEPOSITION
OF
SHIMIKA SINGLETON

Taken at:

United States Postal Service
907 Brighton Road
Fayetteville, North Carolina

On Tuesday, April 4, 2017

REPORTER: K. DENISE NEAL, RPR

1 never asked me any questions or anything else about
2 Jonathan.

3 Q. How did you come to get that picture?

4 A. I believe Jonathan had sent it to me.

5 Q. Did you find this picture offensive or off putting?

6 A. No. It was not an offensive picture. It was just
7 Jonathan being Jonathan posing for pictures, what he
8 loves to do.

9 Q. Did you give a copy of that picture to anybody at
10 Bojangles'?

11 A. No. I did not give a copy of that picture to anybody.

12 Q. Okay. But you were not offended by the picture?

13 A. No, not at all. If I was offended of the picture, I
14 wouldn't have showed it. It was not that type of
15 picture. It was just a normal Jonathan picture.

16 Q. Had Jonathan sent you pictures before?

17 A. Yes.

18 Q. What kind of pictures?

19 A. Just pictures of Jonathan. Hey, Boo. How you doing?
20 Here's a smile, anything of that sort because if I was
21 down and Jonathan got in contact with me, he knew how
22 to bring my spirits up, so --

23 Q. Did you -- go ahead.

24 A. -- that's just Jonathan.

25 Q. Did you enjoy receiving those pictures?

1 A. Yes. I loved receiving. I love talking to Jonathan,
2 period.

3 Q. When is the last time you spoke with Jonathan?

4 A. Oh, it's been a while. It's been about last year I
5 seen Jonathan in Wal-Mart.

6 Q. What did you guys talk about at Wal-Mart?

7 A. Nothing. Basically, he was working at the pretzel
8 store, asking him did he like his job, were they
9 hiring for my daughter, those sorts of things. He was
10 saying how my daughter was getting big and just
11 general conversation.

12 Q. So just to go back to the picture that Jonathan sent
13 you with the braids, you showed it to Shannon
14 McCullough?

15 A. Uh-huh.

16 Q. Did you show it to anybody else?

17 A. No.

18 Q. And why did you show it to Shannon?

19 A. Because she wanted to know -- she didn't know what was
20 in his head. The big thing was Jonathan's head. You
21 know, what are these braids in Jonathan's head? So I
22 was just showing her the picture so that she could see
23 this is what's in Jonathan's head. It's nothing more
24 -- it's nothing that he can't go out and take out in
25 five minutes.

APPENDIX 9

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
Civil Action No.: 5:16-cv-00654-BO**

**U.S. EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION,**

Plaintiff,

v.

BOJANGLES' RESTAURANTS, INC.,

Defendant.

**DEFENDANT'S RESPONSE TO
PLAINTIFF'S FIRST SET OF
REQUESTS FOR PRODUCTION**

Pursuant to Rules 26 and 33 of the Federal Rules of Civil Procedure, Defendant Bojangles' Restaurants, Inc. ("Bojangles'") responds to Plaintiff U.S. Equal Employment Opportunity Commission' ("EEOC") First Set of Requests for Production (the "Requests for Production") as follows:

GENERAL OBJECTIONS

Bojangles' objects to the Requests for Production to the extent the requests are overbroad, not proportional to the needs of the case, not relevant to the claims or defenses of any party, and not reasonably calculated to lead to the discovery of admissible evidence, and to the extent they seek information protected by the attorney-client privilege and the doctrine preventing disclosure of attorney work-product.

REQUESTS FOR PRODUCTION

1. All items identified in Defendant's Fed. R. Civ. P. 26(a)(1)(ii) disclosures.

RESPONSE: Bojangles' will produce the responsive documents in its possession, custody or control.

2. All written or recorded statements taken from any person identified in Defendant's Fed. R. Civ. P. 26(a)(1)(ii) disclosures.

RESPONSE: Bojangles' objects to this request because it seeks information on matters not relevant to any party's claim or defense. Bojangles' further objects to this request to the extent that it calls for the production of documents protected by the attorney-client privilege or the attorney-work product doctrine. Responsive materials are being withheld on the basis of this objection. Subject to and without waiving this objection, Bojangles' will produce the responsive, non-privileged documents in its possession, custody or control that relate to the claims or defenses in this case.

3. All documents that refer or relate to Defendant's investigation of EEOC Charge No. 433-2013-01334, filed by Jonathan Wolfe ("Wolfe"), and/or this lawsuit. This Request specifically includes, but is not limited to, all interview notes and written statements, whether sworn or unsworn.

RESPONSE: Bojangles' objects to this request because it seeks information on matters not relevant to any party's claim or defense. Bojangles' further objects to this request to the extent that it calls for the production of documents protected by the attorney-client privilege or the attorney-work product doctrine. Responsive materials are being withheld on the basis of this objection. Subject to and without waiving these objections, Bojangles' will produce the responsive, non-privileged documents in its possession, custody or control that relate to the claims or defenses in this case.

4. All documents, recording, evidencing, or reflecting interviews, statements, or transcripts of statements of all persons interviewed by or on behalf of Defendant in connection with EEOC Charge No. 433-2013-01334 and/or this lawsuit.

RESPONSE: Bojangles' objects to this request because it seeks information on matters not relevant to any party's claim or defense. Bojangles' further objects to this request to the extent that it calls for the production of documents protected by the attorney-client privilege or the attorney-work product doctrine. Responsive materials are being withheld on the basis of these objections. Subject to and without waiving this objection, Bojangles' will produce the responsive, non-privileged documents in its possession, custody or control that relate to the claims or defenses in this case.

5. All correspondence, documents, notes, and other evidence regarding any investigation into any complaint made by Wolfe regarding sex discrimination, sex harassment, inappropriate comments based on sex, and/or retaliation.

RESPONSE: Bojangles' objects to this request to the extent that it calls for the production of documents protected by the attorney-client privilege or the attorney-work product doctrine. Responsive materials are being withheld on the basis of this objection. Subject to and without waiving this objection, Bojangles' will produce the responsive, non-privileged documents in its possession, custody or control.

6. All documents and computerized records that refer or relate to Defendant's employment of Wolfe. This request includes, but is not limited to, all personnel documents and disciplinary actions or warnings, whether formal or informal, created or retained by any supervisor, manager, or owner, maintained inside or outside of Defendant's personnel, human resources, or labor relations department.

RESPONSE: Bojangles' objects to this request to the extent that it calls for the production of documents protected by the attorney-client privilege or the attorney-work product

doctrine. Responsive materials are being withheld on the basis of this objection. Subject to and without waiving this objection, Bojangles' will produce the responsive, non-privileged documents in its possession, custody or control.

7. All correspondence and electronic mail sent to or received by any of the following individuals that references or pertains to Wolfe: Kristen Bowden, Jeannine Eubanks, Janice Locklear, Sharon McCollough, Thomas McDowell, Ella Riggins, and/or Jermell Taylor.

RESPONSE: Bojangles' objects to this request to the extent that it calls for the production of documents protected by the attorney-client privilege or the attorney-work product doctrine. Responsive materials are being withheld on the basis of this objection. Subject to and without waiving this objection, Bojangles' will produce the responsive, non-privileged documents in its possession, custody or control.

8. All correspondence documents, notes and other evidence that reference or relate to Wolfe's reassignment from the Owen Drive location to the Raeford Road store location in or around February 2013.

RESPONSE: Bojangles' objects to this request to the extent that it calls for the production of documents protected by the attorney-client privilege or the attorney-work product doctrine. Responsive materials are being withheld on the basis of this objection. Subject to and without waiving this objection, Bojangles' will produce the responsive, non-privileged documents in its possession, custody or control.

9. All schedules and draft schedules for Defendant's Raeford Road location for the period from February 1, 2013 through March 31, 2013.

RESPONSE: Bojangles' objects to this request on the grounds that it seeks information on matters not relevant to any party's claim or defense. No responsive materials are being

withheld on the basis of this objection. Subject to and without waiving this objection, Bojangles' will produce the responsive documents in its possession, custody or control.

10. All correspondence, documents, notes, and other evidence that reference or relate to Defendant's termination of Wolfe's employment.

RESPONSE: Bojangles' objects to this request to the extent that it calls for the production of documents protected by the attorney-client privilege or the attorney-work product doctrine. Responsive materials are being withheld on the basis of this objection. Subject to and without waiving this objection, Bojangles' will produce the responsive, non-privileged documents in its possession, custody or control.

11. All service agreements, contracts, and terms of service governing Service Check, Inc.'s and/or Sertec Corporation's provisions of hotline services to Defendant during the period from May 9, 2012 through February 27, 2013. This request is limited to responsive materials covering the provision of services to the Owen Drive and Raeford Road locations.

RESPONSE: Bojangles' objects to this request on the grounds that it seeks information on matters not relevant to any party's claim or defense. No responsive materials are being withheld on the basis of this objection. Subject to and without waiving this objection, Bojangles' will produce the responsive documents in its possession, custody or control.

12. All correspondence, documents, notes and other evidence reflecting any communication between Defendant and Service Check, Inc. and/or Sertec Corporation that reference or relate to Wolfe.

RESPONSE: Bojangles' will produce the responsive documents in its possession, custody or control.

13. All policies and procedures that reference or relate to Title VII of the Civil Rights Act of 1964, as amended ("Title VII"), sex harassment, sex discrimination, and/or retaliation that

Defendant contends applied to Crew Members at the Owen Drive and Raeford Road locations during Wolfe's employment.

RESPONSE: Bojangles' will produce the responsive documents in its possession, custody or control.

14. All documents evidencing any training about Title VII, sex discrimination, sex harassment, and/or retaliation that was provided by or on behalf of Defendant to any employee, supervisor, or manager who worked at the Owen Drive or Raeford Road locations at any time during the period from January 2, 2012 through the present. This request includes, but is not limited to, agendas, training materials, and documents showing the attendees and dates of each training session.

RESPONSE: Bojangles' objects to this request because it seeks information on matters not relevant to any party's claim or defense. No responsive materials are being withheld on the basis of this objection. Subject to and without waiving this objection, Bojangles' will produce the responsive documents in its possession, custody or control.

15. All policies and procedures that reference or relate to grooming, appearance, and/or Defendant's dress code that Defendant contends applied to Crew Members at the Owen Drive and Raeford Road locations during Wolfe's employment.

RESPONSE: Bojangles' will produce the responsive documents in its possession, custody or control.

16. All personnel or employment policies, manuals, handbooks, or the like used or promulgated by Defendant at any time during the period from January 1, 2012 through February 27, 2013. This request is limited to any responsive material that was applicable to or disseminated to employees at Defendant's Owen Drive and/or Raeford Road locations.

RESPONSE: Bojangles' will produce the responsive documents in its possession, custody or control.

17. Complete pay records, including pay stubs and W2s for Wolfe.

RESPONSE: Bojangles' will produce the responsive documents in its possession, custody or control.

18. All documents reflecting the terms, benefits, and incidents of employment, including but not limited to insurance coverage, vacation, paid or unpaid personal time, bonuses, raise schedule, promotion opportunities, and the like, which applied to or were available to Crew Members at Defendant's Owen Drive and/or Raeford Road location at any time during the period from February 1, 2013 through the present.

RESPONSE: Bojangles' will produce the responsive documents in its possession, custody or control.

19. All correspondence, documents, notes and other evidence that Defendant contends support Defendant's Sixth Defense, as set forth in Defendant's Answer.

RESPONSE: Bojangles' will produce the responsive documents in its possession, custody or control.

20. All correspondence, documents, notes, and other evidence that Defendant contends supports Defendant's Ninth Defense, as set forth in Defendant's Answer.

RESPONSE: Bojangles' will produce the responsive documents in its possession, custody or control.

21. All correspondence, documents, notes, and other evidence that Defendant contends supports Defendant's Tenth Defense, as set forth in Defendant's Answer.

RESPONSE: There are no documents responsive to this request in Bojangles' possession, custody or control.

22. All correspondence, documents, notes, and other evidence that Defendant contends supports Defendant's statement at ¶ 46 of its Answer that "Wolfe became loud and disruptive and blocked Bojangles' customers from placing their orders, that as a result Bojangles' Unit Director instructed Wolfe to leave the restaurant immediately, and that Wolfe eventually left the restaurant."

RESPONSE: Bojangles' objects to this request to the extent that it calls for the production of documents protected by the attorney-client privilege or the attorney-work product doctrine. Responsive materials are being withheld on the basis of this objection. Subject to and without waiving this objection, Bojangles' will produce the responsive, non-privileged documents in its possession, custody or control.

23. All correspondence, documents, notes, and other evidence that Defendant contends supports Defendant's statement that "Bojangles" received employee complains that proof that Mr. [sic] Wolfe also sent inappropriate, provocative pictures of himself [sic] via text message to his [sic] Bojangles' co-workers while he [sic] was employed," as alleged in Defendant's June 28, 2013 position statement to the EEOC.

RESPONSE: Bojangles' will produce the responsive documents in its possession, custody or control.

24. All correspondence, documents, notes, and other evidence that Defendant contends supports Defendant's statement that "Mr. [sic] Wolfe frequently discussed matters of an inappropriate, highly sexual nature in the workplace," as alleged in Defendant's June 28, 2013 position statement to the EEOC.

RESPONSE: Bojangles' will produce the responsive documents in its possession, custody or control.

25. All correspondence, documents, notes, and other evidence that Defendant contends supports Defendant's statement that "Bojangles' management did counsel him [sic] on

several occasions to maintain professional working relationships at all time,” as alleged in Defendant’s June 28, 2013 position statement to the EEOC.

RESPONSE: Bojangles’ will produce the responsive documents in its possession, custody or control.

26. All correspondence, documents, notes, and other evidence that Defendant contends supports Defendant’s statement that “Ms. McCollough [sic] commenced an immediate investigation of Mr. [sic] Wolfe’s complaint that included interviews of Bojangles’ employees who were working at the restaurant during Mr. [sic] Wolfe’s visit on February 21,” as alleged in Defendant’s June 28, 2013 position statement to the EEOC.

RESPONSE: Bojangles’ will produce the responsive documents in its possession, custody or control.

27. All correspondence, documents, notes, and other evidence regarding each piece of alleged evidence identified in Defendant’s answer to Interrogatory 20.

RESPONSE: Bojangles’ objects to this request to the extent that it calls for the production of documents protected by the attorney-client privilege or the attorney-work product doctrine. Responsive materials are being withheld on the basis of this objection. Subject to and without waiving this objection, Bojangles’ will produce the responsive, non-privileged documents in its possession, custody or control.

28. Each policy identified in Defendant’s answer to Interrogatory 20(e), as it was in effect at the time each alleged piece of evidence was obtained by Defendant.

RESPONSE: Bojangles’ will produce the responsive documents in its possession, custody or control.

29. All documents received by Defendant from any third party pursuant to any and all subpoenas issued by or on behalf of Defendant as part of this lawsuit.

RESPONSE: There are no documents responsive to this request.

30. All documents received by Defendant from any third party pursuant to any and all informal requests for documents or information made by or on behalf of Defendant as part of this lawsuit.

RESPONSE: There are no documents responsive to this request.

31. For any person Defendant plans to have testify as an expert witness at trial in this action:

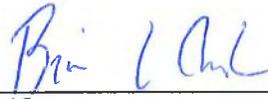
- a. the resume or curriculum vitae of such witness;
- b. a list of all lawsuits, trials, or other legal actions in which such witness has been hired to consult or testify, and an identification of the party for whom each such services were provided;
- c. all notes, correspondence, and other documents concerning any communications between Defendant or counsel for Defendant and such expert witness that:
 - 1) relate to compensation for the expert's study or testimony;
 - 2) identify facts or data that the expert considered in forming the opinions expressed in the expert's written report; and
 - 3) identify assumptions provided by counsel for Defendant that the expert relied upon in forming the opinions expressed in the expert's written report; and
- d. all documents upon which such expert witness' opinion is based.

RESPONSE: There are no documents responsive to this request.

32. All documents reviewed, identified, copies, used, referred to, or relied upon in answering "Plaintiff EEOC's First Set of Interrogatories to Defendant." This request specifically excludes documents already produced in response to Requests 1-32.

RESPONSE: Bojangles' objects to this request to the extent that it calls for the production of documents protected by the attorney-client privilege or the attorney-work product doctrine. Responsive materials are being withheld on the basis of this objection. There are no responsive, non-privileged documents in Bojangles' possession, custody or control not already produced in response to Requests 1-32.

This 19th day of December, 2016.



Charles E. Johnson
N.C. Bar No. 9890
cejohnson@robinsonbradshaw.com
Brian L. Church
N.C. Bar No. 39581
bchurch@robinsonbradshaw.com

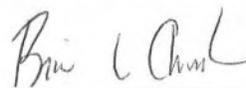
ROBINSON, BRADSHAW & HINSON, P.A.
101 North Bryon Street, Suite 1900
Charlotte, NC 28246
Telephone: 704.377.2536
Facsimile: 704.378.4000

CERTIFICATE OF SERVICE

I hereby certify that the foregoing **DEFENDANT'S RESPONSE TO PLAINTIFF'S FIRST SET OF REQUESTS FOR PRODUCTION** on counsel of record by e-mail, pursuant to the agreement of the parties, addressed as follows:

Rachael S. Steenbergh
U.S. Equal Employment Opportunity Commission
129 West Trade Street, Suite 400
Charlotte, NC 28202
rachael.steenbergh@eeoc.gov

This 19th day of December, 2016.



Brian L. Church

9289849v2

APPENDIX 10



February 20, 2017

bchurch@robinsonbradshaw.com
704.377.8166 : Direct Phone
704.339.3466 : Direct Fax

VIA EMAIL

Ms. Rachael S. Steenbergh
U.S. Equal Employment Opportunity Commission
Charlotte District Office
129 W. Trade Street, Suite 400
Charlotte, NC 28202

Re: *U.S. Equal Employment Opportunity Commission v. Bojangles' Restaurants, Inc.*
Civil Action No.: 5:16-CV-00654-BO

Dear Rachael:

On behalf of Bojangles's Restaurants, Inc., I write to follow up on our prior communications regarding Bojangles' document production and its written responses. Attached with this letter is a copy of what I understand to be the applicable insurance policy, bates stamped BOJANGLES'-00000223 – BOJANGLES'-00000295.

With regard to Bojangles' previous written responses, I have reviewed Bojangles' document production in connection with the EEOC's request that Bojangles' label the documents to correspond to the EEOC's written requests. Though a number of the EEOC's requests are overlapping, duplicative, or susceptible of differing interpretations, below is our best effort at labelling:

Request for Production	Responsive Documents
1	Documents more specifically identified per requests below
2	BOJANGLES-00000001-2, 212-214
3	BOJANGLES-00000012-53, 68-87
4	BOJANGLES-00000001-2, 212-216
5	BOJANGLES-00000012-53, 68-87, 212-216
6	BOJANGLES-00000007-11, 54-60, 88, 130-154
7	BOJANGLES-00000003-5, 219-220
8	BOJANGLES-00000219-220
9	BOJANGLES-00000108-125
10	BOJANGLES-0000088, 130-154
11	BOJANGLES-00000126-129
12	BOJANGLES-00000003-5, 217-218
13	BOJANGLES-00000174-211

14	BOJANGLES-00000089-103
15	BOJANGLES-00000174-211
16	BOJANGLES-00000174-211
17	BOJANGLES-00000155-62, 164-173
18	BOJANGLES-00000104-07, 174-211
19	BOJANGLES-00000001-2, 212-216
20	BOJANGLES-00000001-2, 212-220
21	None
22	BOJANGLES-00000212-220
23	BOJANGLES-00000077
24	BOJANGLES-00000212-20
25	BOJANGLES-00000212-220
26	BOJANGLES-00000001-2, 212-220
27	BOJANGLES-00000088
28	BOJANGLES-00000174-211
29	None
30	None
31	None
32	None

With respect to Bojangles' interrogatory responses that reference the inspection of Bojangles' business records, answers to interrogatories can be determined by consulting the documents identified below:

Interrogatory	Business Record
4	BOJANGLES-00000049-50, 53, 61-63
5	BOJANGLES-00000221-222
6	BOJANGLES-00000047-50, 53, 61-63, 163
13	BOJANGLES-00000104-07, 174-211

Please feel free to contact me if you have any questions regarding the content of this letter.

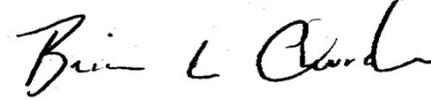
Ms. Rachael S. Steenbergh

February 20, 2017

Page 3

Sincerely,

ROBINSON, BRADSHAW & HINSON, P.A.

A handwritten signature in black ink, appearing to read "Brian L. Church". The signature is written in a cursive style with a large initial "B" and a long horizontal stroke.

Brian L. Church

BLC/dkh

Enclosure

cc: Charles E. Johnson (*via e-mail*)

APPENDIX 11



U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Raleigh Area Office

434 Fayetteville Street, Suite 700
Raleigh, NC 27601-1701
(919) 856-4064
TTY (919) 856-4296
FAX (919) 856-4151

Charge Number: 433-2013-01334

Jonathan Wolfe
[REDACTED]

Charging Party

Bojangles Restaurants, Inc.
c/o Angelique Vincent-Hamacher
Robinson Bradshaw & Hinson, P.A.
101 North Tryon Street, Suite 1900
Charlotte, NC 28246

Respondent

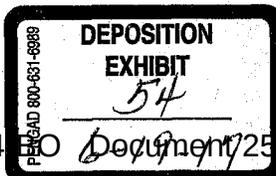
DETERMINATION

Under the authority vested in me by the Commission's Procedural Regulations, I issue the following determination on the merits of this charge.

Respondent is an employer within the meaning of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, et seq., and timeliness, and all other requirements for coverage have been met.

Charging Party is transgender: her gender identity (female) is different from the sex assigned to her at birth (male). Charging Party alleges that she was subjected to a hostile work environment because of her sex in violation of Title VII. Charging Party also alleges that she was involuntarily transferred to another store and discharged in retaliation for complaining about the harassment. Respondent denies Charging Party's allegations.

An examination of the evidence obtained during the investigation shows that Charging Party was subjected to repeated comments about her appearance all of which concerned the fact that Charging Party did not conform to stereotypes about how a male should dress or act. Charging Party's supervisor was aware of and took part in the harassment. The evidence further shows that Charging Party complained repeatedly to Respondent's Employee Awareness Hotline and Respondent's Area Director about the harassment. Each time, Respondent failed to take



corrective action or to prevent further harassment. As a result of Charging Party's complaints, Respondent transferred her to another store and ultimately terminated Charging Party. Accordingly, there is reasonable cause to determine that Charging Party was subjected to a hostile work environment because of her sex and retaliated against for complaining about the harassment in violation of Title VII.

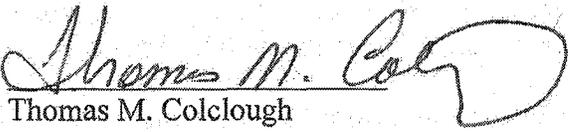
Upon finding that there is reason to believe that a violation has occurred, the Commission attempts to eliminate the alleged unlawful practices by informal methods of conciliation. Therefore, the Commission now invites the parties to join with it in reaching a just resolution of the matter.

If the Respondent declines to discuss settlement or when, for any reason, a settlement acceptable to the Office Director is not obtained, the Director will inform the parties and advise them of the court enforcement alternatives available to aggrieved persons and the Commission. A Commission representative will contact each party in the near future to begin conciliation.

You are reminded that Federal Law prohibits retaliation against persons who have exercised their right to inquire or complain about matters they believe may violate the law. Discrimination against persons who have cooperated in Commission investigations is also prohibited. These protections apply regardless of the Commission's determination on the merits of the charge.

On Behalf of the Commission:

7-1-15
Date


Thomas M. Colclough
Deputy Director
Charlotte District Office

APPENDIX 12



U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Raleigh Area Office

434 Fayetteville Street, Suite 700
Raleigh, NC 27601-1701
Intake Information Group: (800) 669-4000
Intake Information Group TTY: (800) 669-6820
Raleigh Status Line: (866) 408-8075
Direct Dial: (919) 856-4075
TTY (919) 856-4296
FAX (919) 856-4151
Website: www.eeoc.gov

Jonathan Wolfe
[REDACTED]

Charging Party

Bojangles Restaurants, Inc.
c/o Angelique Vincent-Hamacher
Robinson Bradshaw & Hinson, P.A.
101 North Tryon Street, Suite 1900
Charlotte, NC 28246

Respondent

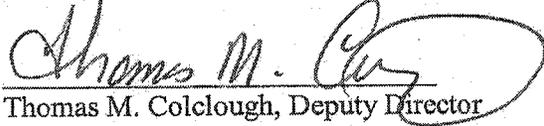
Re: Wolfe vs. Bojangles Restaurants Inc.
Charge Number: 433-2013-01334

NOTICE OF CONCILIATION FAILURE

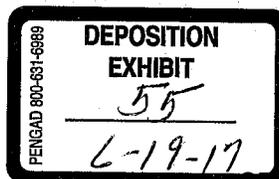
This letter is the notice required by the Commission's Regulations, 29, C.F.R. Section 1601.25, which provides that the Commission shall notify a respondent in writing when it determines that further conciliation efforts would be futile or non-productive.

The Commission has determined that efforts to conciliate this case as required by Title VII of the Civil Rights Act of 1964, as amended have failed. Therefore, no further efforts to conciliate this case will be made. Accordingly, we are at this time forwarding the case to the legal department for litigation consideration.

On Behalf of the Commission:


Thomas M. Colclough, Deputy Director
Charlotte District Office

12-4-15
Date



EEOC v. Bojangles_PLT_000009

APPENDIX 13

RACHAEL STEENBERGH

From: Church, Brian <BChurch@robinsonbradshaw.com>
Sent: Friday, July 14, 2017 9:36 AM
To: RACHAEL STEENBERGH
Cc: YLDA KOPKA; Johnson, Charles
Subject: RE: EEOC v. Bojangles' Restaurants, Inc., CA 5:16-cv-00654: Def's Conciliation Defense

Rachael – Responding to your email below, Bojangles' has not and does not challenge the fact or sufficiency of conciliation in the Wolfe litigation.

Brian

Brian L. Church

Robinson, Bradshaw & Hinson, P.A.

t : 704.377.8166 | f : 704.339.3466
101 N. Tryon St., Suite 1900
Charlotte, NC 28246

bchurch@robinsonbradshaw.com
robinsonbradshaw.com

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From: RACHAEL STEENBERGH [mailto:RACHAEL.STEENBERGH@EEOC.GOV]
Sent: Tuesday, July 11, 2017 7:59 PM
To: Church, Brian
Cc: YLDA KOPKA
Subject: EEOC v. Bojangles' Restaurants, Inc., CA 5:16-cv-00654: Def's Conciliation Defense

Greetings Brian:

This email is to inquire as to whether Bojangles' continues to assert any of its defenses relating to EEOC's conciliation condition precedent. As you know, in *EEOC v. Mach Mining*, the Supreme Court held that if an employer challenges whether EEOC satisfied its conciliation obligation courts should conduct only a "barebones review" of EEOC's conciliation to determine if the condition precedent has been satisfied. *EEOC v. Mach Mining*, 135 S.Ct. 1645 (2015). Moreover, the Court held that if a court determines that EEOC did not satisfy the conciliation obligation the remedy is a stay for further conciliation, not dismissal. *Id.*

Please let me know by close of business Thursday, July 13 whether Defendant continues to challenge EEOC's satisfaction of the conciliation condition precedent.

Regards,

Rachael S. Steenbergh

Trial Attorney

**U.S. EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION**

APPENDIX 14

NICOLE BRYANT - Bojangles', C.A. No. 5:16-cv-00654-BO: EEOC's initial discovery to Defendant

From: RACHAEL STEENBERGH
To: bchurch@robinsonbradshaw.com; cejohnson@robinsonbradshaw.com
Date: 10/25/2016 5:00 PM
Subject: Bojangles', C.A. No. 5:16-cv-00654-BO: EEOC's initial discovery to Defendant
CC: BRYANT, NICOLE; KOPKA, YLDA; MEGGISON, ZHANNA
Attachments: 2016.10.25 EEOCs 1st Rogs to DEF Bojangles.pdf; 2016.10.25 EEOCs 1st RFPDs to DEF Bojangles.pdf

Greetings Charles and Brian:

Attached for service pursuant to the parties' agreement under FRCP 5(b)(2)(E) please find EEOC's First Set of Interrogatories and First Set of Requests for Production to Defendant Bojangles' Restaurants, Inc.

As discussed during the FRCP 26(f) conference on October 5, I anticipate taking the following depositions:

30(b)(6)	Half-day deposition
Kristen Bowden	Full-day deposition
Jeannine Eubanks	Half-day deposition
Janice Locklear	Half-day deposition
Sharon McCollough	Full-day deposition
Ella Riggins	Full-day deposition

I would like to explore arranging mutually-agreeable deposition dates and times, specifically during the week of December 5. Please let me know your thoughts.

Regards,

Rachael S. Steenbergh
 EEOC Trial Attorney
[\(704\) 954-6472](tel:7049546472) - Direct Dial
[\(980\) 621-8924](tel:9806218924) - Cellular
[\(704\) 954-6412](tel:7049546412) - Fax

Charlotte District Office
129 West Trade Street, Suite 400
Charlotte, North Carolina 28202
Direct Dial: (704) 954-6472
Cell Phone: (980) 621-8924
Facsimile: (704) 954-6412

APPENDIX 15

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
Civil Action No.: 5:16-cv-00654-BO**

**U.S. EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION,**

Plaintiff,

v.

BOJANGLES' RESTAURANTS, INC.,

Defendant.

**DEFENDANT'S RESPONSE TO
PLAINTIFF'S FIRST SET OF
INTERROGATORIES**

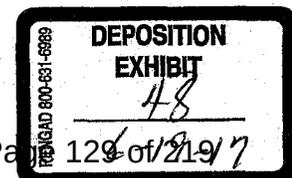
Pursuant to Rules 26 and 33 of the Federal Rules of Civil Procedure, Defendant Bojangles' Restaurants, Inc. ("Bojangles"), responds to Plaintiff U.S. Equal Employment Opportunity Commission's ("EEOC") First Set of Interrogatories (the "Interrogatories") as follows:

GENERAL OBJECTIONS

Bojangles' objects to the Interrogatories to the extent the Interrogatories are overbroad, not proportional to the needs of the case, not relevant to the claims or defenses of any party, not reasonably calculated to lead to the discovery of admissible evidence, and seek information protected by the attorney-client privilege and the doctrine preventing disclosure of attorney work-product.

INTERROGATORIES

1. Identify each and every person who you may use or expect to call as an expert witness during the trial of this action. For each such person:



a. Identify the field in which you expect to qualify the person to testify as an expert witness;

b. Identify the subject matter on which you expect the expert witness to testify or present evidence under Federal Rule of Evidence 702, 703, or 705;

c. Identify the substance of all facts and opinions to which you expect the expert witness to testify; and

d. Provide a summary of the grounds for each opinion to which the expert witness is expected to testify.

RESPONSE: Bojangles' objects to this interrogatory on the grounds that it seeks information that may be protected by the attorney work product doctrine. Subject to and without waiving this objection, Bojangles' responds that it has not yet retained any person that it may use or call at trial of this matter as an expert witness.

2. Identify all persons Defendant interviewed in connection with EEOC Charge No. 433-2013-01334, Jonathan Wolfe's ("Wolfe") discrimination and retaliation allegations, and/or this lawsuit. In your answer state the full name of each person interviewed, the date that each person was interviewed, who conducted each interview, and describe in detail the substance of the information obtained from each person identified.

RESPONSE: Bojangles' objects to this interrogatory on the grounds that it seeks information that is protected by the attorney-client privilege and the attorney work product doctrine. Subject to and without waiving this objection, Bojangles' responds as follows:

Bojangles' interviewed the following persons in connection with its investigation of Wolfe's reports and her EEOC Charge:

a. Jeannine Eubanks. Eubanks provided information at various times while Wolfe's EEOC Charge was pending concerning Wolfe's complaints regarding events on February 21, 2013 and February 27, 2013. Eubanks spoke with Bojangles' attorneys.

- b. Sharon Irwin. Irwin provided information at various times after Wolfe's February 21, 2013 report and while Wolfe's EEOC Charge was pending. She provided information concerning Wolfe's employment with Bojangles' and the events of February 21, 2013 and February 27, 2013. Irwin spoke with Eubanks and Bojangles' attorneys.
- c. Ella Riggins. Riggins provided information at various times immediately after Wolfe's February 21, 2013 report and while Wolfe's EEOC Charge was pending. She provided information concerning Wolfe's employment with Bojangles' and the events of February 21, 2013 and February 27, 2013. She provided a written statement on or about February 27, 2013. Riggins spoke with Irwin, Eubanks and Bojangles' attorneys.
- d. Christy McDonald. McDonald provided a written statement on or about February 27, 2013 concerning Wolfe's visit to Bojangles' Owen Drive location on February 27, 2013. McDonald spoke with Irwin about her statement.
- e. Janice Locklear. Locklear provided information concerning Wolfe's visit to Bojangles' Owen Drive location on February 21, 2013 in connection with Bojangles' investigation of Wolfe's EEOC charge. Locklear spoke with Irwin.

Eubanks, Irwin, Riggins and Locklear are currently employed by Bojangles' and may be contacted through undersigned counsel. McDonald's last known address is 420 Valor Way, Apartment F, Fayetteville, North Carolina 28301.

3. Identify all persons whom you have reason to believe have, or might have, information about the claims of discrimination raised in this lawsuit and describe in detail the substance of the information you believe that person has or might have. As used herein, the term "information" is not limited to direct knowledge, but includes any information however, acquired, including hearsay.

RESPONSE: Bojangles' objects to this interrogatory as overbroad because it seeks information that is not relevant to any party's claims or defenses by requesting identification of persons that Bojangles' has "reason to believe have, or might have, information" about the lawsuit. Subject to and without waiving this objection, Bojangles' incorporates by reference its response to Interrogatory 2 above, and item I of Bojangles' Initial Disclosures.

4. Identify all employees who worked at Defendant's Owen Drive and/or Raeford Road locations at any time during the period from May 1, 2012 through the present. In addition to the information at Instruction 11, for each responsive individual provide the following: (a) position/title; (b) date of hire; (c) date of termination of employment, if applicable; (d) reason for termination of employment, if applicable; and (e) which store(s) the individual worked at.

RESPONSE: Bojangles' objects to this interrogatory because it seeks information that is not relevant to any party's claims or defenses. Subject to and without waiving this objection, pursuant to Federal Rule of Civil Procedure 33(d), Bojangles' will produce records from which the answer to this interrogatory can be derived and the burden of doing so will be substantially the same for either party.

5. Identify every employee who worked at Defendant's Owen Drive location at any time on February 21, 2013. In addition to the information at Instruction 11, for each responsive individual provide the following: (a) position/title/ on February 21, 2013; and (b) hours worked on February 21, 2013 (e.g., 8:00 a.m. to 3:00 p.m.).

RESPONSE: Bojangles' objects to this interrogatory because it seeks information that is not relevant to any party's claims or defenses. Subject to and without waiving this objection, pursuant to Federal Rule of Civil Procedure 33(d), Bojangles' will produce records from which the answer to this interrogatory can be derived and the burden of doing so will be substantially the same for either party.

6. Identify every employee who worked at Defendant's Owen Drive location at any time on February 27, 2013. In addition to the information at Instruction 11, for each responsive individual provide the following: (a) position/title/ on February 27, 2013; and (b) hours worked on February 21, 2013 (e.g., 8:00 a.m. to 3:00 p.m.).

RESPONSE: Bojangles' objects to this interrogatory because it seeks information that is not relevant to any party's claims or defenses. Subject to and without waiving this objection, pursuant to Federal Rule of Civil Procedure 33(d), Bojangles' will produce records from which the answer to this interrogatory can be derived and the burden of doing so will be substantially the same for either party.

7. Identify the author of the handwritten note dated February 21, 2013, which was provided to the Commission by Defendant during the course of the administrative investigation of EEOC Charge No. 433-2013-01334, and is attached hereto as Exhibit A.

RESPONSE: Jeannine Eubanks.

8. Identify each employee who reviewed any correspondence sent to the Commission during the administrative investigation of EEOC Charge No. 433-2013-01334, specifically, including but not limited to, Defendant's (a) June 28, 2013 position statement; (b) December 12, 2014 letter; and (c) August 11, 2015 letter. For each employee, state the date and format (e.g., email, letter, etc.) of the correspondence reviewed.

RESPONSE: Bojangles' objects to this interrogatory because it seeks information that is not relevant to any party's claims or defenses. Bojangles' further objects to this interrogatory on the ground that the burden or expense of the proposed discovery outweighs its likely benefit, considering the needs of the case, the amount in controversy and the importance of discovery in resolving the issues. Bojangles' further objects to this interrogatory on the grounds that it seeks information that is protected by the attorney-client privilege and the attorney work product doctrine. Subject to and without waiving these objections, Bojangles' employee Jeannine

Eubanks and Bojangles' in-house counsel had primary responsibility for reviewing correspondence relating to the investigation of Wolfe's EEOC charge. Their communications regarding communications with the EEOC were with Bojangles' in-house or outside counsel and, accordingly, are protected from disclosure by the attorney-client privilege.

9. Identify all persons who participated in any way in the decision to transfer Wolfe to Defendant's Raeford Road location in or around February 2013, identify the date and substance of each individual's participation.

RESPONSE: Wolfe and Sharon Irwin jointly agreed, on or about February 21, 2013, that Wolfe would be assigned to Bojangles' Raeford Road location.

10. Identify all persons who participated in any way in the decision to terminate Wolfe, identifying the date and substance of each individual's participation.

RESPONSE: Sharon Irwin decided, on or about February 27, 2013, to terminate Wolfe's employment on that date following her investigation of the February 27, 2013 incident reported by Riggins to Irwin and by Wolfe to ServiceCheck and her telephone conversation with Wolfe.

11. Identify all persons who participated in any way in any investigation into any complaint made by Wolfe regarding sex discrimination, sex harassment, inappropriate comments based on sex, and/or retaliation, identifying the date and substance of each individual's participation.

RESPONSE: Bojangles' objects to this interrogatory on the grounds that it seeks information that is protected by the attorney-client privilege and the attorney work product doctrine. Subject to and without waiving these objections, Bojangles' responds as follows:

The reports and investigations described in Bojangles' response to Interrogatory 2 above, and Bojangles' response to item I of Bojangles' Initial Disclosures, each of which are hereby

incorporated by reference, identify the persons who participated in Bojangles' investigation into reports made by Wolfe regarding incidents on February 21, 2013 and February 27, 2013. Jeannine Eubanks, Sharon Irwin and Ella Riggins each participated in the investigation of Wolfe's complaints regarding incidents on February 21, 2013 and February 27, 2013. Bojangles' is aware of Wolfe having reported inappropriate comments on only one occasion, in or about January 2013, when Wolfe reported to Sharon Irwin that Wolfe had become uncomfortable during a conversation that Wolfe initiated with two male co-workers regarding Wolfe's sexual preferences. Irwin immediately spoke with and verbally counseled all three employees who were involved in the conversation and received no further reports from Wolfe about similar conduct.

12. For each fiscal year from 2012 to the present, state the net worth of Defendant and provide the exact date of Defendant's fiscal year end.

RESPONSE: Bojangles' objects to this interrogatory because it seeks information that is not relevant to any party's claims or defenses. Subject to and without waiving this objection, Bojangles' responds as follows:

Bojangles' Restaurants, Inc. is a wholly owned operating subsidiary of Bojangles', Inc., which is a publicly traded company and whose annual accounting reports are publicly available on the Securities and Exchange Commission's ("SEC") website at www.sec.gov under the ticker "BOJA". Information on Bojangles', Inc.'s financial performance, which is provided on a consolidated basis, can specifically be found on Bojangles', Inc.'s 10-Q and 10-K reports on the SEC's website mentioned above. Because Bojangles' financials are presented on a consolidated basis as part of Bojangles', Inc.'s financials, Bojangles' does not have its own financials.

13. For the period from February 27, 2013 to the present, describe in detail all bonuses, raises, and benefits available to persons employed with Defendant as a Crew Member at the Owen Drive and Raeford Road locations, including but not limited to any pre-requisites for eligibility and amount of increases.

RESPONSE: Bojangles' objects to this interrogatory because it seeks information that is not relevant to any party's claims or defenses. Subject to and without waiving this objection, pursuant to Federal Rule of Civil Procedure 33(d), Bojangles' will produce records from which the answer to this interrogatory can be derived and the burden of doing so will be substantially the same for either party.

14. State the total number of persons employed by Defendant for each calendar week from January 1, 2011 through December 31, 2013. The scope of this request includes all persons employed on a full-time, part-time, or contract basis.

RESPONSE: Bojangles' objects to this interrogatory because it seeks information that is not relevant to any party's claims or defenses. Bojangles' further objects to this interrogatory on the ground that the burden or expense of the proposed discovery outweighs its likely benefit, considering the needs of the case, the amount in controversy and the importance of discovery in resolving the issues. Subject to and without waiving these objections, Bojangles' responds as follows:

Bojangles' had 15 or more employees during at least twenty calendar weeks of the years 2011, 2012 and 2013.

15. If you are alleging any procedural or jurisdictional defects related to the Commission's bringing of this lawsuit, please identify the defect and the factual basis for your allegations.

RESPONSE: Bojangles' alleges that the lawsuit is defective to the extent that it seeks to assert claims under Title VII based upon alleged acts of discrimination or harassment occurring more than 180 days prior to the filing of a relevant, valid and timely charge of discrimination

with the EEOC. Discovery is ongoing, and Bojangles' has not determined the specific acts of discrimination or harassment occurring more than 180 days prior to the filing of Wolfe's charge of discrimination upon which the EEOC's lawsuit is based. Bojangles' reserves the right to supplement this response as it learns of such acts.

16. Identify all facts that support Defendant's contention at ¶ 46 of its Answer that "Wolfe became loud and disruptive and blocked Bojangles' customers from placing their order, that as a result Bojangles' Unit Director instructed Wolfe to leave the restaurant immediately, and that Wolfe eventually left the restaurant."

RESPONSE: Wolfe does not dispute that, on February 27, 2013, she entered Bojangles' Owen Drive location. Bojangles' Area Director Sharon Irwin had previously instructed Wolfe not to return to the store. Contravening Irwin's instructions, Wolfe returned to the store around the lunch hour. At the time, crew member Christy McDonald and Unit Director Ella Riggins were attending the front counter. Wolfe began a conversation with McDonald, in a loud voice intended to capture Riggins' attention that apparently related back to Wolfe's earlier conversation with Riggins on February 21, 2013. After some time, Riggins engaged in conversation directly with Wolfe, who continued to speak disrespectfully to Riggins and to stand at the front counter and impede other customers from picking up their food (which in turn impeded those behind them from placing orders). Eventually Riggins instructed Wolfe to leave the store. After Riggins had to repeat the instruction more than once, Wolfe eventually left the Owen Drive location.

17. Identify all facts that support Defendant's Sixth Defense, as set forth in Defendant's Answer.

RESPONSE: To the extent that Wolfe contends that she was subjected to any inappropriate sexual conduct, she invited and participated in the conduct. For example, during the only incident about which Wolfe complained while employed by Bojangles', Wolfe admitted to Sharon Irwin that she began and willingly participated in a conversation with two male colleagues about her sexual preferences.

18. Identify all facts that support Defendant's Ninth Defense, as set forth in Defendant's Answer.

RESPONSE: Bojangles' elected to terminate Wolfe's employments based upon Wolfe's repeatedly insubordinate and disrespectful conduct. In addition to violating Irwin's instructions not to return to the Owen Drive location and behaving unprofessionally at the Owen Drive location on February 27, 2013, Wolfe was insubordinate and disrespectful while speaking with Irwin during her investigation of the February 27, 2013 incident. Accordingly, Wolfe's termination and alleged damage was caused by her own volitional acts. Bojangles' reserves the right to supplement this response when and if additional relevant facts are discovered.

19. Identify all facts that support Defendant's Tenth Defense, as set forth in Defendant's Answer.

RESPONSE: Bojangles' alleges that the lawsuit is defective to the extent that it seeks to assert claims under Title VII based upon alleged acts of discrimination or harassment occurring more than 180 days prior to the filing of a relevant, valid and timely charge of discrimination with the EEOC. Discovery is ongoing, and Bojangles' has not yet determined the specific acts of discrimination or harassment occurring more than 180 days prior to the filing of Wolfe's charge

of discrimination upon which the EEOC's lawsuit is based. Bojangles' reserves the right to supplement this response when and if such acts are discovered.

20. Identify every individual from whom Defendant allegedly obtained evidence that Wolfe engaged in behavior that violated any of Defendant's policies at any time during Wolfe's employment. In addition to the information at Instruction 11, provide the following for each responsive individual: (a) position/title at the time the evidence was obtained; (b) a separate specific and detailed description of each piece of evidence allegedly obtained from the individual; (c) a separate specific and detailed statement describing how each piece of alleged evidence was obtained, including identification of the individual who obtained the evidence; (d) the date each piece of alleged evidence was obtained from the individual; and (e) the specific policy or policies each piece of alleged evidence violated.

RESPONSE: Bojangles' objects to this interrogatory because it seeks information that is not relevant to any party's claims or defenses. Bojangles' further objects to this interrogatory on the ground that the burden or expense of the proposed discovery outweighs its likely benefit, considering the needs of the case, the amount in controversy and the importance of discovery in resolving the issues. Subject to and without waiving these objections, Bojangles' responds as follows:

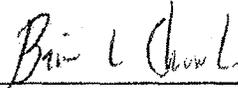
See the response to Interrogatory 16 above.

Wolfe provided information indicating that she had violated Bojangles' Anti-Harassment/Discrimination Policy in January 2013, when she complained about a conversation of a sexual nature that she had initiated with two male colleagues. Wolfe communicated the information directly to Bojangles' Area Director Sharon Irwin.

Area Director Sharon Irwin also received information from Shift Manager Shimika Singleton regarding Wolfe's transmission of a provocative photograph of herself to Singleton in or around February 2013, in violation of Bojangles' Anti-Harassment/Discrimination Policy.

Bojangles' reserves the right to supplement this response when and if additional relevant facts are disclosed.

This 19th day of December, 2016.



Charles E. Johnson
N.C. Bar No. 9890
cejohnson@robinsonbradshaw.com
Brian L. Church
N.C. Bar No. 39581
bchurch@robinsonbradshaw.com

ROBINSON, BRADSHAW & HINSON, P.A.
101 North Bryon Street, Suite 1900
Charlotte, NC 28246
Telephone: 704.377.2536
Facsimile: 704.378.4000

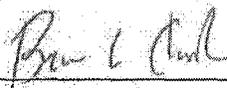
*Attorneys for Defendant Bojangles' Restaurants,
Inc.*

CERTIFICATE OF SERVICE

I hereby certify that the foregoing **DEFENDANT'S RESPONSE TO PLAINTIFF'S FIRST SET OF INTERROGATORIES** on counsel of record by e-mail, pursuant to the agreement of the parties, addressed as follows:

Rachael S. Steenbergh
U.S. Equal Employment Opportunity Commission
129 West Trade Street, Suite 400
Charlotte, NC 28202
rachael.steenbergh@eeoc.gov

This 19th day of December, 2016.



Brian L. Church

9289824v2

APPENDIX 16

2/27/13

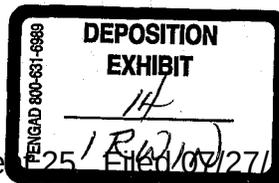
Johnathon and Christy were talking about him going to another store. He was telling me what the store manager said to him. Which she asked him to cut his hair.

~~She asked him to cut his hair. Mrs. Ella overheard him~~
~~and I both agreed that it's~~
Johnathon and I both agreed that it's how you talk to people with respect.

Mrs. Ella overheard us talking and told him that he can take that talk with him outside.

~~So he was asked to leave the store.~~
So he was asked to leave the store.

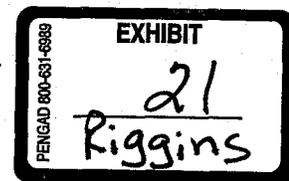
Christy McFarland
2/27/13



Johnathan was at the end of the counter talking to a employee as she was wipeing down her trays then I over heard him say I cut my hair all she had to do was ask I ignored the conversation an continued to pack as I got closer he said it again louder "Kristen asked me to cut my hair so I did its the way you ask somebody " so I knew he was speaking towards myself so I said thats fine take it down to your store then. He said I will he went on mumbling how you talk to people I then said look im not that girl he said im not that guy I said ok leave my store he said im a customer I said an im asking you to get out of my store. Thats all that was said to him I am really upset that he doesnt work here anymore an he still came in here did not order anything but causes problems this is not the first time he has lied I did not ask him anything about his hair cause I really dont care about his hair so why lie about it, nobody wants to get involved in it again simply because they are all friends just like with Janice and that is a big problem for me simply because its saying you can say watever you want as long as noone verifys it ,you still keep your job.

Johnathan Riggins

2-27-13



Sharon

- talked to her previously
- met another guy who ^{stella} talked about her reputation ^(bring it up all the time - help me people)
"you need to show up"
- Counselled both of them - cannot talk personal issues

* today - some of what he said is believable

- Believes Joyce may have said these things
- Ella is very dominant

think she will schedule a meeting between him + managers

* did come to the store in a nice - skirt + blouse - thinks everyone was shocked and comments were made

Came in
"Costume"

2/12

NC - no protection
gender based - stereotype
hasty decision
(general standards of dress)

Jonathan Wolf

- employed 8 mos since 5/12/06
21-year-old B/M

- no issues other than he was
counseled by AD for talking about
his personal business, sexuality, etc

Thurs 2/21 -

- Came in next (day off) in mini skirt
and blond braids
- led to UD saying AD approved
hair style
- then, back tracked, said he had
called her
- told he would have to remove
before returning to work
- refused

AD to schedule a meeting w/ him + Regan
(did this happen?)

Agreed to transfer to #735
has not called for schedule
has not removed braids
went to #274 yesterday

Turn
for incident

Johnathan was at the end of the counter talking to a employee as she was wipeing down her trays then I over heard him say I cut my hair all she had to do was ask I ignored the conversation an continued to pack as I got closer he said it again louder "Kristen asked me to cut my hair so I did its the way you ask somebody " so I knew he was speaking towards myself so I said thats fine take it down to your store then. He said I will he went on mumbling how you talk to people I then said look im not that girl he said im not that guy I said ok leave my store he said im a customer I said an im asking you to get out of my store. Thats all that was said to him I am really upset that he doesnt work here anymore an he still came in here did not order anything but causes problems this is not the first time he has lied I did not ask him anything about his hair cause I really dont care about his hair so why lie about it, nobody wants to get involved in it again simply because they are all friends just like with Janice and that is a big problem for me simply because its saying you can say watever you want as long as noone verifys it ,you still keep your job.

A handwritten signature in black ink, appearing to read "Johnathan". The signature is written in a cursive, somewhat slanted style.

2-27-13

2/27/13

Johnathon and Christy were talking about him going to another store. He was telling me what the store manager said to him. Which she asked him to cut his hair.

~~She asked him to cut his hair.~~
~~Johnathon and I both agreed that it's how you talk to people with respect.~~

Mrs. Ella over heard us talking and told him that he can take that talk with him ^{outside.}
~~So he was asked to leave the store.~~

Christy McFarland
2/27/13

Jeannine Eubanks

From: Sharon McCollough
Sent: Thursday, February 28, 2013 10:12 AM
To: Jeannine Eubanks
Subject: Fwd: Location 274 - EXCEPTION PROBLEM Report 8204435 - Customer JONATHAN WOLF

Complaint Jonathan called in yesterday.

Sharon McCollough

Sent from my iPhone

Begin forwarded message:

From: "ServiceCheck@servicecheck.net" <ServiceCheck@servicecheck.net>
Date: February 27, 2013, 12:16:48 PM EST
To: Sharon McCollough <smccollough@bojangles.com>
Subject: Location 274 - EXCEPTION PROBLEM Report 8204435 - Customer JONATHAN WOLF
Reply-To: "ybaity@sertec.com" <ybaity@sertec.com>

BOJANGLE'S

Customer Service - Call In

Incident Report

Report #: 8204435 Do not send to Location: Exception report.

Reported: Wednesday, Feb 27, 2013 12:03 PM EST

Attention: Jeff Wells; Office Mailbox; Sharon Irwin

Customer Information

JONATHAN WOLF
3006 Cossack Lane
Fayetteville, North Carolina 28306-8395

Daytime Phone: (910) 322-5309

Evening Phone: (910) 849-9609

Email: Not Provided

Contact History

BOJANGLE'S:
Other ServiceCheck clients:

Prior Contacts

1 time.
None

Prior Complaints*

1
None

*Complaints = Emergency + Problem Reports.

Location Information

274 - FAYETTEVILLE - DRIVE THRU

BOJANGLES'
1901 Owen Dr
Fayetteville, North Carolina 28304

UNIT DIRECTOR - (910) 483-1913

BOJANGLE'S COMPANY

Bojangles Corporate Contacts; Bojangles E-Club-DMA-Raleigh/Durham/Fayetteville; Bojangles Company-Region 1-Jeff Wells-Area 106-Sharon McCollough; Bojangles Corporate

Report Details

Occurred: Wednesday, Feb 27, 2013 11:30 AM

* This report contains one or more chargeable categories.

* Problem - Service - Personnel Issues - Manager - Unhelpful

Additional Comments

Guest stated he used to work at the unit and was upset the unit director named Ella Riggins made comment about his hair style. He stated he was currently employed at another unit and she told him to take the matter to his unit director.

Questions

How many times do you visit per month? 7

How much do you normally spend each visit? 8

How many people were in your party? 2

Did you speak with a manager? Yes

Was the manager helpful? No

To help us better understand the feedback we receive from our customers, we would like to ask the following questions: What age range do you fall under? 18-34

What is your gender? Male

Would you like to become a member of the Bojangle's E-Club? No

Contact ServiceCheck's Management Response System (MRS)

1 - Call (800) 672 - 6115

OR Click Here to Access MRS

2 - Answer all questions:

Was the customer contacted ?

Was the issue resolved ?

Will the customer return ?

3 - Receive confirmation number:

Management Notes:

Wednesday, Feb 27, 2013 12:16 PM EST Page 1 Confidential & Proprietary (c) ServiceCheck Inc.

Jeannine Eubanks

From: Sharon McCollough
Sent: Thursday, February 28, 2013 10:41 AM
To: Jeannine Eubanks
Subject: Re: Johnathan Wolf

Jeannine,

I was more going for the wild color of his hair and it was stated to him that it had to be restrained not took out. Jonathan is the one who stated he would cut it to restrain it.

Per our conversation yesterday he said he went to Owen Drive to purchase a drink and the cashier asked him about his hair. He said that he felt it would have been rude not to engage in the conversation with her as they are friends. He told me that he stated twice that it is the way you talk to people. He said that Ella told him to leave the restaurant for talking about that stuff. Jonathan then proceed to tell me that I made him transfer restaurants. This came out of left field for me?? I then told him that we (me and him) both agreed that she should go to work in a different restaurant and he seemed happy because he was moving to Raeford Road.

I asked him one more time why he went into Owen Drive and he told me the entire story again. I replied by stating "I am terminating you employment today due to the fact that you went into Owen Drive trying to start something with Ella and for spreading gossip." He then said he is calling his attorney and the EEOC. I told him okay and good bye. He then called me 4 times and I did not answer. He then texted me and I did not respond. I will send you a pic of the text.

Sharon McCollough

Sent from my iPhone

On Feb 28, 2013, at 9:48 AM, "Jeannine Eubanks" <jeubanks@bojangles.com> wrote:

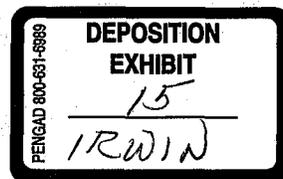
Hi, Sharon,

I have received another voice mail message from Johnathan. Before I return his call, I wanted to find out the latest from you since we last discussed the issue. Can you send me the statements from Ella and her employees?

Also, Vickie was questioning why we wouldn't let him work with braids. If we allow women to work with long hair, as long as it is restrained, why wouldn't we let him? I told her it was more of an issue of how he conducted himself and how he responded to Ella when the issue came up. What are your thoughts? The fact that he went to Owen Drive yesterday knowing he had been transferred is a problem for me. I think he went with the intention of causing problems for Ella. I have a conference call at 10:00 with an employment law attorney. While we are on the phone, I am going to ask him about this issue.

Thanks

Jeannine Eubanks
Sr. Director, Human Resources
Bojangles' Restaurants, Inc.





Messages

(910) 322-5309

Edit

Call

FaceTime

Add Contact

Text Message

Feb 27, 2013, 7:02 PM

I, just need, to
know, the, word y'all use to
terminate me to tell the
eeoc n my attorney
He Made It Possible. 21
Yrs Old And Blessed



Text Message

Send



McDonald's Corporation
One McDonald's Plaza
Oak Brook, Illinois 60523
Direct Dial Number (630) 623-6017

VIA FAX 704-339-3466

June 5, 2017

Brian Church
Robinson, Bradshaw & Hinsow
101 N. Tryon Street
Ste. 1900
Charlotte, NC 28246

Re: Jonathan J. Wolfe
SSN# 255-83-1366
REF : 5 :16-CV-00654-BO

We are in receipt of your subpoena for documents relative to former employee Jonathan Wolfe. Please note Mr. Wolfe was employed from 4/17/2014 to 8/31/2014. Enclosed please find the responsive documents located to date.

Mr. Wolfe was employed as part time crew person working fluctuating hours. As such he was not eligible for any disability benefits offered by McDonald's Corporation. A crew person is an hourly paid employee whose duties include preparing McDonald's food products, cleanliness of the restaurant, and serving customers in accordance with McDonald's standards of Quality, Service and Cleanliness. Crew hours vary based on the needs of the individual restaurant.

Pre-employment physicals are not conducted for restaurant employees. We have no record of any leaves taken or worker compensation claims filed on his behalf.

Sincerely,

A handwritten signature in black ink that reads "JoAnn M. Carmody". The signature is written in a cursive style with a large, sweeping flourish at the end.

JoAnn M. Carmody
Legal Assistant
Global Labor & Employment Law

APPENDIX 17

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
No. 5:16-cv-00654-BO

U.S. EQUAL EMPLOYMENT)
OPPORTUNITY COMMISSION,)
)
Plaintiff,)
)
vs.)
)
BOJANGLES' RESTAURANTS,)
INC.,)
)
Defendant.)

DEPOSITION
OF
JEANNINE M. EUBANKS

Taken at:

Robinson, Bradshaw & Hinson, PA
101 North Tryon Street
Charlotte, North Carolina

On Thursday, April 13, 2017

REPORTER: ANGELICA SCOTT, CSR
Notary Public

1 A. No.

2 Q. No accolades?

3 A. No.

4 Q. Okay. Had you received any complaints about Ella
5 Riggins?

6 A. No.

7 Q. What about Sharon McCollough?

8 A. No.

9 Q. Janice Locklear?

10 A. No.

11 Q. There would be no Service Check employee service line
12 complaints about any of those individuals prior to
13 February 2013?

14 A. Not to my knowledge.

15 Q. I'm going to mark for you Exhibit 9.

16 Have you had the opportunity to review the
17 document that's been marked as Exhibit 9?

18 A. Yes, ma'am.

19 Q. What is Exhibit 9?

20 A. Exhibit 9 are copies of pages taken from my notes.

21 Q. Are all notes that you took with regard to Jonathan
22 Wolfe contained in Exhibit 9, or are there other notes
23 that are not in Exhibit 9?

24 A. There are some email messages that were exchanged. I
25 think you have copies of those.

1 Q. But these are all your handwritten notes?

2 A. My handwritten notes. Yes, ma'am.

3 Q. Okay. When you were assisting Bojangles' respond to
4 EEOC's charge of discrimination, did you provide all of
5 your notes? Everything that we see on Exhibit 9?

6 A. Yes.

7 Q. Did you black out any information prior to submitting
8 it to the EEOC?

9 A. I would never do that, no.

10 Q. Okay. So if the EEOC did not receive a complete set of
11 your notes or parts were redacted, that was not you
12 that redacted or did not produce all the documentation?

13 A. Correct.

14 Q. Okay.

15 A. Did that happen?

16 Q. Yes. The EEOC did not receive a complete set of your
17 notes that are Exhibit 19. In fact, much of it was
18 redacted.

19 So these are the notes that you took by hand?

20 A. Yes.

21 Q. Did you take these notes contemporaneously while
22 speaking with both Sharon and Jonathan?

23 A. Yes. That's the way I operate.

24 Q. Okay.

25 A. That's why they might not make sense to --

APPENDIX 18

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
No. 5:16-cv-00654-BO

U.S. EQUAL EMPLOYMENT)
OPPORTUNITY COMMISSION,)

Plaintiff,)

v.)

BOJANGLES' RESTAURANTS, INC.,)

Defendant.)

AMENDED NOTICE OF FED. R. CIV. P.
30(b)(6) DEPOSITION

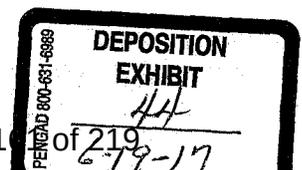
TO: BOJANGLES' RESTAURANTS, INC., by and through its Counsel of record:

Brian L. Church
Robinson, Bradshaw & Hinson, P.A.
101 North Tryon Street, Suite 1900
Charlotte, North Carolina 28246
bchurch@robinsonbradshaw.com

PLEASE TAKE NOTICE THAT pursuant to Rule 30(b)(6) of the Federal Rules of Civil Procedure, Counsel for Plaintiff U.S. Equal Employment Opportunity Commission ("EEOC") will take the deposition of Bojangles' Restaurants, Inc. ("Defendant"), by and through its designated representative or representatives. The deposition shall commence on June 19, 2017 at 10:00 a.m. and will continue from day to day thereafter until the examination is completed. The deposition shall take place at EEOC's Charlotte District Office, 129 West Trade Street, Suite 400, Charlotte, North Carolina 28202.

The matters to be inquired into include the topics described in Exhibit A, attached hereto.

The depositions will be taken pursuant to the Federal Rules of Civil Procedure, before a Notary Public or some other person authorized by law to administer oaths. The deposition will be recorded by audio, audio-and-visual and/or stenographic means for purposes of discovery, use

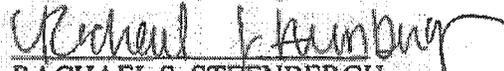


at trial, and for other such purposes authorized of permitted by the Federal Rules of Civil Procedure.

Failure to attend, be sworn, and to answer questions may result in sanctions being imposed including entry of judgment, the determination of facts against Defendant, exclusion of evidence Defendant may offer, or taxation of costs and attorneys fees.

This the 1st day of June, 2017.

U.S. EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION


RACHAEL S. STEENBERGH
South Carolina Federal Bar No. 10867
Trial Attorney

EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION

Charlotte District Office
129 West Trade Street, Suite 400
Charlotte, North Carolina 28202
Telephone: (704) 954-6472
Facsimile: (704) 954-6412
Email: rachael.steenbergh@eeoc.gov

ATTORNEYS FOR PLAINTIFF

CERTIFICATE OF SERVICE

I hereby certify that on the 1st day of June, 2017, pursuant to the parties' agreement under Fed. R. Civ. P. 5(b)(2)(E), I served via email the above **AMENDED NOTICE OF FED. R. CIV. P. 30(b)(6) DEPOSITION** to counsel of record at the email addresses listed below:

Counsel for Defendant:

Charles E. Johnson
cejohnson@robinsonbradshaw.com

Brian L. Church
bchurch@robinsonbradshaw.com

U.S. EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION



RACHAEL S. STEENBERGH
South Carolina Federal Bar No. 10867
Trial Attorney

**EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION**

Charlotte District Office
129 West Trade Street, Suite 400
Charlotte, North Carolina 28202
Telephone: (704) 954-6472
Facsimile: (704) 954-6412
Email: rachael.steenbergh@eeoc.gov

ATTORNEYS FOR PLAINTIFF

EXHIBIT A TO NOTICE OF FED. R. CIV. P. 30(b)(6) DEPOSITION

1. Defendant's receipt of EEOC Charge No. 433-2013-01334, filed by Jonathan Wolfe ("Wolfe").
2. Defendant's response to EEOC Charge No. 433-2013-01334, including any documents, correspondence, and responses to requests for information submitted by Defendant to the EEOC and any discussions between Defendant's employees and the EEOC.
3. The basis for and source of Defendant's factual allegations and representations made in any correspondence to the EEOC in response to EEOC Charge No. 433-2013-01334, including specifically, all factual allegations and representations that Defendant made in its June 28, 2018 position statement and its August 11, 2015 request for reconsideration.
4. Defendant's receipt of the EEOC's Determination dated July 1, 2015 relating to EEOC Charge No. 433-2013-01334.
5. Defendant's participation in the conciliation of EEOC Charge No. 433-2013-01334.
6. Defendant's receipt of the EEOC's Notice of Conciliation Failure dated December 4, 2015 relating to EEOC Charge No. 433-2013-01334.
7. The factual basis for each of Defendant's affirmative defenses asserted in its Answer filed in this lawsuit [ECF 6].
8. Terms, benefits, and incidents of employment, including but not limited to insurance coverage, vacation, paid or unpaid personal time, bonuses, raise schedules, promotion opportunities, and the like, which applied or may have applied to a Crew Member at Defendant's Owen Drive and/or Raeford Road location at any time during the period from February 1, 2013 through the present.
9. Defendant's information technologies policies and practices, specifically as related to email use and preservation; document retention and storage practices; training records preservation; and backup, retention, and storage of company-provided computers and laptops, including decommissioned computers and laptops.
10. Defendant's information technologies policies and practices, specifically as related to use, preservation, and retention of in-store video footage.
11. The location and accessibility of any "crashed" or decommissioned laptop, computer, or other local workstation used by Ella Riggins, Sharon Irwin, or Jeannine Eubanks at any time from May 9, 2012 through the present, as well as the current location and accessibility of all emails sent or received by Riggins, Irwin, or Eubanks regarding the Charging Party at any time from May 9, 2012 through the present.

12. Documents reviewed by Defendant's designated representative(s) in preparation for this deposition.

13. Authentication of documents produced by Defendant during the course of discovery.

APPENDIX 19

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
No. 5:16-cv-00654-BO

U.S. EQUAL EMPLOYMENT)
OPPORTUNITY COMMISSION,)
)
Plaintiff,)
)
v.)
)
BOJANGLES' RESTAURANTS, INC.,)
)
Defendant.)

**EEOC'S RESPONSES TO
DEFENDANT'S FIRST SET OF
INTERROGATORIES AND FIRST
REQUEST FOR PRODUCTION OF
DOCUMENTS TO PLAINTIFF**

Pursuant to Rules 26, 33, and 34 of the Federal Rules of Civil Procedure, Plaintiff, the United States Equal Employment Opportunity Commission ("EEOC"), responds to Defendant's First Set of Interrogatories and First Request for Production of Documents. EEOC responds to the interrogatories and requests for production based on the best of its present knowledge, information, and belief. EEOC reserves the right to supplement or amend these objections and responses upon, among other things, discovery of additional facts and materials and subject to other developments or proceedings in this action. EEOC reserves the right to make any use of, or introduce at any hearing or at trial, materials responsive to the interrogatories and requests for production discovered subsequent to the date of these responses.

GENERAL OBJECTIONS

1. EEOC objects to the interrogatories and requests for production to the extent that they can be interpreted to seek information protected by the attorney-client privilege, the deliberative (or executive) privilege, the common interest rule, the confidentiality provisions of Title VII, and/or information which constitutes the work product of EEOC's counsel. EEOC hereby asserts said privileges and refuses to reveal any information which is protected by such

privileges and/or which constitutes such work product. Moreover, a disclosure of any information by EEOC which is subject to these protections shall not be construed as a waiver of the applicable privilege(s) or work product claim beyond the specific information disclosed. Privileged items that EEOC will not produce include EEOC's counsel's notes, memoranda, correspondence, legal analysis, and other privileged documents.

2. EEOC objects to the definitions and instructions contained in Defendant's First Set of Interrogatories and First Request for Production of Documents to Plaintiff to the extent that they seek to impose burdens on EEOC that are greater than those imposed by the Federal Rules of Civil Procedure and the Local Rules of this Court. EEOC will respond to the interrogatories and requests for production in accordance with its obligations under the Federal Rules of Civil Procedure.

3. These General Objections are incorporated by reference into each response given by EEOC to each interrogatory and request for production. The inclusion of any additional specific objection in any response is not intended to be, and shall not be deemed, a waiver of any General Objection or a waiver of any other specific objection made herein or that may be asserted at a later date.

Subject to the stated objections and without waiving the same, EEOC responds as follows:

INTERROGATORIES

1. Identify each person you may call as an expert witness at trial of this matter, and with respect to each such person identify:

- a) the subject matter about which the expert is expected to testify;
- b) the substance of the facts and opinions about which the expert is expected to testify;

- c) the grounds for each opinion about which the expert is expected to testify;
and
- d) all documents provided to the expert in connection with this matter.

RESPONSE: EEOC has not yet determined what, if any, expert witnesses will be called at a trial of this matter. EEOC intends to comply with the Federal Rules of Civil Procedure, the Local Rules of this Court, and the scheduling order entered by this Court (ECF 12) regarding the identification of any testifying expert and the production of the information required by Fed. R. Civ. P. 26(a)(2)(B).

2. Identify all persons having knowledge of facts relating to the claims and/or defenses in this action, including each person with whom Wolfe or the EEOC has communicated regarding the subject matter of this action, and, as to each such person, set forth a summary of the important facts known or observed by such person and state whether any written or recorded statement was taken from such person concerning any of the subject matter of this action.

OBJECTIONS: EEOC objects to Interrogatory No. 2 to the extent it requests information subject to any applicable privilege or protection, specifically including the attorney-client privilege, the deliberative (or executive) privilege, work product protection, and/or Title VII's § 706(b) confidentiality provisions. EEOC further objects on the ground that the following phrases, independently and jointly, render the interrogatory overly broad, unduly burdensome, and not proportional to the needs of the case: "*all* persons having knowledge of facts relating to the claims and/or defenses in this action" and "*each* person with whom Wolfe or the EEOC has communicated regarding the subject matter of this action" (emphasis supplied). EEOC also

objects to the phrase “important facts” because the intended meaning of the modifier “important” is vague, ambiguous, and subject to varied interpretation.

RESPONSE: EEOC directs Defendant to, and incorporates as if repeated verbatim herein, the individuals identified in EEOC’s Fed. R. Civ. P. 26(a)(1) Initial Disclosures at ¶ 1.¹ EEOC has not taken any “recorded”—which the EEOC defines as transcribed verbatim by audio, audio-and-visual, and/or stenographic means—statement of any person identified in EEOC’s Fed. R. Civ. P. 26(a)(1) Initial Disclosures.

Jonathan Wolfe (“Wolfe”) provided the following written statements to the EEOC during the administrative investigation of Charge No. 433-2013-01334:

- Signed Charge of Discrimination, *see* EEOC v. Bojangles_PLT_000022² and EEOC v. Bojangles_PLT_000024; and
- EEOC Intake Questionnaire and attachments, *see* EEOC v. Bojangles_PLT_000041-000047.

Ella Riggins (“Riggins”) submitted a written statement dated February 27, 2013 to EEOC via Defendant, *see* EEOC v. Bojangles_PLT_000140. Christy McDonald (“McDonald”) likewise submitted a written statement dated February 27, 2013 to EEOC via Defendant, *see* EEOC v. Bojangles_PLT_000141.

Defendant provided the following written statements to EEOC during the administrative investigation of Charge No. 433-2013-01334:

¹ EEOC’s Fed. R. Civ. P. 26(a)(1) Initial Disclosures were served on Defendant on October 13, 2016 via email pursuant to the parties’ agreement under Fed. R. Civ. P. 5(b)(2)(E).

² All documents identified by Bates stamp number in EEOC’s Responses to Defendant’s First Set of Interrogatories and First Request for Production of Documents are being produced to Defendant contemporaneously with the instant pleading.

- Email from Brian Church (“Church”) dated June 18, 2014 with attached handwritten notes by unidentified author dated February 21, 2013, *see* EEOC v. Bojangles_PLT_000085-000086;
- Position Statement dated June 28, 2013 with attachments, *see* EEOC v. Bojangles_PLT_000092-000112;
- Email from Angelique Vincent-Hamacher (“Vincent-Hamacher”) dated April 10, 2015 with attached employee list, *see* EEOC v. Bojangles_PLT_000113-000118;
- Letter from Vincent-Hamacher dated December 12, 2014 and miscellaneous personnel documents regarding Wolfe, *see* EEOC v. Bojangles_PLT_000119-000144;
- Email from Vincent-Hamacher dated April 1, 2015 with attached employee list, *see* EEOC v. Bojangles_PLT_000145-000148;
- Email from Vincent-Hamacher dated March 13, 2015 with attachments, *see* EEOC v. Bojangles_PLT_000145-000156; and
- Letter from Vincent-Hamacher dated August 11, 2015 with attachments, *see* EEOC v. Bojangles_PLT_000163-000187, EEOC v. Bojangles_PLT_000189-000213, and EEOC v. Bojangles_PLT_000215-000239.

During the administrative investigation of Charge No. 433-2013-01334, EEOC created the following notes based on verbal statements provided by witnesses during interviews:

- Intake notes dated April 19, 2013, *see* EEOC v. Bojangles_PLT_000004-000005, EEOC v. Bojangles_PLT_000029-000030, and EEOC v. Bojangles_PLT_000244-000245;
- Notes from interview of Sharon Irwin (“Irwin”), formerly known as Sharon McCollough, *see* EEOC v. Bojangles_PLT_000158-000159 and EEOC v. Bojangles_PLT_000249-000250;
- Notes from interview of Riggins, *see* EEOC v. Bojangles_PLT_000160-000161 and EEOC v. Bojangles_PLT_000247; and
- Notes from interview of McDonald, *see* EEOC v. Bojangles_PLT_000253.

Further responding, the following individuals may have knowledge of facts relating to the claims and/or defenses in this action:

Tanisha Hall (“Hall”). Hall may have witnessed the events described in ¶46 of EEOC’s Complaint (ECF 1); further, Wolfe discussed the discriminatory treatment underlying this cause

of action and this cause of action with Hall. EEOC has not taken any recorded statement of Hall, nor has the agency received any written statement from Hall. During the administrative investigation of Charge No. 433-2013-01334, EEOC created notes based on verbal statements provided by Hall during an interview, *see* EEOC v. Bojangles_PLT_000246. Hall's last-known address is 3006 Cossack Lane, Fayetteville, North Carolina 28306. Hall's last-known phone number is (910) 627-5827.

Shimika Singleton ("Singleton"). EEOC is informed and believes that Singleton witnessed the events described in ¶¶ 33-37 of EEOC's Complaint (ECF 1). EEOC has not taken any recorded statement of Singleton, nor has the agency received any written statement from Singleton. Singleton's last-known address is 408 Southwick Drive, Fayetteville, NC 28203, and Singleton's last-known phone number is (910) 224-4017.

3. Identify all persons, including any of Bojangles' current or former employees, with whom the EEOC or Wolfe has communicated about the subject matter of this action, and as to each such person, set forth a summary of the facts known or observed by such person and state whether any EEOC questionnaire has been sent to/provided by the person or whether any written or recorded statement was taken from such person concerning any of the subject matter of this action.

OBJECTIONS: EEOC objects to Interrogatory No. 3 on the ground that it is duplicative of Interrogatory No. 2, which commands EEOC to "[i]dentify all persons . . . with whom Wolfe or the EEOC has communicated regarding the subject matter of this action, and, as to each such person, set forth a summary of the important facts known or observed by such person and state whether any written or recorded statement was taken from such person concerning any of the

subject matter of this action.” EEOC further objects to the extent Interrogatory No. 3 requests information subject to any applicable privilege or protection, specifically including the attorney-client privilege, the deliberative (or executive) privilege, work product protection, and/or Title VII’s § 706(b) confidentiality provisions. EEOC also objects on the ground that the following phrase renders the interrogatory overly broad, unduly burdensome, and not proportional to the needs of the case: “*all* persons . . . with whom the EEOC or Wolfe has communicated about the subject matter of this action” (emphasis supplied).

RESPONSE: EEOC incorporates its response to Interrogatory No. 2 as if repeated verbatim herein. EEOC further states that it has neither sent nor received an EEOC questionnaire to any person identified in its Fed. R. Civ. P. 26(a)(1) Initial Disclosures or response to Interrogatory No. 2 with the exception of Wolfe, who provided EEOC an executed EEOC Intake Questionnaire and attachments, *see* EEOC v. Bojangles_PLT_000041-000047.

Wolfe has discussed the discriminatory treatment underlying this cause of action and this cause of action with her mother, three siblings, and closest friend, none of whom have direct knowledge of facts relating to the claims and/or defenses in this action.

4. Describe with particularity any and all damages Wolfe claims to have suffered related to the allegations contained in this action, and identify how you calculated the amount of each item or element of those damages.

OBJECTIONS: EEOC objects to Interrogatory No. 4 to the extent it requests information subject to any applicable privilege or protection, specifically including the attorney-client privilege and/or work product protection. EEOC further objects to Interrogatory No. 4 as

unreasonably cumulative and duplicative to the extent it seeks information previously disclosed by EEOC pursuant to Fed. R. Civ. P. 26(a)(1)(A)³ and the Complaint (ECF 1).

RESPONSE: EEOC directs Defendant to, and incorporates as if repeated herein, EEOC's Complaint at "Prayer for Relief" (ECF 1 p. 8-9) and EEOC's Fed. R. Civ. P. 26(a)(1) Initial Disclosures at ¶ 3.

Some amounts of damages, including monetary relief for Wolfe's emotional pain, suffering, inconvenience, loss of enjoyment of life, humiliation, and loss of civil rights suffered because of Defendant's adverse employment actions will be determined by a jury at trial. Likewise, the amount of punitive damages will be determined by a jury at trial.

EEOC will seek back pay from February 22, 2013, the date Defendant transferred Wolfe to the Raeford Road location, after which time Wolfe was not given hours and was ultimately terminated, through the present. EEOC will calculate back pay by subtracting Wolfe's earned income, which EEOC is working to establish, from \$15,600 per annum (Wolfe's estimated base earnings), prorated as appropriate.⁴ With respect to employment benefits, EEOC is conducting discovery and gathering information relating to employment benefits Wolfe lost as a result of Defendant's discriminatory actions and will supplement its response as appropriate in accordance with Fed. R. Civ. P. 26(e).

³ EEOC's Fed. R. Civ. P. 26(a)(1)(A) disclosures were served on Defendant thirteen days prior to Defendant serving Interrogatory No. 4.

⁴ Wolfe's estimated base earnings were calculated using a two-step process. First, her final hourly rate (\$7.50) was multiplied by her average hours per week (40). Second, this sum was multiplied by 52, the number of work weeks per calendar year.

EEOC will seek front pay for a to-be-determined period. EEOC will calculate front pay by subtracting a to-be-determined reasonable estimation of future earnings from \$15,600 per annum (Wolfe's estimated base earnings), prorated as appropriate.

5. Identify all hospitals, clinics or institutions at which Wolfe received, or persons from whom she received, a medical or psychological examination, treatment, or counseling from January 1, 2011 through the present, and for each person or entity so identified:

- a) State the date or period during which each examination, treatment, or counseling took place:
- b) State the reason for the examination and/or nature of the treatment or counseling; and
- c) State the results of the examination, treatment or counseling, including any diagnosis, prognosis, or recommendation.

OBJECTIONS: EEOC objects to Interrogatory No. 5, *in toto*, as overly broad, unduly burdensome, and not proportional to the needs of the case, and specifically objects to the following phrase on the same grounds: “*all hospitals, clinics or institutions at which Wolfe received, or persons from whom she received, a medical or psychological examination, treatment, or counseling from January 1, 2011 through the present*” (emphasis supplied). EEOC further objects to the temporal scope of this interrogatory as overly broad, unduly burdensome, and not proportional to the needs of the case, especially given that Defendant admits the following: (1) that Wolfe did not begin her employment with Defendant until on or around May 9, 2012 (ECF 6 ¶ 13); and (2) that Wolfe was terminated on or about February 27, 2013 (ECF 6 ¶ 48). EEOC also objects to Interrogatory No. 5 to the extent this request—which seeks a broad

swath of highly personal and private medical information—is oppressive, harassing, and amounts to a fishing expedition.

RESPONSE: On information and belief, Wolfe spoke with a licensed social worker known to Wolfe as “Ms. Ashley.” On further information and belief, EEOC believes “Ms. Ashley” to be Ashley Clocher. EEOC does not have a known address for Clocher. Upon information and belief, Clocher’s phone number is (910) 797-9547. EEOC declines to further respond to this interrogatory as drafted. EEOC will, however, work with Defendant to determine what responsive medical information, if any, is proportional to the needs of the case.

6. Identify each and every person or entity from whom Wolfe attempted to obtain employment from February 27, 2013 through the present, and for each person or entity:

- (a) State the date on which Wolfe applied for employment;
- (b) Identify the position for which Wolfe applied;
- (c) State the salary or other compensation for the position;
- (d) State whether Wolfe was offered a position;
- (e) State whether Wolfe accepted a position;
- (f) If Wolfe accepted a position, state all salary and other compensation Wolfe received during the employment; and
- (g) If Wolfe is no longer employed in such position, describe with particularity why Wolfe left the position.

OBJECTION: EEOC objects to Interrogatory No. 6 on the ground that the following phrase renders the interrogatory overly broad, unduly burdensome, and not proportional to the needs of the case: “*each and every* person or entity” (emphasis supplied).

RESPONSE: Upon information and belief, Wolfe attempted to obtain employment from the following:

Sonic Drive-In (fast food restaurant)

- (a) EEOC is attempting to determine the date on which Wolfe applied for employment;
- (b) General team member;
- (c) Unknown, but upon information and belief, minimum wage;
- (d) No;
- (e) Not applicable;
- (f) Not applicable; and
- (g) Not applicable.

Subway (fast food restaurant)

- (a) EEOC is attempting to determine the date on which Wolfe applied for employment;
- (b) General team member;
- (c) Unknown, but upon information and belief, minimum wage;
- (d) No;
- (e) Not applicable;
- (f) Not applicable; and
- (g) Not applicable.

Wendy's (fast food restaurant)

- (a) EEOC is attempting to determine the date on which Wolfe applied for employment;
- (b) General team member;
- (c) Unknown, but upon information and belief, minimum wage;
- (d) No;
- (e) Not applicable;
- (f) Not applicable; and
- (g) Not applicable.

Food Lion (grocery store)

- (a) EEOC is attempting to determine the date on which Wolfe applied for employment;
- (b) General team member;
- (c) Unknown, but upon information and belief, minimum wage;
- (d) No;
- (e) Not applicable;
- (f) Not applicable; and
- (g) Not applicable.

Smithfield's Chicken 'N Bar-B-Q (fast food restaurant)

- (a) Unknown;
- (b) General team member;
- (c) Unknown, but upon information and belief, minimum wage;
- (d) No;
- (e) Not applicable;
- (f) Not applicable; and
- (g) Not applicable.

Wiener Works (fast food restaurant)

- (a) Unknown;
- (b) General team member;
- (c) Unknown, but upon information and belief, minimum wage;
- (d) No;
- (e) Not applicable;
- (f) Not applicable; and
- (g) Not applicable.

Cook Out (fast food restaurant)

- (a) Unknown;
- (b) General team member;
- (c) Unknown, but upon information and belief, minimum wage;
- (d) No;
- (e) Not applicable;
- (f) Not applicable; and
- (g) Not applicable.

McDonald's (fast food restaurant), 900 Skibo Rd., Fayetteville, NC 28314

- (a) EEOC is attempting to determine the date on which Wolfe applied for employment;
- (b) General team member/cook;
- (c) \$7.25 per hour;
- (d) Yes;
- (e) Yes;
- (f) \$7.25 per hour with no benefits; and
- (g) Wolfe was automatically terminated under McDonald's policy regarding cash register shortages. Wolfe was not provided the opportunity to contest this automatic termination.

Auntie Ann's (pretzel vendor), 1550 Skibo Rd., Fayetteville, NC 28303

- (a) EEOC is attempting to determine the date on which Wolfe applied for employment;
- (b) General team member;
- (c) \$7.25 per hour;
- (d) Yes;
- (e) Yes;
- (f) \$7.25 per hour with no benefits; and
- (g) Wolfe voluntarily terminated employment.

Five Guys Burgers and Fries (fast food restaurant), 4411 Ramsey St., Fayetteville, NC 28311

- (a) EEOC is attempting to determine the date on which Wolfe applied for employment;
- (b) General team member/cook;
- (c) \$7.25 per hour;
- (d) Yes;
- (e) Yes;
- (f) \$7.25 per hour with no benefits; and
- (g) Wolfe is currently employed.

7. Identify all persons who assisted with or provided information in connection with any of your responses to Bojangles' First Set of Interrogatories and First Request for Production of Documents.

OBJECTION: EEOC objects to Interrogatory No. 7 to the extent it requests information subject to any applicable privilege or protection, specifically including the attorney-client privilege and/or work product protection.

RESPONSE: Wolfe provided information to the undersigned in connection with EEOC's responses to Bojangles' First Set of Interrogatories and First Request for Production of Documents.

8. If any document identified in response to these interrogatories or requests for production of documents was, but is no longer, in your possession, custody or control, state whether it: (i) is missing or lost; (ii) has been destroyed; (iii) has been transferred, voluntarily or involuntarily, to another; or (iv) has otherwise been disposed of, and in each instance explain the attendant circumstances of such disposition, including the date and place thereof.

OBJECTIONS: EEOC objects to Interrogatory No. 8 to the extent this interrogatory seeks information regarding documents that EEOC has objected to producing or identifying under the various interrogatories and requests for production of documents, and incorporates as if repeated verbatim herein its objections to the various interrogatories and requests for production of documents to the full extent such objections are applicable.

RESPONSE: EEOC states that there are no applicable responsive documents that were, but are no longer, within its possession, custody, or control. However, EEOC notes that upon information and belief, Wolfe was impacted by the flooding that devastated Fayetteville, North Carolina and the surrounding area in late September 2016. During this natural disaster, many of Wolfe's personal effects, including documents related to Wolfe's employment subsequent to Bojangles' (e.g., paystubs), were destroyed.

DECLARATION

I declare under penalty of perjury that the interrogatory answers set forth above are true and correct to the best of my knowledge, based on information presently available to the United States Equal Employment Opportunity Commission.

DATED this the 1st of December, 2016.

s/ Rachael S. Steenbergh
Rachael S. Steenbergh, EEOC Trial Attorney

REQUESTS FOR PRODUCTION

1. All documents that contain, summarize, describe, mention, support, or refer or relate to any of the allegations in this action in any way whatsoever, whether or not they support your position or are intended to be used as exhibits at trial.

OBJECTIONS: EEOC objects to Request for Production No. 1 to the extent it requests information subject to any applicable privilege or protection, specifically including the attorney-client privilege, the deliberative (or executive) privilege, work product protection, and/or Title

VII's § 706(b) confidentiality provisions. EEOC further objects to the Request for Production, generally, as overly broad, unduly burdensome, and not proportional to the needs of the case, and specifically objects to the following phrase on the same grounds: "*all* documents that contain, summarize, describe, mention, support, or refer or relate to *any* of the allegations in this action in *any way whatsoever*" (emphasis supplied). EEOC also objects to this Request for Production to the extent it is inherently cumulative and duplicative of the remaining Requests for Production. EEOC further objects to the Request for Production to the extent it seeks responsive documents and/or information that are within or should be within Defendant's possession, custody, or control.

RESPONSE: EEOC states that it has produced all responsive documents within its possession, custody, or control that are proportional to the needs of this case in response to interrogatories above and/or requests for production of documents below. EEOC therefore directs Defendant to EEOC v. Bojangles_PLT_000001-000307.

2. All documents used or consulted in preparation of the Complaint and/or your responses to Bojangles' Interrogatories in this action.

OBJECTIONS: EEOC objects to Request for Production No. 2 to the extent it requests information subject to any applicable privilege or protection, specifically including the attorney-client privilege, the deliberative (or executive) privilege, work product protection, and/or Title VII's § 706(b) confidentiality provisions. EEOC further objects to the Request for Production, generally, to the extent it is overly broad, unduly burdensome, and not proportional to the needs of the case, and specifically objects to the following phrase on the same grounds: "all documents."

RESPONSE: EEOC states that it has produced all responsive documents within its possession, custody, or control that are proportional to the needs of this case in response to interrogatories above and/or requests for production of documents below. EEOC therefore directs Defendant to EEOC v. Bojangles_PLT_000001-000307.

3. All documents provided to, prepared by or prepared for any expert witness who is expected to testify at a deposition or the trial of this case.

OBJECTION: EEOC objects to Request for Production No. 3 to the extent it requests information subject to work product protection.

RESPONSE: EEOC has not yet determined what, if any, expert witnesses will be called at a trial of this matter. EEOC intends to comply with the Federal Rules of Civil Procedure, the Local Rules of this Court, and the scheduling order entered by this Court (ECF 12) regarding the identification of any testifying expert and the production of the information required by Fed. R. Civ. P. 26(a)(2)(B).

4. All documents prepared or provided to you or your attorneys by any expert witness identified in response to Interrogatory No. 1, including drafts.

RESPONSE: EEOC has not yet determined what, if any, expert witnesses will be called at a trial of this matter. EEOC intends to comply with the Federal Rules of Civil Procedure, the Local Rules of this Court, and the scheduling order entered by this Court (ECF 12) regarding the identification of any testifying expert and the production of the information required by Fed. R. Civ. P. 26(a)(2)(B).

5. All documents that constitute, contain, describe, reflect, mention, support or refer or relate to Wolfe's employment with Bojangles', including termination thereof.

OBJECTIONS: EEOC objects to Request for Production No. 5 to the extent it requests information subject to any applicable privilege or protection, specifically including the attorney-client privilege, the deliberative (or executive) privilege, work product protection, and/or Title VII's § 706(b) confidentiality provisions. EEOC further objects to the Request for Production, generally, to the extent it is overly broad, unduly burdensome, and not proportional to the needs of the case, and specifically objects to the following phrase on the same grounds: "*all* documents that constitute, contain, describe, reflect, mention, support or refer or relate to" (emphasis supplied). EEOC also objects to the Request for Production to the extent it is cumulative and duplicative of remaining Requests for Production which demand the production of documents related to Wolfe's employment with and termination from Bojangles'. EEOC further objects to the Request for Production to the extent it seeks responsive documents and/or information that are within or should be within Defendant's possession, custody, or control.

RESPONSE: EEOC directs Defendant to the following:

- EEOC's administrative investigation file for Charge No. 433-2013-01334, *see* EEOC v. Bojangles_PLT_000001-00253;
- Facebook comments by current or former Bojangles' employees, *see* EEOC v. Bojangles_PLT_000254-000267;
- Bojangles' paystubs within Wolfe's possession, *see* EEOC v. Bojangles_PLT_000268-000283; and
- Wolfe's handwritten notes, *see* EEOC v. Bojangles_PLT_000291-000298.

6. All documents that constitute, contain, describe, reflect, mention, support or refer or relate to any complaint, charge, claim or lawsuit Wolfe has asserted or intends to assert with respect to Bojangles', or any of its employees or agents, including any communications with the EEOC.

OBJECTIONS: EEOC objects to Request for Production No. 6 to the extent it requests information subject to any applicable privilege or protection, specifically including the attorney-

client privilege, the deliberative (or executive) privilege, work product protection, and/or Title VII's § 706(b) confidentiality provisions. EEOC further objects to the Request for Production, generally, to the extent it is overly broad, unduly burdensome, and not proportional to the needs of the case, and specifically objects to the following phrases on the same grounds: “*all* documents that constitute, contain, describe, reflect, mention, support or refer or relate to;” “*any* complaint, charge, claim or lawsuit Wolfe has asserted or intends to assert with respect to Bojangles’, or any of its employees or agents;” and “including *any* communications with the EEOC” (emphasis supplied). EEOC also objects to the Request for Production to the extent it is cumulative and duplicative of all remaining Requests for Production, which are construed to inherently request information related to the administrative investigation of EEOC Charge No. 433-2013-01334, which Wolfe filed with the EEOC. EEOC further objects to the Request for Production to the extent it seeks responsive documents and/or information that are within or should be within Defendant’s possession, custody, or control.

RESPONSE: EEOC directs Defendant to the following:

- EEOC’s administrative investigation file for Charge No. 433-2013-01334, *see* EEOC v. Bojangles_PLT_000001-00253; and
- Wolfe’s handwritten notes, *see* EEOC v. Bojangles_PLT_000291-000298.

7. All documents that constitute, contain, describe, reflect, mention, support or refer or relate to any complaint, charge, claim or lawsuit Wolfe has asserted against any individual or employer other than Bojangles’.

OBJECTIONS: EEOC objects to Request for Production No. 7 to the extent it requests information subject to any applicable privilege or protection, specifically including the attorney-client privilege, the deliberative (or executive) privilege, work product protection, and/or Title VII’s § 706(b) confidentiality provisions. EEOC further objects to the Request for Production,

generally, to the extent it is overly broad, unduly burdensome, and not proportional to the needs of the case, and specifically objects to the following phrases on the same grounds: “*all* documents that constitute, contain, describe, reflect, mention, support or refer or relate to” and “*any* complaint, charge, claim or lawsuit Wolfe has asserted against any individual or employer other than Bojangles” (emphasis supplied).

8. All documents that constitute, contain, describe, reflect, mention, support or refer or relate to any complaint of alleged harassment Wolfe made against anyone at Bojangles’ while Wolfe was employed with Bojangles’.

OBJECTIONS: EEOC objects to Request for Production No. 8 to the extent it requests information subject to any applicable privilege or protection, specifically including the attorney-client privilege, the deliberative (or executive) privilege, work product protection, and/or Title VII’s § 706(b) confidentiality provisions. EEOC further objects to the Request for Production, generally, to the extent it is overly broad, unduly burdensome, and not proportional to the needs of the case, and specifically objects to the following phrases on the same grounds: “*all* documents that constitute, contain, describe, reflect, mention, support or refer or relate to” and “*any* complaint of alleged harassment Wolfe made against *anyone* at Bojangles” (emphasis supplied). EEOC also objects to the Request for Production to the extent it is cumulative and duplicative given Request for Production No. 5, which seeks “[a]ll documents that constitute, contain, describe, reflect, mention, support or refer or relate to Wolfe’s employment with Bojangles”, and Request for Production No. 6, which seeks “[a]ll documents that constitute, contain, describe, reflect, mention, support or refer or relate to any . . . charge . . . Wolfe has asserted . . . with respect to Bojangles’,” which inherently includes EEOC Charge No. 433-2013-01334. EEOC further objects to the Request for Production to the extent it seeks responsive

documents and/or information that are within or should be within Defendant's possession, custody, or control.

RESPONSE: EEOC directs Defendant, generally, to EEOC's administrative investigation file for Charge No. 433-2013-01334, *see* EEOC v. Bojangles_PLT_000001-00253, to the extent that any document contained therein is responsive to Request for Production No. 8.

EEOC further directs Defendant to the following:

- Handwritten notes by unidentified author dated February 21, 2013, *see* EEOC v. Bojangles_PLT_000086;
- ServiceCheck Incident Report and Employee Awareness Hotline Incidents Summary, *see* EEOC v. Bojangles_PLT_000182-000184; and
- Wolfe's handwritten notes, *see* EEOC v. Bojangles_PLT_000291-000298.

9. All documents that constitute, contain, describe, embody, comprise, reflect, mention, refer or relate to any statements or communications made by or to any Bojangles' current or former employees, including, without limitation, Jeannine Eubanks, Sharon Irwin (formerly Sharon McCullough) and Ella Riggins, regarding this action or any of the events, claims or contentions at issue in this action.

OBJECTIONS: EEOC objects to Request for Production No. 9 to the extent it requests information subject to any applicable privilege or protection, specifically including the attorney-client privilege, the deliberative (or executive) privilege, work product protection, and/or Title VII's § 706(b) confidentiality provisions. EEOC further objects to the Request for Production, generally, to the extent it is overly broad, unduly burdensome, and not proportional to the needs of the case, and specifically objects to the following phrases on the same grounds: "*all* documents that constitute, contain, describe, embody, comprise, reflect, mention, refer or relate to;" "*any statements or communications* made by or to any Bojangles' current or former employees;" and "regarding this action or any of the events, claims or contentions at issue in this action" (emphasis supplied). EEOC also objects to the Request for Production to the extent it is

cumulative and duplicative of any other Request for Production, specifically including Request for Production Nos. 1, 5, 6, 8, 10, 11, 12, and 13. EEOC further objects to the Request for Production to the extent it seeks responsive documents and/or information that are within or should be within Defendant's possession, custody, or control.

RESPONSE: EEOC directs Defendant, generally, to EEOC's administrative investigation file for Charge No. 433-2013-01334, *see* EEOC v. Bojangles_PLT_000001-00253, to the extent that any document contained therein is responsive to Request for Production No. 9. EEOC further directs Defendant to the following:

- Intake notes dated April 19, 2013, *see* EEOC v. Bojangles_PLT_000004-000005, EEOC v. Bojangles_PLT_000029-000030, and EEOC v. Bojangles_PLT_000244-000245;
- Wolfe's signed Charge of Discrimination, *see* EEOC v. Bojangles_PLT_000022 and EEOC v. Bojangles_PLT_000024;
- Wolfe's EEOC Intake Questionnaire and attachments, *see* EEOC v. Bojangles_PLT_000041-000047;
- Handwritten notes by unidentified author dated February 21, 2013, *see* EEOC v. Bojangles_PLT_000086;
- Defendant's Position Statement dated June 28, 2013 with attachments, *see* EEOC v. Bojangles_PLT_000092-000112;
- Riggins' written statement dated February 27, 2013, *see* EEOC v. Bojangles_PLT_000140;
- McDonald's written statement dated February 27, 2013, *see* EEOC v. Bojangles_PLT_000141;
- Notes from interview of Irwin, *see* EEOC v. Bojangles_PLT_000158-000159 and EEOC v. Bojangles_PLT_000249-000250;
- Notes from interview of Riggins, *see* EEOC v. Bojangles_PLT_000160-000161 and EEOC v. Bojangles_PLT_000247;
- ServiceCheck Incident Report and Employee Awareness Hotline Incidents Summary, *see* EEOC v. Bojangles_PLT_000182-000184;

- Notes from interview of McDonald, *see* EEOC v. Bojangles_PLT_000253;
- Facebook comments by current or former Bojangles' employees, *see* EEOC v. Bojangles_PLT_000254-000267; and
- Wolfe's handwritten notes, *see* EEOC v. Bojangles_PLT_000291-000298.

10. All documents that constitute, contain, describe, embody, comprise, reflect, mention, or refer or relate to any statements or communications made by anyone, including witness statements and interview notes, regarding this action or any of the events, claims or contentions at issue in this action.

OBJECTIONS: EEOC objects to Request for Production No. 10 to the extent it requests information subject to any applicable privilege or protection, specifically including the attorney-client privilege, the deliberative (or executive) privilege, work product protection, and/or Title VII's § 706(b) confidentiality provisions. EEOC further objects to the Request for Production, generally, to the extent it is overly broad, unduly burdensome, and not proportional to the needs of the case, and specifically objects to the following phrases on the same grounds: "*all* documents that constitute, contain, describe, embody, comprise, reflect, mention, or refer or relate to" and "*any* statements or communications *made by anyone*" (emphasis supplied). EEOC also objects to the Request for Production to the extent it is cumulative and duplicative of any other Request for Production, specifically including Request for Production Nos. 1 (seeking "[a]ll documents that contain, summarize, describe, mention, support, or refer or relate to any of the allegations in this action in any way whatsoever"), 5 (seeking all documents related to Wolfe's employment with Bojangles'), 6 (seeking, in relevant part, "[a]ll documents that constitute, contain, describe, reflect, mention, support or refer or relate to" this lawsuit and the underlying EEOC Charge No. 433-2013-01334), and 9 (seeking "[a]ll documents that constitute, contain, describe, embody, comprise, reflect, mention, refer or relate to any statements or communications made by or to any Bojangles' current or former employees"). EEOC further

objects to the Request for Production to the extent it seeks responsive documents and/or information that are within or should be within Defendant's possession, custody, or control.

RESPONSE: EEOC directs Defendant, generally, to EEOC's administrative investigation file for Charge No. 433-2013-01334, *see* EEOC v. Bojangles_PLT_000001-00253, to the extent that any document contained therein is responsive to Request for Production No. 10. EEOC further directs Defendant to the following:

- Intake notes dated April 19, 2013, *see* EEOC v. Bojangles_PLT_000004-000005, EEOC v. Bojangles_PLT_000029-000030, and EEOC v. Bojangles_PLT_000244-000245;
- Wolfe's signed Charge of Discrimination, *see* EEOC v. Bojangles_PLT_000022 and EEOC v. Bojangles_PLT_000024;
- Wolfe's EEOC Intake Questionnaire and attachments, *see* EEOC v. Bojangles_PLT_000041-000047;
- Email from Brian Church ("Church") dated June 18, 2014 with attached handwritten notes by unidentified author dated February 21, 2013, *see* EEOC v. Bojangles_PLT_000085-000086;
- Defendant's Position Statement dated June 28, 2013 with attachments, *see* EEOC v. Bojangles_PLT_000092-000112;
- Email from Angelique Vincent-Hamacher ("Vincent-Hamacher") dated April 10, 2015 with attached employee list, *see* EEOC v. Bojangles_PLT_000113-000118;
- Letter from Vincent-Hamacher dated December 12, 2014 and miscellaneous personnel documents regarding Wolfe, *see* EEOC v. Bojangles_PLT_000119-000144;
- Riggins' written statement dated February 27, 2013, *see* EEOC v. Bojangles_PLT_000140;
- McDonald's written statement dated February 27, 2013, *see* EEOC v. Bojangles_PLT_000141;
- Email from Vincent-Hamacher dated April 1, 2015 with attached employee list, *see* EEOC v. Bojangles_PLT_000145-000148;
- Email from Vincent-Hamacher dated March 13, 2015 with attachments, *see* EEOC v. Bojangles_PLT_000145-000156;

- Letter from Vincent-Hamacher dated August 11, 2015 with attachments, *see* EEOC v. Bojangles_PLT_000163-000187, EEOC v. Bojangles_PLT_000189-000213, and EEOC v. Bojangles_PLT_000215-000239;
- Notes from interview of Irwin, *see* EEOC v. Bojangles_PLT_000158-000159 and EEOC v. Bojangles_PLT_000249-000250;
- Notes from interview of Riggins, *see* EEOC v. Bojangles_PLT_000160-000161 and EEOC v. Bojangles_PLT_000247;
- ServiceCheck Incident Report and Employee Awareness Hotline Incidents Summary, *see* EEOC v. Bojangles_PLT_000182-000184;
- Notes from interview of McDonald, *see* EEOC v. Bojangles_PLT_000253;
- Facebook comments by current or former Bojangles' employees, *see* EEOC v. Bojangles_PLT_000254-000267; and
- Wolfe's handwritten notes, *see* EEOC v. Bojangles_PLT_000291-000298.

11. All documents obtained by you from Wolfe, Bojangles', or from any Bojangles' current or former employee or agent.

OBJECTIONS: EEOC objects to Request for Production No. 11 to the extent it requests information subject to the attorney-client privilege, the deliberative (or executive) privilege, work product protection, and/or Title VII's § 706(b) confidentiality provisions. In addition, the Request for Production is overly broad, unduly burdensome, and not proportional to the needs of the case, and is cumulative and duplicative of other Requests for Production. Further, to the extent the Request for Production seeks documents received from or sent to Defendant, it is unduly burdensome because these documents are or should be within Defendant's possession, custody, or control.

RESPONSE: EEOC directs Defendant, generally, to EEOC v. Bojangles_PLT_000001-000307, to the extent that any document is responsive to Request for Production No. 11. EEOC specifically directs Defendant to the following:

- Wolfe's signed Charge of Discrimination, *see* EEOC v. Bojangles_PLT_000022 and EEOC v. Bojangles_PLT_000024;
- Wolfe's EEOC Intake Questionnaire and attachments, *see* EEOC v. Bojangles_PLT_000041-000047;
- Email from Brian Church ("Church") dated June 18, 2014 with attached handwritten notes by unidentified author dated February 21, 2013, *see* EEOC v. Bojangles_PLT_000085-000086;
- Defendant's Position Statement dated June 28, 2013 with attachments, *see* EEOC v. Bojangles_PLT_000092-000112;
- Email from Angelique Vincent-Hamacher ("Vincent-Hamacher") dated April 10, 2015 with attached employee list, *see* EEOC v. Bojangles_PLT_000113-000118;
- Letter from Vincent-Hamacher dated December 12, 2014 and miscellaneous personnel documents regarding Wolfe, *see* EEOC v. Bojangles_PLT_000119-000144;
- Riggins' written statement dated February 27, 2013, *see* EEOC v. Bojangles_PLT_000140;
- McDonald's written statement dated February 27, 2013, *see* EEOC v. Bojangles_PLT_000141;
- Email from Vincent-Hamacher dated April 1, 2015 with attached employee list, *see* EEOC v. Bojangles_PLT_000145-000148;
- Email from Vincent-Hamacher dated March 13, 2015 with attachments, *see* EEOC v. Bojangles_PLT_000145-000156;
- Letter from Vincent-Hamacher dated August 11, 2015 with attachments, *see* EEOC v. Bojangles_PLT_000163-000187, EEOC v. Bojangles_PLT_000189-000213, and EEOC v. Bojangles_PLT_000215-000239;
- Wolfe's handwritten notes, *see* EEOC v. Bojangles_PLT_000291-000298;
- Wolfe's Bojangles' pay stubs, *see* EEOC v. Bojangles_PLT_000268-000283;
- Wolfe's Worth the Weight Incorporated pay stubs, *see* EEOC v. Bojangles_PLT_000299-000307;
- Documentation from the North Carolina Department of Commerce, *see* EEOC v. Bojangles_PLT_000284-000287; and

- Documentation from Cumberland County Department of Social Services, *see* EEOC v. Bojangles_PLT_000288-000290.

12. All documents that constitute, contain, describe, reflect, mention, or refer or relate to any conduct by any Bojangles' current or former employee of which you complain in this action.

OBJECTIONS: EEOC objects to Request for Production No. 12 to the extent it requests information subject to any applicable privilege or protection, specifically including the attorney-client privilege, the deliberative (or executive) privilege, work product protection, and/or Title VII's § 706(b) confidentiality provisions. EEOC further objects to the Request for Production, generally, to the extent it is overly broad, unduly burdensome, and not proportional to the needs of the case, and specifically objects to the following phrase on the same grounds: "*all* documents that constitute, contain, describe, reflect, mention, or refer or relate to" (emphasis supplied). EEOC also objects to the Request for Production to the extent it is cumulative and duplicative of any other Request for Production, specifically including Request for Production Nos. 1 (seeking "[a]ll documents that contain, summarize, describe, mention, support, or refer or relate to any of the allegations in this action in any way whatsoever"), 5 (seeking all documents related to Wolfe's employment with Bojangles'), 6 (seeking, in relevant part, "[a]ll documents that constitute, contain, describe, reflect, mention, support or refer or relate to" this lawsuit and the underlying EEOC Charge No. 433-2013-01334), and 9 (seeking "[a]ll documents that constitute, contain, describe, embody, comprise, reflect, mention, refer or relate to any statements or communications made by or to any Bojangles' current or former employees"), and 10 (seeking "[a]ll documents that constitute, contain, describe, embody, comprise, reflect, mention, or refer or relate to any statements or communications made by anyone . . . regarding this action or any of the events, claims or contentions at issue in this action"). EEOC further objects to the Request

for Production to the extent it seeks responsive documents and/or information that are within or should be within Defendant's possession, custody, or control.

RESPONSE: EEOC directs Defendant, generally, to EEOC v. Bojangles_PLT_000001-000307, to the extent that any document contained therein is responsive to Request for Production No. 12. EEOC further directs Defendant to the following:

- Intake notes dated April 19, 2013, *see* EEOC v. Bojangles_PLT_000004-000005, EEOC v. Bojangles_PLT_000029-000030, and EEOC v. Bojangles_PLT_000244-000245;
- Wolfe's signed Charge of Discrimination, *see* EEOC v. Bojangles_PLT_000022 and EEOC v. Bojangles_PLT_000024;
- Wolfe's EEOC Intake Questionnaire and attachments, *see* EEOC v. Bojangles_PLT_000041-000047;
- Handwritten notes by unidentified author dated February 21, 2013, *see* EEOC v. Bojangles_PLT_000086;
- Defendant's Position Statement dated June 28, 2013 with attachments, *see* EEOC v. Bojangles_PLT_000092-000112;
- Riggins' written statement dated February 27, 2013, *see* EEOC v. Bojangles_PLT_000140;
- McDonald's written statement dated February 27, 2013, *see* EEOC v. Bojangles_PLT_000141;
- Letter from Vincent-Hamacher dated August 11, 2015 with attachments, *see* EEOC v. Bojangles_PLT_000163-000187, EEOC v. Bojangles_PLT_000189-000213, and EEOC v. Bojangles_PLT_000215-000239;
- Notes from interview of Irwin, *see* EEOC v. Bojangles_PLT_000158-000159 and EEOC v. Bojangles_PLT_000249-000250;
- Notes from interview of Riggins, *see* EEOC v. Bojangles_PLT_000160-000161 and EEOC v. Bojangles_PLT_000247;
- ServiceCheck Incident Report and Employee Awareness Hotline Incidents Summary, *see* EEOC v. Bojangles_PLT_000182-000184;
- Notes from interview of McDonald, *see* EEOC v. Bojangles_PLT_000253; and

- Wolfe's handwritten notes, *see* EEOC v. Bojangles_PLT_000291-000298.

13. All documents that Wolfe submitted to or received from the EEOC in connection with any charge of discrimination filed by Wolfe against any entity or person, including but not limited to the complete EEOC file relating to the charge of discrimination referred to in this action; and all other EEOC files relating to any and all other charges of discrimination filed by Wolfe with the EEOC against Bojangles' or against any other party at any time.

OBJECTIONS: EEOC objects to Request for Production No. 13 to the extent it requests information subject to any applicable privilege or protection, specifically including the attorney-client privilege, the deliberative (or executive) privilege, work product protection, and/or Title VII's § 706(b) confidentiality provisions. EEOC further objects to the Request for Production, generally, to the extent it is overly broad, unduly burdensome, and not proportional to the needs of the case, and specifically objects to the following phrases on the same grounds: "*all* documents," "in connection with *any* charge of discrimination filed by Wolfe," "against *any* entity or person," and "*all* other EEOC files relating to *any and all* other charges of discrimination filed by Wolfe with the EEOC" (emphasis supplied). EEOC also objects to the Request for Production on the ground that it is cumulative and duplicative of any other Request for Production, specifically including Request for Production Nos. 6 (seeking, in relevant part, "[a]ll documents that constitute, contain, describe, reflect, mention, support or refer or relate to" this lawsuit and the underlying EEOC Charge No. 433-2013-01334) and 11 (seeking "[a]ll documents obtained by you from Wolfe"), and also Request for Production Nos. 1, 5, 8, 9, and 10.

RESPONSE: EEOC directs Defendant to its responses to Requests Nos. 1, 5, 6, 8, 9, and 11, to the extent that any document contained therein is responsive to Request for Production No. 13.

14. All documents that contain, describe, reflect, memorialize, mention, or refer or relate to any communications between you and Wolfe.

OBJECTIONS: EEOC objects to Request for Production No. 14, *in toto*, as it requests information subject to the attorney-client privilege, the deliberative (or executive) privilege, work product protection, and/or Title VII's § 706(b) confidentiality provisions. In addition, the Request for Production is overly broad, unduly burdensome, and not proportional to the needs of the case, and is cumulative and duplicative of all other Requests for Production.

15. All documents that constitute, contain, describe, reflect, mention or refer or relate to any claim for unemployment benefits Wolfe asserted after termination of her employment with Bojangles'.

OBJECTIONS: EEOC objects to Request for Production No. 15 to the extent it requests information subject to any applicable privilege or protection, specifically including the attorney-client privilege, the deliberative (or executive) privilege, work product protection, and/or Title VII's § 706(b) confidentiality provisions. EEOC further objects on the ground that the following phrase renders the interrogatory overly broad, unduly burdensome, and not proportional to the needs of the case: "*all* documents that constitute, contain, describe, reflect, mention or refer or relate to" (emphasis supplied).

RESPONSE: EEOC directs Defendant to responsive documents produced by Defendant during the administrative investigation of EEOC Charge No. 433-2013-01334, *see* EEOC v. Bojangles_PLT_000120-000121 and EEOC v. Bojangles_PLT_000153-000156, and documentation from the North Carolina Department of Commerce, *see* EEOC v. Bojangles_PLT_000288-000290. EEOC is still gathering information and will produce relevant, responsive documents in accordance with the Federal Rules of Civil Procedure.

16. All documents that describe, state, calculate, mention or support the nature and amount of the damages you seek in this action.

OBJECTIONS: EEOC objects to Request for Production No. 16 to the extent it requests information subject to any applicable privilege or protection, specifically including the attorney-client privilege, the deliberative (or executive) privilege, work product protection, and/or Title VII's § 706(b) confidentiality provisions. EEOC further objects on the ground that the following phrase renders the interrogatory overly broad, unduly burdensome, and not proportional to the needs of the case: "*all* documents that describe, state, calculate, mention or support" (emphasis supplied). EEOC also objects to the Request for Production to the extent that documentation reflecting Wolfe's earned income and benefits with Bojangles' is or should be within Defendant's possession, custody, and control.

RESPONSE: EEOC directs Defendant to the following:

- Responsive documents produced by Defendant during the administrative investigation of EEOC Charge No. 433-2013-01334, *see* EEOC v. Bojangles_PLT_000120-000121 and EEOC v. Bojangles_PLT_000153-000156;
- Wolfe's Bojangles' pay stubs, *see* EEOC v. Bojangles_PLT_000268-000283;
- Wolfe's Worth the Weight Incorporated pay stubs, *see* EEOC v. Bojangles_PLT_000299-000307; and
- Documentation from the North Carolina Department of Commerce, *see* EEOC v. Bojangles_PLT_000284-000287.

EEOC is still gathering information and will produce relevant, responsive documents in accordance with the Federal Rules of Civil Procedure.

17. All documents that constitute or contain medical, psychological, or counseling records of, or that describe, reflect, mention, refer or relate to any visit by Wolfe to hospitals, physicians (including psychiatrists), psychologists, counselors, or other medical or mental health providers that occurred as a result of any events or acts described in this action.

OBJECTIONS: EEOC objects to Request for Production No. 17 to the extent it requests information subject to any applicable privilege or protection, specifically including the attorney-client privilege, the deliberative (or executive) privilege, work product protection, and/or Title VII's § 706(b) confidentiality provisions. EEOC further objects on the ground that the following phrase renders the interrogatory overly broad, unduly burdensome, and not proportional to the needs of the case: “[a]ll documents that constitute or contain medical, psychological, or counseling records of, or that describe, reflect, mention, refer or relate to *any* visit” (emphasis supplied).

RESPONSE: None.

18. All documents that constitute or contain medical, psychological, or counseling records of, or that describe, reflect, mention, refer or relate to any visit by Wolfe to hospitals, physicians (including psychiatrists), psychologists, counselors, or other medical or mental health providers from January 1, 2011 through the present.

OBJECTIONS: EEOC objects to Request for Production No. 18, *in toto*, as overly broad, unduly burdensome, and not proportional to the needs of the case, and specifically objects to the following phrase on the same grounds: “[a]ll documents that constitute or contain medical, psychological, or counseling records of, or that describe, reflect, mention, refer or relate to *any* visit” (emphasis supplied). EEOC further objects to the temporal scope of this interrogatory as overly broad, unduly burdensome, and not proportional to the needs of the case, especially given that Defendant admits the following: (1) that Wolfe did not begin her employment with Defendant until on or around May 9, 2012 (ECF 6 ¶ 13); and (2) that Wolfe was terminated on or about February 27, 2013 (ECF 6 ¶ 48). EEOC also objects to the extent this Request for Production is cumulative and duplicative of Request for Production No. 17. EEOC objects to Request for Production No. 18 to the extent this request—which seeks a broad swath of highly

personal and private medical information—is oppressive, harassing, and amounts to a fishing expedition. Finally, EEOC objects to this Request for Production to the extent it requests information subject to any applicable privilege or protection, specifically including the attorney-client privilege, the deliberative (or executive) privilege, work product protection, and/or Title VII’s § 706(b) confidentiality provisions.

19. All documents that that constitute, contain, describe or reflect bills or charges for any of the medical, psychological, counselling [sic], or hospital services listed in Requests 17 and 18 above.

OBJECTIONS: EEOC incorporates as repeated verbatim herein its objections to Request for Production Nos. 17 and 18. EEOC further objects to Request for Production No. 19 as cumulative and duplicative, as EEOC interprets the phrase “[a]ll documents that constitute or contain medical, psychological, or counseling records” as used in Request for Production Nos. 17 and 18 to inherently include service bills.

20. Wolfe’s complete local, state and federal income tax returns, with all exhibits and attachments, for each year from 2011 through the present.

OBJECTIONS: EEOC objects to Request for Production No. 20 on the grounds that this request—which seeks a broad swath of Wolfe’s financial data that goes far beyond the information necessary to calculate damages in this case—is overly broad, unduly burdensome, and not proportional to the needs of the case. EEOC further objects to this Request for Production to the extent it is cumulative and duplicative of Request for Production No. 23, which seeks “[a]ll documents that constitute, contain, describe, reflect, mention or refer or relate to any wages, benefits, or other compensation received by Wolfe for any work, employment or other income from January 1, 2013 through the present,” the only data admitted relevant for calculating damages in this case.

RESPONSE: EEOC is still gathering information and will produce relevant, responsive documents in accordance with the Federal Rules of Civil Procedure.

21. All day timers, calendars and diaries maintained by Wolfe, or in which Wolfe recorded any information, for the period from January 1, 2012 through the present.

OBJECTIONS: EEOC objects to Request for Production No. 21 on the ground that the following phrase renders the interrogatory overly broad, unduly burdensome, and not proportional to the needs of the case: “[a]ll day timers, calendars and diaries maintained by Wolfe, or in which Wolfe recorded any information” (emphasis supplied). EEOC further objects to the temporal scope of this interrogatory as overly broad, unduly burdensome, and not proportional to the needs of the case, especially given that Defendant admits the following: (1) that Wolfe did not begin her employment with Defendant until on or around May 9, 2012 (ECF 6 ¶ 13); and (2) that Wolfe was terminated on or about February 27, 2013 (ECF 6 ¶ 48).

RESPONSE: None.

22. Complete statements or bills for any telephone or cellular phone Wolfe possessed or maintained from January 1, 2012 through the present.

OBJECTIONS: EEOC objects to Request for Production No. 22 on the ground that it has no bearing on any facts or issues in this case and, therefore, is overly broad, unduly burdensome, and not proportional to the needs of the case. EEOC further objects to the temporal scope of this interrogatory as overly broad, unduly burdensome, and not proportional to the needs of the case, especially given that Defendant admits the following: (1) that Wolfe did not begin her employment with Defendant until on or around May 9, 2012 (ECF 6 ¶ 13); and (2) that Wolfe was terminated on or about February 27, 2013 (ECF 6 ¶ 48). Without a further

explanation of the purpose and intent of this Request for Production, EEOC concludes this Request for Production is a mere fishing expedition.

23. All documents that constitute, contain, describe, reflect, mention or refer or relate to any wages, benefits, or other compensation received by Wolfe for any work, employment or other income from January 1, 2013 through the present.

OBJECTIONS: EEOC objects to Request for Production No. 23 on the ground that the following phrase renders the interrogatory overly broad, unduly burdensome, and not proportional to the needs of the case: “[a]ll documents that constitute, contain, describe, reflect, mention or refer or relate to . . .” (emphasis supplied). EEOC further objects to the Request for Production to the extent it requests information subject to any applicable privilege or protection, specifically including the attorney-client privilege, the deliberative (or executive) privilege, work product protection, and/or Title VII’s § 706(b) confidentiality provisions. EEOC also objects to the temporal scope of this interrogatory as overly broad and not proportional to the needs of the case, especially given that Defendant admits Wolfe was terminated on or about February 27, 2013 (ECF 6 ¶ 48).

RESPONSE: EEOC directs Defendant to the following:

- Wolfe’s Bojangles’ pay stubs dated January 7 and 14, 2013 and February 18, 2013, *see* EEOC v. Bojangles_PLT_000281-000283; and
- Wolfe’s Worth the Weight Incorporated pay stubs, *see* EEOC v. Bojangles_PLT_000299-000307.

EEOC is still gathering information and will produce relevant, responsive documents in accordance with the Federal Rules of Civil Procedure.

24. All documents that constitute, contain, describe, reflect, mention, or refer or relate to any application for employment by Wolfe from January 1, 2013 through the present.

OBJECTIONS: EEOC objects to Request for Production No. 24 on the ground that the following phrase renders the interrogatory overly broad, unduly burdensome, and not proportional to the needs of the case: “[a]ll documents that constitute, contain, describe, reflect, mention, or refer or relate to. . .” (emphasis supplied). EEOC further objects to the Request for Production to the extent it requests information subject to any applicable privilege or protection, specifically including the attorney-client privilege, the deliberative (or executive) privilege, work product protection, and/or Title VII’s § 706(b) confidentiality provisions. EEOC also objects to the temporal scope of this interrogatory as overly broad and not proportional to the needs of the case, especially given that Defendant admits Wolfe was terminated on or about February 27, 2013 (ECF 6 ¶ 48).

RESPONSE: None. EEOC is still gathering information and will produce relevant, responsive documents in accordance with the Federal Rules of Civil Procedure.

25. All documents relating to Wolfe’s efforts, if any, to mitigate her damages, including all documents relating to her efforts to find and to gain employment after her termination from Bojangles’.

OBJECTIONS: EEOC objects to Request for Production No. 25 to the extent it is cumulative and duplicative given Request for Production No. 24. EEOC further objects to this Request for Production on the ground that the following phrase renders the interrogatory overly broad, unduly burdensome, and not proportional to the needs of the case: “[a]ll documents relating . . .” (emphasis supplied). EEOC also objects to the Request for Production to the extent it requests information subject to any applicable privilege or protection, specifically including the attorney-client privilege, the deliberative (or executive) privilege, work product protection, and/or Title VII’s § 706(b) confidentiality provisions.

RESPONSE: None. EEOC is still gathering information and will produce relevant, responsive documents in accordance with the Federal Rules of Civil Procedure.

26. All documents that constitute, contain, describe, reflect, mention, or refer or relate to any offers of employment received by Wolfe from January 1, 2013 through the present.

OBJECTIONS: EEOC objects to Request for Production No. 26 on the ground that the following phrase renders the interrogatory overly broad, unduly burdensome, and not proportional to the needs of the case: “[a]ll documents that constitute, contain, describe, reflect, mention, or refer or relate to . . .” (emphasis supplied). EEOC also objects to this Request for Production to the extent it requests information subject to any applicable privilege or protection, specifically including the attorney-client privilege, the deliberative (or executive) privilege, work product protection, and/or Title VII’s § 706(b) confidentiality provisions. EEOC further objects to the temporal scope of this interrogatory as overly broad and not proportional to the needs of the case, especially given that Defendant admits Wolfe was terminated on or about February 27, 2013 (ECF 6 ¶ 48).

RESPONSE: None.

27. All documents identified, referenced or referred to in your Initial Disclosures or in your responses to the above interrogatories.

RESPONSE: EEOC directs Defendant, generally, to EEOC v. Bojangles_PLT_000001-000307.

28. All documents requested above differing from the original by virtue of additions, deletions or marginal notations.

OBJECTIONS: EEOC objects to Request for Production No. 28 to the extent it requests information subject to any applicable privilege or protection, specifically including the attorney-

client privilege, the deliberative (or executive) privilege, work product protection, and/or Title VII's § 706(b) confidentiality provisions. EEOC further objects to this Request for Production to the extent it is cumulative and duplicative of Request for Production No. 4.

RESPONSE: None.

29. All drafts of all documents requested above.

OBJECTIONS: EEOC objects to Request for Production No. 29 to the extent it requests information subject to any applicable privilege or protection, specifically including the attorney-client privilege, the deliberative (or executive) privilege, work product protection, and/or Title VII's § 706(b) confidentiality provisions. EEOC further objects to this Request for Production to the extent it is cumulative and duplicative of Request for Production Nos. 4 and 28.

RESPONSE: None.

DATED this the 1st day of December, 2016.

U.S. EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION

s/ Rachael S. Steenbergh

RACHAEL S. STEENBERGH
South Carolina Federal Bar No. 10867
Trial Attorney

**EQUAL EMPLOYMENT
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ATTORNEYS FOR PLAINTIFF

CERTIFICATE OF SERVICE

I hereby certify that on the 1st day of December, 2016, pursuant to the parties' agreement under Fed. R. Civ. P. 5(b)(2)(E), I served via email and hand-delivery the above **EEOC'S RESPONSES TO DEFENDANT'S FIRST SET OF INTERROGATORIES AND FIRST REQUEST FOR PRODUCTION OF DOCUMENTS TO PLAINTIFF** and via hand-delivery only a compact disc containing the documents labeled as EEOC v. Bojangles_PLT_000001-000307 onto counsel of record at the address and email addresses listed below:

Counsel for Defendant:

Robinson, Bradshaw & Hinson, P.A.
101 North Tryon Street, Suite 1900
Charlotte, North Carolina 28246

Charles E. Johnson
cejohnson@robinsonbradshaw.com

Brian L. Church
bchurch@robinsonbradshaw.com

U.S. EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION

s/ Rachael S. Steenbergh

RACHAEL S. STEENBERGH
South Carolina Federal Bar No. 10867
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ATTORNEYS FOR PLAINTIFF

APPENDIX 20

NCWorks Online - Individual Summary

Filter case history by:
Select All / 1

- Appointments
- Event Registrations
- Letters
- Non-Voided Activities Only
- Trade Adjustment Asst
- Wagner Payset

(5)

Displaying all 30 case history items. Display up to the 10 most recent case history items. (individualsummary.asp?panelcontrol=18 (f) (chronofilter=&usefcp)

History Item (individualsummary.asp?panelcontrol=18 (f) (chronofilter=&usefcp))	Program (individualsummary.asp?panelcontrol=18 (f) (chronofilter=&usefcp))	Date (individualsummary.asp?panelcontrol=18 (f) (chronofilter=&usefcp))	
WIOA Follow-Up Created	WIOA #4604133	6/10/2016	WIOA TA
WIOA Follow-Up Created	WIOA #4604133	6/10/2016	WIOA TA
WIOA Follow-Up Created	WIOA #4604133	6/10/2016	WIOA TA
WIOA Follow-Up Created	WIOA #4604133	6/10/2016	WIOA TA
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WIOA Outcome Created	WIOA #4604133	6/10/2016	WIOA Clc
WIOA Outcome Created	WIOA #4604133	6/10/2016	WIOA Clc
WIOA Closure Created	WIOA #4604133	6/10/2016	WIOA Clc
503 - Negative Referral Result**	WP #4591910	5/20/2016	WP Serv
Resume Expiration	N/A	5/17/2016	Message
500 - Referred To Job Over 150 Days	WP #4581910	3/11/2016	WP Serv
006 - Self Service Job Search through VOS	WP #4591910	3/11/2016	WP Serv
221 - Referred To WIOA**	WP #4591910	3/11/2016	WP Serv
WIOA Closure Created	WIOA #4604133	3/11/2016	WIOA Clc
101 - Orientation	WP #4591910	3/11/2016	WP Serv
101 - Orientation	WIOA #4604133	3/11/2016	WIOA Fol
102 - Initial Assessment	WP #4591910	3/11/2016	WP Serv
125 - Job Search/Placoment Asst. Inc. Career Counseling	WP #4591910	3/11/2016	WP Serv
WP Outcome Created	WP #4591910	3/11/2016	WP Outc
WIOA Participation Created	WIOA #2155850	3/11/2016	WIOA PA
WIOA Application Created	WIOA #4604133	3/11/2016	WIOA Ap
WIOA Participation Created	WIOA #4604133	3/11/2016	WIOA Par



APPENDIX 21

	<ul style="list-style-type: none"> The applicable back pay period is eighteen months and one week. <p>Using these assumptions, EEOC calculated that Wolfe was entitled to \$1,300 per month (or the appropriate prorated amount) from February 22, 2013 through April 11, 2014. From April 12, 2014 through August 31, 2014, EEOC calculated that Wolfe was entitled to \$1,300 per month (or the appropriate prorated amount) minus \$829.14 per month (or the appropriate prorated amount). Please take note, this calculation is not precise and may be subject to modification.</p> <p>Prejudgment interest shall be computed at the time of trial</p>
Compensatory damages for Wolfe	Amounts to be determined at trial.
Punitive damages for Wolfe	Amounts to be determined at trial.
A permanent injunction enjoining Defendant from engaging in harassment based on sex, including gender identity, or any other employment practice that discriminates on the basis sex, including gender identity.	Not applicable.
A permanent injunction enjoining Defendant from engaging in retaliation against employees because they have opposed unlawful employment practices or otherwise engaged in protected activity under Title VII.	Not applicable.
Costs of this action.	Actual costs of prosecution of the instant lawsuit in amounts to be shown at trial.

DATED this the 23rd day of June, 2017.

U.S. EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION

s/ *Rachael S. Steenbergh*
RACHAEL S. STEENBERGH
South Carolina Federal Bar No. 10867
Trial Attorney

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ATTORNEYS FOR PLAINTIFF

CERTIFICATE OF SERVICE

I hereby certify that on the 23rd day of June, 2017, pursuant to the parties' agreement under Fed. R. Civ. P. 5(b)(2)(E), I served via email the above **PLAINTIFF'S SECOND SUPPLEMENTAL FED. R. CIV. P. 26(a)(1) INITIAL DISCLOSURES** to counsel of record at the email address listed below:

Counsel for Defendant:

Charles E. Johnson
cejohnson@robinsonbradshaw.com

Brian L. Church
bchurch@robinsonbradshaw.com

U.S. EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION

s/ Rachael S. Steenbergh
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ATTORNEYS FOR PLAINTIFF

APPENDIX 22

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
No. 5:16-cv-00654-BO

U.S. EQUAL EMPLOYMENT)
OPPORTUNITY COMMISSION,)
))
Plaintiff,)
))
v.)
))
BOJANGLES' RESTAURANTS, INC.,)
))
Defendant.)

**EEOC'S SIXTH SUPPLEMENTAL
RESPONSE TO DEFENDANT'S INITIAL
DISCOVERY TO PLAINTIFF**

Pursuant to Rules 26, 33, and 34 of the Federal Rules of Civil Procedure, Plaintiff, the United States Equal Employment Opportunity Commission ("EEOC"), supplements its response to Defendant's First Set of Interrogatories and First Request for Production of Documents to Plaintiff as follows.

GENERAL OBJECTIONS

1. EEOC objects to the interrogatories and requests for production to the extent that they can be interpreted to seek information protected by the attorney-client privilege, the deliberative (or executive) privilege, the common interest rule, the confidentiality provisions of Title VII, and/or information which constitutes the work product of EEOC's counsel. EEOC hereby asserts said privileges and refuses to reveal any information which is protected by such privileges and/or which constitutes such work product. Moreover, a disclosure of any information by EEOC which is subject to these protections shall not be construed as a waiver of the applicable privilege(s) or work product claim beyond the specific information disclosed. Privileged items that EEOC will not produce include EEOC's counsel's notes, memoranda, correspondence, legal analysis, and other privileged documents.

2. EEOC objects to the definitions and instructions contained in Defendant's First Set of Interrogatories and First Request for Production of Documents to Plaintiff to the extent that they seek to impose burdens on EEOC that are greater than those imposed by the Federal Rules of Civil Procedure and the Local Rules of this Court. EEOC will respond to the interrogatories and requests for production in accordance with its obligations under the Federal Rules of Civil Procedure.

3. These General Objections are incorporated by reference into each response given by EEOC to each interrogatory and request for production. The inclusion of any additional specific objection in any response is not intended to be, and shall not be deemed, a waiver of any General Objection or a waiver of any other specific objection made herein or that may be asserted at a later date.

Subject to the stated objections and without waiving the same, EEOC responds as follows:

INTERROGATORIES

4. Describe with particularity any and all damages Wolfe claims to have suffered related to the allegations contained in this action, and identify how you calculated the amount of each item or element of those damages.

SUPPLEMENTAL RESPONSE: Subject to the objections stated in EEOC's Response to Defendant's First Interrogatories and without waiving the same, EEOC directs Defendant to, and incorporates as if repeated herein, EEOC's Fed. R. Civ. P. 26(a)(1) Initial Disclosures at ¶ 3, including the contemporaneously served supplement thereto.

Some amounts of damages, including monetary relief for Wolfe's emotional pain, suffering, inconvenience, loss of enjoyment of life, humiliation, and loss of civil rights suffered

because of Defendant's adverse employment actions will be determined by a jury at trial. Likewise, the amount of punitive damages will be determined by a jury at trial.

EEOC seeks back pay with interest from February 22, 2013 through August 31, 2014. EEOC calculates the amount of back pay to be \$19,993.86. EEOC relied on the following assumptions in calculating back pay:

- Wolfe's expected earnings with Defendant was \$15,600 per annum.
- Wolfe's actual mitigation earnings was \$2,902.00. Divided equally across three and one-half months of employment, this amount equates to approximately \$829.14 per month.
- The applicable back pay period is eighteen months and one week.

Using these assumptions, EEOC calculated that Wolfe was entitled to \$1,300 per month (or the appropriate prorated amount) from February 22, 2013 through April 11, 2014. From April 12, 2014 through August 31, 2014, EEOC calculated that Wolfe was entitled to \$1,300 per month (or the appropriate prorated amount) minus \$829.14 per month (or the appropriate prorated amount).

Please take note, this calculation is not precise and may be subject to modification.

Prejudgment interest shall be computed at the time of trial.

VERIFICATION

I declare under penalty of perjury that the supplemental interrogatory answers set forth above are true and correct to the best of my knowledge, based on information presently available to the United States Equal Employment Opportunity Commission.

DATED this the 23rd day of June, 2017.

s/ Rachael S. Steenbergh
Rachael S. Steenbergh, EEOC Trial Attorney

REQUESTS FOR PRODUCTION

16. All documents that describe, state, calculate, mention or support the nature and amount of the damages you seek in this action.

SUPPLEMENTAL RESPONSE: Subject to the objections stated in EEOC's Response to Defendant's First Request for Production and without waiving the same, EEOC directs Defendant to Wolfe's Worth the Weight Incorporated paystub dated April 28, 2017, *see* EEOC v. Bojangles_PLT_000390, and Wolfe's 2016 W-2 from Worth the Weight Incorporated, *see* EEOC v. Bojangles_PLT_000391.

23. All documents that constitute, contain, describe, reflect, mention or refer or relate to any wages, benefits, or other compensation received by Wolfe for any work, employment or other income from January 1, 2013 through the present.

SUPPLEMENTAL RESPONSE: Subject to the objections stated in EEOC's Response to Defendant's First Request for Production and without waiving the same, EEOC directs Defendant to Wolfe's Worth the Weight Incorporated paystub dated April 28, 2017, *see* EEOC v. Bojangles_PLT_000390, and Wolfe's 2016 W-2 from Worth the Weight Incorporated, *see* EEOC v. Bojangles_PLT_000391.

DATED this the 23rd day of June, 2017.

U.S. EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION

s/ Rachael S. Steenbergh
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ATTORNEYS FOR PLAINTIFF

CERTIFICATE OF SERVICE

I hereby certify that on the 23rd day of June, 2017, pursuant to the parties' agreement under Fed. R. Civ. P. 5(b)(2)(E), I served via email the above **EEOC'S SIXTH SUPPLEMENTAL RESPONSE TO DEFENDANT'S INITIAL DISCOVERY TO PLAINTIFF** and documents labeled as EEOC v. Bojangles_PLT_000390-000391 onto counsel of record at the email addresses listed below:

Counsel for Defendant:

Charles E. Johnson
cejohnson@robinsonbradshaw.com

Brian L. Church
bchurch@robinsonbradshaw.com

U.S. EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION

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