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PLAINTIFF DEMANDS TRIAL BY STRUCK JURY

d. The Equal Pay Act, 29 U.S.C. §206(d); and

- e. the general laws of the State of Alabama.
2. Federal subject matter jurisdiction exists pursuant to:
 - a. 28 U.S.C. §§ 1331, 1343(a)(3) and 1367;
 - b. The ADEA, 29 U.S.C. §626(c)(1);
 - c. Title VII, 42 U.S.C. §2000e-5(f)(3); and
 - d. 29 U.S.C. §216(b).
3. Plaintiff's claims arising under the laws of the State of Alabama are properly before this Court pursuant to 28 U.S.C. §1367, supplemental jurisdiction.

PARTIES

4. The Plaintiff, James R. King (hereinafter "Plaintiff" and/or "King"), is a male person over the age of forty. King is a resident of Riverside, Alabama, St. Clair County, and was employed by CVS Caremark Corporation in Pell City, Alabama.

5. Defendant, CVS Caremark Corporation a/k/a CVS Pharmacy (hereinafter "Defendant CVS"), is a retail drug store chain with more than 5100 stores operating in 36 states and the District of Columbia. CVS employs more than 145,000 individuals. CVS is a corporation incorporated in the State of Rhode Island and headquartered in Woonsocket, Rhode Island. At all times relevant to this Complaint, CVS was, and is, doing business within the Northern District of Alabama. Defendant

CVS employs at least fifteen (15) persons within the meaning of Title VII, 42 U.S.C. § 2000e(b) and at least twenty (20) persons within the meaning of the ADEA, 29 U.S.C. §630(b). Defendant CVS is an enterprise engaged in commerce or in the production of goods for commerce within the meaning of 29 U.S.C. §203(s)(1).

6. Defendant, Cody Berguson (hereinafter “Berguson”), is over the age of nineteen and, at all times relevant, was a manager and agent of Defendant CVS. Berguson is a resident of Jefferson County, Alabama, and is subject to the jurisdiction of this Court.

VENUE

7. Venue lies within the Northern District of Alabama. 28 U.S.C. §1391.

NATURE OF ACTION

8. Plaintiff alleges that Defendant CVS and Defendant Berguson engaged in intentional unlawful employment practices and other acts of intentional discrimination; harassment; retaliation; libel; slander; defamation; negligent and wanton hiring, training, supervision and retention; interference with contractual or business relations; invasion of privacy; and intentional infliction of emotional distress. This action seeks to redress these grievances resulting from the actions of Defendants, their agents, servants, and employees committed with respect to Plaintiff's employment and otherwise; and for a permanent injunction restraining

Defendants from discriminating against the Plaintiff and others similarly situated on account of age, gender, and retaliation.

9. Plaintiff also seeks make whole relief including reinstatement, back pay, front pay, compensatory and punitive damages, as appropriate. Additionally, Plaintiff seeks attorneys' fees and costs.

ADMINISTRATIVE PROCEDURES

10. On January 4, 2012, within 180 days of learning of the acts of discrimination of which he complains, Plaintiff filed a Charge of Discrimination with the Equal Employment Opportunity Commission, ("EEOC"), alleging age discrimination, sex discrimination, and retaliation. **(Attached hereto as Exhibit A).**

11. Plaintiff has exhausted all conditions precedent to suit established by Title VII and the ADEA, to wit:

- a. Plaintiff's charge of age discrimination and retaliation was pending with the EEOC for over sixty (60) days. 29 U.S.C. §626(d)(1); and
- b. Plaintiff's charge of sex discrimination and retaliation was pending with the EEOC for more than 180 days.
- c. The EEOC issued a Notice of Right to Sue dated August 1, 2012.

d. Plaintiff received his copy of the Notice of Right to Sue on August 3, 2012. **(Attached hereto as Exhibit B).**

12. The Plaintiff has met all conditions precedent to suit.

STATEMENT OF FACTS

13. Plaintiff is a 65 year old white male. He was born on February 1, 1946.

14. Plaintiff is a licensed and registered Pharmacist within the State of Alabama. Plaintiff received his Doctor of Pharmacy degree from Samford University School of Pharmacy in 1979 and was licensed by the Alabama Board of Pharmacy in 1982, after serving a one year internship.

15. Plaintiff was employed with CVS as a Pharmacist at its Pell City, Alabama, retail location for seven and one-half years.

16. Plaintiff was recruited by CVS from Rite Aid where Plaintiff had also worked as a Pharmacist.

17. Plaintiff's direct supervisor at CVS was Cody Berguson, a white male under the age of 40.

18. Berguson is the CVS Pharmacy District Manager. He reports to Donna Yeatman ("Yeatman"), District Manager for CVS.

19. As Plaintiff approached his 65th birthday Berguson began a pattern of unjustly criticizing Plaintiff's work performance.

20. One of these incidents occurred in October 2010. At that time Berguson criticized the manner in which Plaintiff responded to a customer who had a question about a script which had been filled by another pharmacist.

21. Despite the fact that Plaintiff had responded to the customer in a courteous and appropriate manner Berguson came to the store and wrote Plaintiff up.

22. Neither CVS nor Berguson gave Plaintiff a copy of this write up and Plaintiff has never seen this write up or a copy.

23. To his knowledge, Plaintiff had never before been written up while employed by CVS.

24. In late 2010 Berguson began making age-based comments to Plaintiff such as "when are you going to retire" or "why don't you buy an annuity and retire?"

25. Plaintiff found these comments highly offensive and considered them to be inappropriate inquiries and expressions of Defendants' desire that he retire due to his age.

26. Defendants increased their harassing conduct after Plaintiff's 65th birthday.

27. In February or March 2011 Berguson came to the pharmacy and asked the Plaintiff, in the presence of other pharmacy employees, why CVS was losing business to another independent pharmacy.

28. Plaintiff responded to Berguson's question in an honest and straight-forward manner. Berguson did not make any negative comments in response to Plaintiff's comments.

29. But, one week after this incident, Berguson returned to the pharmacy and told Plaintiff that he was being written up for having answered his question in the presence of the other pharmacy staff. Berguson told Plaintiff that answering his question in front of other staff was bad for employee morale.

30. Neither CVS nor Berguson gave Plaintiff a copy of this write up and Plaintiff has never seen this write up or a copy.

31. On July 7, 2011, Berguson came to the pharmacy with Jeff Sandford ("Sandford"), a representative from CVS's Loss Prevention department.

32. In the presence of Sandford, Berguson accused Plaintiff of stealing two soft drinks from the store's cooler. Berguson claimed that he had security camera evidence to support this allegation.

33. Plaintiff explained to Berguson and Sandford that Plaintiff had purchased the soft drinks in question and that he had not stolen any soft drinks.

34. Sandford told Plaintiff that he would “look into that.” Despite that promise, neither CVS nor Berguson have ever told Plaintiff the results of their investigation into this alleged theft.

35. Plaintiff has never been shown the alleged security camera evidence referenced by Berguson.

36. During this same July 7, 2011, meeting with Plaintiff, in the presence of Sandford, Berguson called Plaintiff a “thief” and a “liar” and accused Plaintiff of being lazy. Berguson further stated that Plaintiff “was sorry and contributed nothing to the pharmacy,” that he was bad for morale, and that no one in the pharmacy liked him or wanted to work with him. Finally, Berguson unjustly accused Plaintiff of giving “sweetheart schedules” to his friends in the pharmacy.

37. These comments, made in the presence of Sandford, greatly embarrassed and humiliated Plaintiff.

38. During this same visit to the store, Berguson and Sandford also wrote up Plaintiff for returning a check to a customer who had decided not to purchase certain medications which had been used to fill a script. The medications at issue never left the CVS facility.

39. While Plaintiff later learned from a pharmacy technician that CVS had recently adopted a new check handling policy, Plaintiff was not aware of the new policy, had received no information from CVS or Berguson about the new policy, and had not received an in-service on the new policy.

40. Plaintiff never saw a copy of the new check handling policy and never received any information about the new check policy, either prior to his termination in October 2011 or afterwards.

41. Berguson also wrote up Plaintiff because, at times, when he was busy with a customer or a physician, he would give his manager's card to the pharmacy technicians so that they could clock someone in or void a sale. Plaintiff had never seen any policy prohibiting this practice.

42. Plaintiff asked Berguson for a copy of this write up. Berguson said that he would fax a copy to Plaintiff.

43. Neither CVS nor Berguson have provided a copy of this write up to Plaintiff and Plaintiff has never seen this write up or a copy.

44. In early August 2011 Plaintiff contacted the Human Resources Department of CVS and told them that he believed that Berguson was mistreating him because of his age.

45. Human Resources told Plaintiff to contact Yeatman, the District Manager. No one in Human Resources would discuss his concerns with him.

46. Plaintiff then called Yeatman. Her voice mail stated that she would be out of the office for a while.

47. Plaintiff again called Yeatman on August 8, 2011, and left a message asking that she call him back about a very important matter.

48. Yeatman did not return Plaintiff's call.

49. On August 10, 2011, Plaintiff called Yeatman's cell phone and left her another message.

50. Yeatman finally returned Plaintiff's call on August 11, 2011, and arranged to have a telephone conversation with Plaintiff on August 12.

51. In the morning of August 12 Plaintiff spoke with Yeatman and told her how Berguson was mistreating him.

52. Plaintiff's complaints included, but were not limited to, the fact that he was subjected to ongoing and continuing discriminatory treatment and remarks by Berguson, including unwarranted write-ups and negative comments, and that Berguson was threatening to terminate Plaintiff and causing Plaintiff to be unfairly disciplined.

53. Yeatman told Plaintiff that she was going into a meeting with Berguson and would speak with him about Plaintiff's concerns. But Yeatman expressed skepticism over Plaintiff's claim by stating "that doesn't sound like something Cody would do." Yeatman also promised to get back to Plaintiff after she spoke with Berguson.

54. Yeatman never responded to Plaintiff's allegations nor contacted Plaintiff further concerning his complaints.

55. After hearing nothing from Yeatman on August 12, 2011, Plaintiff made diligent efforts to pursue other options within CVS to stop Berguson's unfair treatment of him.

56. Plaintiff reviewed the CVS employee handbook and learned that employees could report claims of harassment and discrimination to their supervisor or the Human Resource Manager for their area.

57. Plaintiff tried to contact the Human Resource Managers for his area, Richard Howard and Walt Rogers, and learned that the telephone numbers listed for both men on the CVS intranet site were no longer valid numbers.

58. Plaintiff then attempted to contact Rob Henderson, a Human Resource Manager located in Roswell, Georgia. While Plaintiff left a voice mail message for him, Henderson never returned Plaintiff's call.

59. The CVS employee handbook also provides that an employee can report incidents of harassment through Ethics.BusinessConduct@cvs.com (“Ethics Hotline”).

60. On September 2, 2011, Plaintiff sent an e-mail to this address in which he summarized the harassment and mistreatment he had experienced and the steps he had taken to report and stop the conduct.

61. On September 12, 2011, Plaintiff received a phone call from a female representative of the Ethics Hotline (name unknown) advising him that his complaint had been received and an investigation would be forthcoming.

62. On September 20, 2011, Berguson and Sanford came to the pharmacy where Plaintiff worked, called him into the manager’s office and suspended him.

63. Berguson told Plaintiff that he was being suspended because he refilled a prescription which previously had been filled by another younger pharmacist. This prescription had been directed to the wrong customer by the drive-thru cashier.

64. Plaintiff was not present the day the prescription was originally filled nor the day the prescription was given to the wrong customer.

65. Berguson told Plaintiff that he was suspended pending a review as to whether his conduct in refilling the customer's script violated any guidelines issued by the State Board of Pharmacy.

66. Berguson also reported Plaintiff to the Alabama Pharmacy Board.

67. The person responsible for misdirecting the prescription was not disciplined, suspended nor reported to the Alabama Pharmacy Board.

68. On October 11, 2011, Berguson terminated Plaintiff. Berguson claimed that Plaintiff's conduct in refiling the subject prescription was a violation of state law and company policy.

69. During the investigation by the Alabama Pharmacy Board, Ed Braden, a representative of the Pharmacy Board, took Plaintiff's statement about the incident in question.

70. Plaintiff later called the Alabama Pharmacy Board and was told by Glenn Wells that there had been no finding by the Pharmacy Board that his conduct had violated any law or pharmacy regulation.

71. Plaintiff has never been told by anyone other than Berguson that his conduct in refilling the subject prescription was a violation of any law, regulation, rule or CVS policy.

72. Younger employees were not treated in the adverse and discriminatory manner to which Plaintiff was subjected.

73. The younger pharmacist who was on duty when the customer's prescription was misdirected was not disciplined, suspended, or reported to the Pharmacy Board.

74. Berguson used this situation as a pretext to justify his decision to terminate Plaintiff because of his age and to retaliate against the Plaintiff due to his complaints of discrimination submitted to CVS approximately thirty days earlier.

75. The reason provided to Plaintiff for his termination was fabricated by Berguson to hide Berguson's true motive, that Plaintiff was disciplined and terminated as a further act of discrimination and in retaliation for having opposed conduct made unlawful.

76. Berguson unfairly accused Plaintiff of stealing soft drinks and subjected Plaintiff to bogus investigations in an effort to force Plaintiff to quit or "retire."

77. Berguson continually encouraged Plaintiff to retire and further recommended on numerous occasions that Plaintiff retire.

78. When Plaintiff refused to retire Berguson pursued a course of action intended to force Plaintiff quit.

79. When Plaintiff still refused to quit Berguson terminated Plaintiff based upon fabricated and false grounds.

80. Berguson was condescending and defamatory to Plaintiff, unjustly calling him “a thief,” “a liar” and “lazy.” Plaintiff was told he was “bad for morale” and that “no one in the pharmacy likes you” and “no one wants to work with you.” Younger employees were not similarly treated.

81. Berguson also accused Plaintiff of giving “sweetheart schedules” to his employee “friends” in the pharmacy.

82. Berguson disciplined Plaintiff for incidents that had not previously been the subject of any type of disciplinary action.

83. Despite Plaintiff’s numerous requests for copies of all write ups pertaining to him or his conduct, Defendants never provided him with copies of these documents.

84. Plaintiff had always received favorable evaluations and had never been written up or disciplined prior to Berguson becoming his manager.

85. Plaintiff took reasonable steps to report Berguson’s conduct to CVS in the hopes that the conduct would stop.

86. Plaintiff's efforts were to no avail, either because Defendants' policies for addressing such conduct are non-existent/ineffectual or because Defendants ignored Plaintiff's complaints.

87. At no time has Defendant CVS or any of its agents advised Plaintiff as to the nature of any investigation conducted in response to Plaintiff's complaints or the results of any such investigation.

88. Because Defendants repeatedly ignored Plaintiff's numerous complaints, Plaintiff suffered repeated acts of slander, discrimination and retaliation by Berguson and others at Berguson's direction and control.

89. On information and belief, other managers have complained to Yeatman and CVS about Berguson and his age related comments and conduct. Nevertheless, CVS has never reprimanded or counseled Berguson concerning his discriminatory conduct.

90. Berguson has a history and practice of discriminating against older employees and has also terminated other Pharmacists, over the age of forty (40), at the Anniston, Trussville and Eastlake stores without notice or provocation. Roger Harris, a pharmacist over the age of 40 was also terminated by Berguson, under false pretenses and for fabricated reasons. Harris has a current case pending in the

United States District Court for the Northern District of Alabama, Eastern Division, Civil Action No.: 1:11-cv-00732-VEH.

91. Defendant CVS, having such knowledge that Berguson had other complaints of age discrimination, condoned and sanctioned the discriminatory and harassing actions Berguson inflicted on King.

COUNT ONE

**AGE DISCRIMINATION AND
HARASSMENT CLAIMS**

92. The Plaintiff adopts and realleges 1-91 as if fully recited herein. This Count addresses those claims seeking to redress the unlawful employment practice of age discrimination and harassment claim conducted by Defendant CVS's agents and employees and ratified by that Defendant, and protected by federal and state law that prohibits age discrimination.

93. This is an action to redress grievances resulting from acts of Defendant CVS, its agents, servants, and employees committed with respect to Plaintiff's employment and for a permanent injunction restraining Defendant CVS from maintaining a policy and practice of harassing and discriminating against the Plaintiff and other persons similarly situated on account of age.

94. Plaintiff is 65 years of age and a member of a protected group.

95. Plaintiff is qualified to perform the job duties of a Pharmacist, is a licensed and registered Pharmacist and has conducted duties consistent with the position in a satisfactory manner for over twenty (20) years.

96. Plaintiff was subjected to discriminatory treatment and age biased remarks by Berguson and asked on multiple occasions when he was going to retire.

97. Younger employees with less experience and seniority were not treated in a discriminatory or hostile manner and at all time were treated more favorably than Plaintiff with respect to the terms, conditions and pay in their employment with Defendant.

98. As a proximate result of Defendant's unlawful intentional age-based discrimination and harassment, Plaintiff suffered different terms and conditions of employment than his younger co-workers.

99. Such unlawful employment practices proximately caused Plaintiff to suffer severe emotional distress, physical injury and pain, mental anguish, embarrassment, humiliation, shame, trauma, financial duress, wage and benefit loss, and financial loss for which he claims damages.

100. The Plaintiff seeks declaratory and injunctive relief, award of lost employment benefits and wages, back pay, front pay, interest, liquidated damages, costs, attorneys' fees, and any and all such other relief the trier of fact may assess.

COUNT TWO

RETALIATION UNDER THE ADEA

101. Plaintiff realleges paragraphs 1-91 and 94-97, as if fully set out herein. This is a claim against Defendant CVS for the illegal and intentional acts of retaliation toward Plaintiff following his complaints of age discrimination and harassment.

102. Plaintiff was disciplined, terminated and retaliated against for pursuing his civil rights protected by the laws of the United States and the State of Alabama. Plaintiff complained internally by placing calls to CVS' Ethics Hotline and the Human Resource Department, as well as placing calls to Yeatman about the unlawful discrimination and employment practices of Defendant. Plaintiff's work environment, pay and conditions were materially altered and changed to the detriment of the Plaintiff after he complained of age discrimination and harassment. Plaintiff was disciplined, suspended, terminated and defamed within thirty days of voicing complaints of discrimination.

103. Such unlawful employment practices proximately caused Plaintiff to suffer severe emotional distress, physical injury and pain, mental anguish, embarrassment, humiliation, shame, trauma, financial duress, wage and benefit loss, and financial loss for which he claims damages.

104. Plaintiff seeks declaratory and injunctive relief, reinstatement, award of lost wages, back pay, front pay, interest, compensatory and punitive damages for loss of career opportunity, humiliation, embarrassment, and mental anguish, costs, attorneys' fees and any and all such other relief the trier of fact may assess.

COUNT THREE

TITLE VII SEX DISCRIMINATION

105. Plaintiff realleges paragraphs 1-91, as if fully set out herein. This is a claim against Defendant CVS for the illegal and intentional acts of sex discrimination toward Plaintiff conducted by Defendant CVS's agents and employees and ratified by that Defendant, and protected by Title VII of the Civil Rights Act of 1964, as amended, that prohibits sex discrimination in employment.

106. Plaintiff alleges that female pharmacists, employed by Defendant CVS, were not treated in the same manner as Plaintiff. Said female pharmacists were not unjustly accused of violating company rules and policies, were not

subjected to demeaning and harassing comments pertaining to their age, and were compensated at a higher rate of pay than Plaintiff.

107. Plaintiff alleges that female pharmacists hired after he was hired were paid at a higher rate of pay than he was paid because of their sex.

108. Such unlawful employment practices proximately caused Plaintiff to suffer severe emotional distress, physical injury and pain, mental anguish, embarrassment, humiliation, shame, trauma, financial duress, wage and benefit loss, and financial loss for which he claims damages.

109. Plaintiff seeks declaratory and injunctive relief, award of lost wages, back pay, front pay, interest, compensatory and punitive damages for loss of career opportunity, humiliation, embarrassment, and mental anguish, costs, attorneys' fees and any and all such other relief, whether legal or equitable in nature.

COUNT FOUR

EQUAL PAY ACT

110. Plaintiff realleges paragraphs 1-91 and 106-107, as if fully set out herein. This is a claim against Defendant CVS alleging violations of the Equal Pay Act, 29 U.S.C. §206(d). The Equal Pay Act prohibits an employer from discriminating between employees on the basis of sex by paying wages to employees in an establishment at a rate less than the rate at which the employer

pays wages to employees of the opposite sex in such establishment for equal work on jobs, the performance of which requires equal skill, effort, and responsibility, and which are performed under similar working conditions.

111. Plaintiff alleges that Defendant CVS paid female pharmacists assigned to the Pell City facility at a higher rate of pay than it paid Plaintiff for equal work on jobs the performance of which requires equal skill, effort and responsibility, and which are performed under similar working conditions.

112. Plaintiff further alleges that the differences in the rates of pay between the females pharmacists and himself were not made pursuant to a seniority system, a merit system, a system which measures earnings by quantity or quality of production, or a differential based on any other factor other than sex.

113. The Plaintiff seeks declaratory and injunctive relief, including unpaid minimum wages as defined in 29 U.S.C. §216(b), an additional equal amount in liquidated damages, and attorney's fees and costs.

COUNT FIVE

LIBEL AND SLANDER

114. The Plaintiff adopts and realleges 1-91, as if fully recited herein. This is a claim arising under the laws of the State of Alabama prohibiting defamation and specifically libel and slander and brought against CVS and Berguson.

115. Defendants libeled and slandered King by falsely accusing him of dishonest and criminal acts and relaying these comments to other individuals, including Plaintiff, co-workers, community, business contacts and the Board of Pharmacy.

116. King was subjected to negative verbal and written publicity based on Defendants' actions and words and false accusations, which were intended to harm Plaintiff. Defendants' acts were intentional.

117. Such unlawful actions proximately caused Plaintiff to suffer severe emotional distress, physical injury, mental anguish, trauma and embarrassment, financial loss and the inability to secure employment within his community.

118. Plaintiff seeks declaratory and injunctive relief, reinstatement, award of lost wages, back pay, front pay, interest, compensatory and punitive damages for loss of career opportunity, humiliation, embarrassment, and mental anguish, costs, attorneys' fees and any and all such other relief the trier of fact may assess.

COUNT SIX

DEFAMATION

119. The Plaintiff adopts and realleges 1-91 and 115-117, as if fully recited herein. This is a claim arising under the laws of the State of Alabama prohibiting defamation. This claim is brought against CVS and Berguson.

120. Defendants defamed King by falsely accusing him of criminal acts and relaying these comments to other individuals within King's community.

121. King was subjected to negative publicity with his peers because of Defendants' false and intentional accusations. Defendants intended to harm Plaintiff financially, emotionally and physically with their acts of defamation.

122. Such unlawful actions proximately caused Plaintiff to suffer severe emotional distress, physical injury, mental anguish, trauma and embarrassment, financial loss and the inability to secure employment within his community. Further, Plaintiff's reputation was tarnished as a result of Defendants' acts of defamation.

123. Plaintiff seeks declaratory and injunctive relief, reinstatement, award of lost wages, back pay, front pay, interest, compensatory and punitive damages for loss of career opportunity, humiliation, embarrassment, and mental anguish; costs, attorneys' fees and any and all such other relief the trier of fact may assess.

COUNT SEVEN

NEGLIGENT AND WANTON HIRING, TRAINING, SUPERVISION AND RETENTION

124. The Plaintiff adopts and realleges 1-91 and 114-138, as if fully recited herein. This is a claim arising under the laws of the State of Alabama to

redress the negligent and wanton hiring, training, supervision and retention of Defendant's employees.

125. Defendant CVS had a duty to provide a reasonably safe, non-hostile and non-discriminatory work environment to the Plaintiff and other employees over the age of forty (40). Defendant CVS had actual notice of the actions complained of by Plaintiff.

126. Defendant having such knowledge, negligently and wantonly failed to train and discipline those employees, who actively discriminated, harassed, retaliated and conspired against Plaintiff, namely Cody Berguson and Donna Yeatman, on an ongoing basis, and failed to protect Plaintiff from further injury.

127. Defendant failed to administer its own policies against harassment and discrimination and such behavior which created a hostile working environment and failed to regularly and clearly communicate such policy to its managers, namely Cody Berguson, its other agents and employees.

128. Plaintiff's working conditions created by Donna Yeatman, Cody Berguson and CVS were adverse and hostile and intended to cause Plaintiff financial, physical and emotional harm.

129. As a proximate result of the defendant's unlawful and unconstitutional conduct aforesaid, Plaintiff suffered the following injuries:

different terms and conditions of employment than other employees, severe emotional distress, physical injury, pain and suffering, humiliation, mental anguish, trauma and embarrassment, and financial loss.

130. The plaintiff seeks declaratory and injunctive relief, award of lost employment benefits and wages, back pay, front pay, interest, compensatory and punitive damages for loss of career opportunity, humiliation and embarrassment, mental anguish, costs, attorneys' fees, and any and all such other relief the trier of fact may assess.

COUNT EIGHT

INTERFERENCE WITH CONTRACTUAL OR BUSINESS RELATIONS

131. The Plaintiff adopts and realleges 1-91, 114-130, and 137-148, as if fully recited herein. There existed a business relationship between Plaintiff and the Pharmacy board and Plaintiff and his customers.

132. Defendants CVS and Berguson had knowledge of the business relationship between Plaintiff and others and sought to intentionally damage and harm that relationship to Plaintiff's detriment. Further, Defendants intentionally sought to harm Plaintiff to his financial, physical and emotional detriment.

133. Defendants intentionally interfered with the business relationship that Plaintiff had because Plaintiff's complained about Defendants' discrimination and harassment of him. Defendants filed a complaint with the Pharmacy Board against Plaintiff and allowed public knowledge of this complaint to harm the Plaintiff's reputation in the community, even broadcasting untrue and criminal allegations and information about the complaint and Plaintiff and its status to other members of the community at large.

134. Plaintiff was damaged as a result of Defendants' intentional interference.

135. As a proximate result of the Defendants' conduct, Plaintiff was caused to suffer loss of pay, benefits, physical injury and pain and suffering, embarrassment, humiliation, loss of reputation, emotional distress, trauma, and mental anguish for which he claims damages as set out below.

136. Plaintiff seeks declaratory and injunctive relief, reinstatement, award of compensatory and punitive damages, mental anguish, costs, attorney's fees, and any and all such other relief the trier of fact may assess.

COUNT NINE

INVASION OF PRIVACY

137. The Plaintiff adopts and realleges 1-91 and 114-130 as if fully recited herein. This is a claim against the Defendants CVS and Berguson for the invasion of Plaintiff's right to privacy based on the laws of the State of Alabama.

138. Defendants invaded the Plaintiff's personal and emotional sanctum by harassing, discriminating against Plaintiff and falsely accusing and placing him in a false and unfavorable light and falsely accusing Plaintiff of violating the laws of the State of Alabama and the state Pharmacy Board. Defendants falsely reported Plaintiff to the state pharmacy board and subjected plaintiff to several investigations in an attempt to harm the plaintiff's reputation and jeopardize his license with the pharmacy board. The Defendants harassed and discriminated against the Plaintiff and when Plaintiff complained about the discriminatory treatment, he was placed in a false position in the public eye, publicity was provided by Defendants to private information about the Plaintiff, and Defendants intruded into Plaintiff's physical solitude and seclusion by having the Plaintiff defend himself against false accusations.

139. The Defendants' conduct proximately caused the Plaintiff to suffer embarrassment, humiliation, physical injury and pain and suffering, loss of

reputation, emotional distress, trauma, loss of pay and benefits, and mental anguish for which he claims damages as set out below.

140. Plaintiff seeks declaratory and injunctive relief, reinstatement, award of compensatory and punitive damages, mental anguish, costs, attorney's fees, and any and all such other relief the trier of fact may assess.

COUNT TEN

INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

141. Plaintiff re-alleges and incorporates by reference paragraphs 1-91, 114-130, and 137-140 with the same force and effect as if fully set out in specific detail herein.

142. This is a claim against all Defendants arising under the laws of the State of Alabama prohibiting the intentional infliction of emotional distress.

143. The conduct of the Defendants, as aforesaid, was extreme, outrageous and beyond the bounds of decency.

144. Such conduct is not condoned by society and should not go unpunished.

145. The conduct of Defendants, as aforesaid, consisted of intentional acts which were employed to inflict severe emotional distress upon Plaintiff.

146. The repeated discriminatory remarks of Berguson regarding Plaintiff's age, and targeted damage done to Plaintiff's reputation after Plaintiff followed CVS policies and procedures to report the discrimination, altered the Plaintiff's work environment and the terms and conditions of his employment.

147. The Defendants' conduct proximately caused the Plaintiff to suffer embarrassment, physical injury, pain and suffering, loss of pay and benefits, financial distress, humiliation, loss of reputation, emotional distress, trauma, and mental anguish for which he claims damages as set out below.

148. Plaintiff seeks declaratory and injunctive relief, award of compensatory and punitive damages, mental anguish, costs, attorney's fees, and any and all such other relief the trier of fact may assess.

WHEREFORE, Plaintiff respectfully requests this Court:

A. Grant a permanent injunction enjoining Defendant, its officers, successors, assigns and all persons in active concert or participation with it, from engaging further in its discriminatory treatment on the basis of age;

B. Order Defendant to institute and carry out policies, practices and programs which provide equal provisions and employment opportunities for all employees, and which eradicate the effects of its past and present unlawful

employment practices, including implementing a policy against age discrimination in the work place and against retaliation for engaging in protected activities;

C. Order Defendant to make Plaintiff whole by providing appropriate front pay, back pay, with prejudgment interest, back pay with prejudgment interest, in amounts to be proved at trial, reinstatement, and other affirmative relief necessary to eradicate the effects of its unlawful employment practices, including, but not limited to, compensatory damages, punitive and liquidated damages;

D. Award the Plaintiff compensatory, punitive and liquidated damages;

E. Award the Plaintiff his costs and expenses herein, including reasonable attorney fees; and,

F. Award such other and further relief which this Court deems necessary and proper.

Respectfully submitted,

/s/ Alicia K. Haynes
Alicia K. Haynes ASB-8237-E23A
Attorney for Plaintiff

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ASB-8327-E23A

PLAINTIFF DEMANDS TRIAL BY STRUCK JURY

/s/ Alicia K. Haynes

Alicia K. Haynes

Attorney for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on this the 12th day of December 2012, I electronically filed the foregoing with the Clerk of the Court using the CM/EMF system which will serve notification of such filing to the following:

Christopher W. Deering

OGLEETREE DEAKINS

1819 5th Avenue North

Suite 1000

Birmingham, Alabama 35203-2118

/s/ Alicia K. Haynes

OF COUNSEL