

UNITED STATES DISTRICT COURT  
DISTRICT OF MAINE

ALLINA DIAZ, )  
an adult individual resident of Waldoboro, )  
County of Lincoln, and )  
State of Maine, )

Plaintiff, )

v. )

CASE NO. \_\_\_\_\_

MOODY’S RESTAURANT, also known as )  
MOODY’S DINER, a Maine corporation )  
registered to do business in Maine, with a )  
place of business in Waldoboro, Lincoln )  
County, State of Maine, )

Defendant. )

**COMPLAINT WITH JURY TRIAL REQUEST**

Allina Diaz makes the following complaint against Moody’s Restaurant, also known as Moody’s Diner. She requests a jury trial.

**Parties/Venue**

1. Plaintiff, Allina Diaz (hereinafter referred to as “Diaz”), is female citizen of the State of Maine, living in the County of Lincoln.
2. Defendant, Moody’s Restaurant, also known as Moody’s Diner (hereinafter referred to as “Moody’s”), is a Maine corporation registered to do business in Maine with a registered agent in Waldoboro, Maine, and a place of doing business in Waldoboro, Maine, which is located in Lincoln County.
3. Venue properly lies in the United States District Court in Maine, in Bangor.
4. The Defendant has employed more than one hundred (100) employees in the same calendar year as, or in the calendar year prior to, when the discrimination alleged in this case occurred.

**Procedural Background**

5. This is a proceeding for declaratory and injunctive relief and monetary damages to redress the deprivation of rights secured to Diaz by the Civil Rights Act of 1964, 42 U.S.C. § 2000e *et seq.*, as amended, (hereinafter “Title VII”), which prohibits

discrimination on the basis of religion, and the Maine Human Rights Act (“MHRA”), 5 M.R.S. § 4551 *et seq.*

6. Diaz filed a timely complaint with the Maine Human Rights Commission (hereinafter referred to as “MHRC”).
7. The MHRC investigated the complaints and found that there were reasonable grounds to believe that unlawful discrimination occurred. The MHRC subsequently endeavored to eliminate such discrimination by informal means such as conference, conciliation, and persuasion, but those efforts were unsuccessful.
8. The MHRC failed, within ninety (90) days after finding reasonable grounds to believe that unlawful discrimination occurred, to enter into a conciliation agreement to which Diaz was a party. It issued a Conciliation Failed letter. Diaz has timely filed this complaint within ninety (90) days of the issuance of the Conciliation Failed letter from the MHRC.
9. The Equal Employment Opportunity Commission (hereinafter referred to as the “EEOC”) has issued a right to sue notice to Diaz. Diaz has thus exhausted all of her available administrative remedies.
10. This Court has jurisdiction over this action pursuant to Title VII, 42 U.S.C. §2000e-5(f)(3), 28 U.S.C. §1331, and 28 U.S.C. §1367.

#### **Jury Demand**

11. Diaz demands trial by jury of all claims to the extent allowed by law.

#### **Factual Background**

12. In April of 2002, Diaz began working at Moody’s as a dish-washer at Moody’s restaurant located in Waldoboro, Maine.
13. In late October of 2012, Diaz began dating Nate Beck (hereinafter referred to as “Nate”) the son of Dan Beck who is the principal manager and shareholder of Moody’s.
14. Almost immediately upon the beginning of Diaz and Nate’s relationship, Nate’s parents, Dan Beck and Ruth Beck, were upset at the relationship becoming “official” too soon. As part of Dan Beck and Ruth Beck’s religious faith they would have been part of the decision as to when Diaz and Nate’s relationship would become “official”.
15. In December 2012, Diaz attended the Christmas Party held by Moody’s. During the party, Ruth Beck told Diaz’s mother, also an employee of Moody’s, that Nate was betraying God, God’s plan, and that Nate was using Diaz. Ruth Beck expressly told Diaz’s mother that if Diaz was her daughter she would tell Diaz not to date Nate. Ruth

Beck also stated to Diaz's mother that Diaz was not going about the relationship in a way their church would want them to.

16. In January 2013, Diaz was called into the office by Dan Beck. Dan Beck reprimanded Diaz for not going over to his table the prior evening to say hello to him and his guests. Diaz told Dan Beck that she felt intimidated because Dan and Ruth Beck felt her relationship violated their religious views. At the conclusion of this meeting, Dan Beck told Diaz to meet him and his wife at his home outside of work. Dan Beck instructed Diaz not to bring anyone else to this meeting.

17. In late January or early February of 2013, Diaz went to Dan Beck's home as directed. Diaz was told the following:

- A) Nate should not be in the state of Maine, because he cannot serve God in Maine;
- B) Diaz was not ready for a relationship since she didn't know where she stood with God;
- C) Diaz couldn't have a relationship with God without God in it;
- D) Nate would come back to God and leave her in the dust when he did;
- E) Diaz was a "easy" choice for Nate, because she gave up her body to him and Diaz did not hold Nate accountable for anything;
- F) Nate was replacing a prior pornography addiction with Diaz; and
- G) Diaz needed Jesus and that was the only way for Diaz to live.

18. In early June 2013, Diaz made a Facebook post to address rumors that she was living a less than Christian lifestyle. In substance, Diaz posted:

"Just because you don't think that I hear the hateful things you say about me, doesn't mean that God can't. And while my 'sins' have created two innocent and beautiful children, I would never take them back, and while you continue to spread your gossip and hatred I will continue to be the most loving, hard-working, unconditionally loving and best mother I can be to my girls, because I am a survivor."

This message was posted by Diaz on her personal Facebook page, and it was not shared or sent to any one specific individual.

19. On June 16, 2013, Diaz received a call on her cellphone from Dan Beck. Dan Beck, in an urgent tone of voice, asked Diaz where she lived. Dan Beck, as Diaz was driving home, told Diaz that he needed to meet with her, and he needed her address so he could come right over. Diaz explained to Dan Beck that she was ill. Dan Beck told Diaz that he believed her but did not care about her illness. Approximately ten (10) minutes after ending this conversation, Dan Beck continued to call Diaz on her cellphone.

20. Dan Beck was still calling Diaz's cellphone when she got home. Nate took Diaz's cellphone and answered it. Nate explained to Dan Deck that Diaz was sick, and would not go over to his home. *Dan Beck told Nate that if Diaz did not come over to his home to talk to him Diaz would not be allowed to work again at Moody's.*
21. Nate continued talking to his father, Dan Beck, and asked him to stop harassing Diaz. Dan Beck insisted that he needed to discuss a work issue with Diaz which needed to be addressed immediately, and that, if Diaz wanted to keep her job, she needed to meet with him that evening.
22. Threatened with the loss of her job, Diaz then left her home, and drove to Dan Beck's home for this meeting.
23. At approximately 10:00 p.m. on June 16, 2013, Diaz arrived at Dan Beck's home. The meeting started shortly thereafter. Dan Beck explained to Diaz that the meeting was regarding a work situation.
24. Dan Beck told Diaz that he felt Diaz's Facebook post in early June 2013 was directed at both him and his wife, Ruth Beck. Dan Beck told Diaz that they thought that her keeping her children was admirable, because most women in her situation would have gotten an abortion. Diaz took great personal offense to this. Dan Beck then asked Diaz to pray with him. Diaz agreed to do so out of fear that Dan Beck would begin yelling at her again if she told him no.
25. After praying, Dan Beck told Diaz that she could not leave his home until she deleted the Facebook post. Diaz was forced to delete her Facebook posting about religion in order to leave her boss's home.
26. On July 29, 2013, Diaz was working her regularly scheduled shift at Moody's. During the course of her shift, Dan Beck confronted Diaz and asked to meet with her and Nate together that evening.
27. Later the evening of July 29, 2013, Dan Beck called Nate. Dan Beck told Nate that the requested meeting concerned work, and that both he and Diaz were required to attend. At the close of the conversation, Nate told Dan Beck that the meeting should occur on August 2, 2013, after Diaz finished her shift at Moody's.
28. On August 2, 2013, Diaz worked her regularly scheduled shift at Moody's. Throughout the shift Diaz was distracted and anxious about the meeting with Dan Beck. Dan Beck convened this meeting after 10:00 p.m. that evening. Present for this meeting was Dan Beck, Nate, Diaz, and Nancy Genthner. Dan Beck told Diaz and Nate that he did not want to have to see their lifestyle at work, and did not want to look at them every day when he knew the choices they were making. He told Diaz and Nate that "[b]y Allina's lifestyle and your [Nate's] lifestyle, you display that you do not believe in Christ."

29. Dan Beck also stated that Diaz had not made a profession of faith. He agreed that the conversation “compromised” Allina’s work atmosphere.
30. Dan Beck then asked Diaz and Nate to find other employment. Nate countered by asking if he and Diaz did not agree to leave Moody’s. Dan Beck responded by saying that there was plenty in both Nate’s and Diaz’s personnel files to substantiate a firing.
31. Beck’s remarks were related to religion, proximate in time to the employment decision to terminate and later to discipline, made by an individual with authority over all aspects of employment, and related to Moody’s employment decisions regarding Diaz.
32. The dating relationship between Nate Beck and Diaz did not cause disturbances at work or affect business operations. Instead, Nate Beck stopped working at Moody's after the August 2 meeting.
33. On August 5, 2013, Diaz worked her regularly scheduled shift at Moody’s. Upon starting her shift, Diaz felt panicky, and anxious, and worked very hard to keep herself from crying. She could also not concentrate or focus and she had to take a break to control to prevent another panic attack similar to one she experienced on August 1, 2013.
34. Her panic and anxiety were caused by her employer confronting her over religious values and telling her she needed to find another job.
35. On August 11, other employees told Diaz that Dan Beck had asked them to check on her customers to see if they could find anything wrong with her service, but also told them to check a few others as well so as it would not be obvious there was a focus on Diaz. The concern was expressed that Beck was trying to find things wrong with just Diaz. Dan Beck did not target Diaz before their differences in religious views came into conflict.
36. Approximately a week or two after the August 2, 2013, meeting, Nate spoke to his father, Dan Beck, asking his father to reconsider his view on Diaz’s employment status. Dan Beck said he would not reconsider. He told Nate that he would only consider giving Diaz additional time to find work elsewhere.
37. Nate confirmed in an e-mail that this conversation occurred and that Dan Beck repeatedly referred to the need to take a path toward Jesus as the basis for his decision.
38. Dan Beck told Nate that he would do everything in his power to point Nate and Diaz back to Jesus. Dan Beck reiterated to Nate that he could not continue to allow Nate and Diaz to work at Moody’s due to their not taking a path towards Jesus.
39. On August 21, 2013, Diaz sent an email to Dan Beck. She wrote: “You asked me to leave Moody’s and seek other employment. Although I cannot apologize that my religious and moral convictions do not keep me from living my personal life the way you see best, I am disheartened that it has affected our work environment so drastically that it has brought about your desire for me to leave. However, I have decided to respectfully

decline your request to find other employment. I want to keep my job and hope to have peace of mind that my religious and moral decisions will not jeopardize the security of my employment.”

40. The very next day, Dan Beck responded that they needed to meet regarding performance issues – a meeting not raised as necessary until after Diaz refused to agree to be fired over religion.
41. On August 28, 2013, a meeting was held between Diaz, Dan Beck, and Nancy Genthner. Dan Beck told Diaz that he was placing her on a thirty (30) day probationary period. He told Diaz he was doing so for four reasons:
  - A) Punctuality;
  - B) Dress code;
  - C) Customer service; and
  - D) Conduct.
42. Diaz took exception with Dan Beck’s write up for punctuality. As she noted to Dan Beck, it is common for waitresses at Moody’s to not clock in until they have their first customer. Nancy Genthner echoed this point. Dan Beck indicated he did not care that was the case. Dan Beck disciplined Diaz for this conduct, but he did not discipline any other waitresses who had engaged in similar conduct. *He was disciplining Diaz for conduct for which he did not discipline waitresses he did not have religious differences with.*
43. Moreover, the instances went back into July; those clock ins were not raised as performance problems until after Diaz did not agree to be fired over religious differences.
44. Diaz took exception with Dan Beck’s write up for dress code. Diaz explained that her foot wear complied with Moody’s policy. She stated other employees were able to wear “Crocs” which did not comply with the policy, and were not written up for their violations. She was being singled out for conduct that other employees were not disciplined for and, unlike *before* the issue over religion, Dan was now trying to find something on her in terms of rules.
45. When Diaz asked about the claimed issue over customer service, she was told it took place back at the beginning of the summer. She had not been warned or written up then. When Diaz pressed for specifics, Dan Beck was unable to provide any.
46. Beck’s write up about Diaz regarding “conduct” had to do with Diaz telling other employees about what had happened at the Aug. 2 meeting. Dan Beck accused Diaz of not demonstrating a commitment to the success of Moody’s due to her discussing what had happened at the meeting.

47. At the close of the meeting, Dan Beck informed Diaz that she was not to tell anyone about this meeting and that the only individuals who should know about the meeting were him, Nancy Genthner, and her. If she talked about the meeting she would be fired, he said.
48. On September 5, Diaz was issued a warning for being 12 minutes late while two other workers were half an hour late and one didn't show up at all. Dan learned about Diaz only because he made it a point to look and check on her, which he did not do to the other workers (and didn't do to Diaz before their dispute over religious views).
49. Since September 5, Dan Beck asked other employees to watch what Diaz did and to report back to him and asked others if they knew of anything wrong she had done in the past. He also allowed others to come in late multiple times while checking Diaz's time cards to check on her time.
50. On September 25, 2013, an attorney Diaz consulted wrote to Moody's that "Both state and federal law prohibit discrimination on the basis of religion. In addition, both also require an employer to accommodate religious differences and needs, similar to accommodations for disabilities."
51. After that letter, Diaz was accused of bringing a lawsuit against Moody's for religious discrimination. For example, Dan Beck told Nate that Diaz had taken legal action against him, and Moody's, for religious discrimination. Dan Beck asked how Nate could marry someone who has a lawsuit pending against his family.
52. Dan Beck told many others – even though untrue – that Diaz had brought a lawsuit for religious discrimination against Moody's. Beck repeatedly told others that he felt Diaz was a "liar." Diaz was singled out for discipline and retaliation that was directed at her for exercising her right to seek legal advice and to assert her right to religious freedom and accommodation.
53. On October 14, 2013, Dan Beck had a meeting with Diaz. Dan Beck informed Diaz that he wanted to cut her shifts to only four (4) per week. Diaz indicated to Dan Beck that she wanted to keep all of her shifts, and that she wanted to be treated like everyone else. She asked why her Thursday shift was being cut, especially when she had worked that same shift during the prior winter. Dan Beck informed her that he needed to accommodate other employees so he had to give her regular Thursday shift, notwithstanding Diaz's twelve (12) years of seniority, to another employee.
54. Subsequent to this meeting, Dan Beck cut Diaz's Thursday shift. No other waitresses with comparable seniority to Diaz lost a shift.
55. At the restaurant Diaz was treated differently by the Beck family from those who shared their religious views. She was written up for conduct that others were not.

56. Diaz was held to different standards than employees who shared the religious views of Dan Beck, the general manager and an owner of Moody's. She was retaliated against once she refused to be fired, and asserted her right to be free from discrimination.
57. Moody's treatment of Diaz interfered with her work performance and created an intimidating, hostile, and offensive working environment.
58. The Maine Human Rights Commission hearing on Diaz's case took place on Nov. 17, 2014. All of Diaz's supervisors attended and sat with Moody's in support of Moody's against Diaz, except for Andrew who stayed back to manage the restaurant and who had already given his notice anyway. Moody's got most of its employees to show up to try to intimidate Diaz into not exercising the rights she has under the Maine Human Rights Act.
59. Moody's packed the room, including with all of its management. It was so intimidating that a man from the audience later offered to walk Diaz to her car for her safety as the large group stood right outside the door to the hearing room, the only exit.
60. Marie was one of the people who attended. Marie had been assigned as Diaz's "advocate" at work as the one who Diaz was supposed to go to with any issues. Marie would not even acknowledge Diaz at the hearing and avoided her after that at work. Teri Stred, a new manager in training, attended the hearing also, in a show of support AGAINST Diaz.
61. Over the next month, Jill at work told Diaz she was not going to talk to her anymore because of the press attention that the Commission hearing received. People stopped talking to Diaz. Diaz was subjected to an unprecedented level of scrutiny.
62. For example, on Dec. 7, 2014, Diaz called in one day and talked to Marie and asked if she could come in an hour or so late because one of her daughters had a Christmas show. She said they were already short-handed and to ask Dan. So Diaz texted Dan Beck and said Marie said to contact him and asked if she could come in an hour late if she got coverage. He texted back, what is going on that you can't come in. Diaz responded, it's Annabelle's Christmas show at church, that she didn't want to get in trouble for it, and if it was a problem, to never mind. He answered that one of the waitresses could stay until 4 and that Diaz could relieve that person at 4 p.m. Diaz arrived early, around 3:45. She clocked in and the person covering for her left. Nothing was said to her, nothing was wrong, and she was not told she was late (because she wasn't). Despite the permission sent in writing from the owner himself to arrive as late as 4, Teri the manager later accused Diaz of being late (Teri didn't make this accusation until almost a month later, at a meeting on Jan. 1; Teri was not even working the night of Dec. 7.)
63. In the last week of December, Diaz walked into work with her name tag. Marie came up to her and said, you can't wear that and where is your name tag. Diaz pointed out that she had her name tag and asked what was wrong with her shirt. First, Marie said that Diaz was supposed to have her Moody's white shirt showing. Diaz pointed out they were no longer required to wear Moody's Diner tee shirts. Then, Marie said that Diaz had to have



a zipper in front and could not wear a pullover. (Marie often wears a black pullover so this response did not help clarify what the rule was.) Diaz pointed out that she had worn other pullovers so wasn't sure about what the rule was. Marie went down and got the handbook and read and pointed to the dress code; there was nothing in there that applied to the situation. Even though this did not make sense, Diaz said she would change and went and changed into a shirt of the same material but with buttons down the front (she had left it at work and found it in the closet). The rule book did not say that a zipper was required.

64. Although Diaz was taken aside as soon as she came in the door to work and accused of not complying with the dress code, at the same time as this happened there were as many as five other employees who did not comply but had nothing said to them. For example, Missy was wearing a big oversized flannel shirt and non-slip resistant sneakers and the shirt was unbuttoned way down. Another employee, Jen, said to Marie, how can Missy wear that and look sloppy and you pick on Diaz who looks presentable? Jen said she didn't think it was fair that Diaz had to change her shirt and Missy did not. It wasn't until the end of the day that Marie went to speak to Missy about dress code.
65. In addition, there were employees wearing tank tops that didn't comply with the hand book which required only certain colors be used. There were two people with really low cut shirts, and one showed her pink bra through her shirt. The rule is pretty clear how the shirt should be no lower than a certain distance from the collar bone. None of those people were spoken to or told to change. Diaz had pointed out the tank tops but Marie ignored that and just said that Dan Beck would have her head if he saw what Diaz had on.
66. A couple days later, Teri asked Diaz if she was feeling harassed or retaliated against. Diaz reported that yes she was. Diaz explained how uncomfortable and intimidating it was to have everyone at the hearing sitting against her. Teri said she didn't think that applied because it wasn't at work. Diaz also reported that Jill had told her she wouldn't speak to her anymore and that others had stopped speaking to her without announcing it like Jill. Teri didn't have a response but did write down what Diaz said. Diaz reported further that she was singled out by Marie with respect to the dress code, was spoken to, and had to change even though as many as five others that same night were wearing clothing that didn't comply with the dress code. One person was also wearing shoes that were not skid proof as required by the dress code (something that Diaz had gotten a written warning before when wearing boat shoes). Teri wrote down what Diaz said, and had Diaz review and sign it. Diaz is not aware of any action being taken to respond to her report of retaliation.
67. The uninvited harassment was because of Diaz's religion, was sufficiently severe and pervasive to affect her terms and conditions of employment, the offending conduct was both objectively and subjectively offensive, and management knew of and participated in the harassment.
68. The final filings in this case when before the Maine Human Rights Commission were made on September 19, 2014. At that time, both parties had an audio recording made by

Nate, the son of Moody's owner, Dan Beck. Both parties quoted from it in their filings with the Commission from the beginning of the Commission process to the end. *Only complainant actually sent the full recording to the commission.*

69. On Feb. 6, 2015, nearly five months later, Moody's tried to put a stop to a scheduled conciliation meeting with Jill Duson by asking the Governor to order a stop to it via executive order (deemed inappropriate by both the Attorney General and the Governor's own attorney). At that point, Moody's was claiming that the full recording was necessary for a fair hearing – after it had lost – even though Moody's itself had withheld the recording from the Commission. (Exh. A).
70. At Moody's urging, the attorney for the Governor informed the Commission staff that she would be doing an investigation of the Diaz/Moody's case. This process was first raised and pursued 5 months after the final filings in the case, 4 months after the Oct. 17 Investigator's report, and 3 months after the Nov. 17 Commission hearing on the case and the finding of reasonable grounds. As an email from Commission counsel makes clear, it was also at this time that the Governor's office decided to withhold funds from the Commission.
71. At the request of Moody's using political influence on the Commission to try to extort a second bite at the apple and get another hearing, Diaz had to prepare for and appear AGAIN at the Commission, this time to justify why the case should not be re-opened to give Moody's another and new hearing. The Commission denied Moody's request but the effort added to Diaz's anxiety and intimidation and considerably ran up her costs and fees.
72. In fact, to end Moody's claims that it had made no statements about religion and about supposed changes to the transcript of the tape, Diaz paid an official court reporter to transcribe the full recording so that the Commission would have no doubt about what Moody's had stated at the August 2 meeting.
73. Note that Moody's did not even submit tape portions backing up its own quotes, let alone the full audiotape – why would it be appropriate to give it a second bite of the apple because it chose to submit no audio at all? The answer: it wasn't and Moody's was just trying to do an end run around the process once it lost to try to coerce a more favorable result.
74. Moody's filing with the MHRC on April 24, 2014, did not contradict the quoted portions of the August 2 meeting in which Allina was told she needed to find another job and the references to not taking a path toward Jesus. *Nor did it provide a full copy of that recording, the recording it now claims is essential to its case. That same pattern occurred repeatedly throughout the Commission process.*
75. Consistent with the recorded meeting, and backed up by email communications that were provided to the investigator in the complaint, within 24 hours of Diaz telling Moody's that she did not agree to be fired because of Dan Beck's feelings about her religious

conduct, she was informed of a disciplinary meeting and warning for conduct spanning a long period of time during which there were no warnings or issues with her performance. Suddenly, what had been going on before became unacceptable.

76. The disciplinary notice that was given in response to Diaz saying that she was not agreeing to leave because of the owner's religious feelings is evidence of pretext. There were no warnings or notices for years -- before Diaz took that stand. She was not told she had shoe, attendance, or other problems before she said no to the owner's request she leave. The claimed performance issues in the Aug. 28, 2013, notice were not raised as a problem until upon receipt of Allina's Aug. 21 email. In fact, performance issues were not raised in the meeting on August 2 when Allina and Nate met with the owner at work except as a threat if they did not agree to leave.
77. These actions occurred "because of religion."

**Count I**  
**(Religious Discrimination under 42 U.S.C. §2000e(a)(1)-(2))**

78. Diaz realleges and hereby incorporates by reference the above paragraphs as if set forth in their entirety.
79. Diaz is a person who practices a religion, with religion as defined by 42 U.S.C. §2000e(j).
80. Religion includes all aspects of religious observance and practice, as well as belief. Ethical beliefs about what is right or wrong are protected, as is atheism and not having a religion.
81. Diaz's employer, Moody's, discriminated against Diaz. It made adherence to certain ethical beliefs as to what was right or wrong a requirement of employment.
82. Harassment was reported to management. No prompt or appropriate remedial action was taken to end it.
83. Moody's harassment was sufficiently severe and pervasive to have affected the terms, conditions, are privileges of Diaz's employment at Moody's.
84. Moody's either directly or vicariously through its employees, agents, and/or representatives was responsible for creating such a work environment.
85. Moody's religious discrimination against Diaz was with respect to Diaz's compensation, terms, conditions, or privileges of employment at Moody's.
86. Although Moody's has claimed that it was merely "parenting," there is no parenting exception under federal or state law and none that allows an employer to use employment as a weapon against an employee who is not their child. A boss cannot get for their adult child what they want by threatening another employee with termination.

87. But for the difference in religious values between the owner and manager of Moody's and employee Diaz, the threat to terminate her, and the retaliation against her for saying no, would not have occurred.
88. There is no dating exception under federal or state law. Moreover, the owner and manager of Moody's was not opposed to Diaz dating; he was opposed to her religious values that were different from his.
89. Moody's acted with malice or reckless indifference to the rights of Diaz.
90. Diaz suffered damages as a result.

**Count II**  
**(Retaliation under 42 U.S.C. §2000e - 3(a))**

91. Diaz realleges and hereby incorporates by reference the above paragraphs as if set forth in their entirety.
92. Diaz has different religious and ethical beliefs and practices from her employer, which religious and ethical beliefs are protected by law.
93. Diaz, in the course of her employment with Moody's, engaged in conduct that Moody's found religiously objectionable.
94. Moody's discriminated against Diaz because of her religion, in violation of Title VII.
95. Moody's discriminated against Diaz because she opposed, made charges, testified, and assisted in enforcement proceedings regarding that discrimination.
96. Protected conduct includes the filing of administrative complaints as well as complaining to one's supervisors. Diaz did both.
97. Diaz was harmed by Moody's retaliation, which altered the terms and conditions of her job, creating great stress, anxiety, fear, and emotional harm.
98. Moody's acted with malice or reckless indifference to the rights of Diaz.

**Count III**  
**(Religious Discrimination under 5 M.R.S. §4572)**

99. Diaz realleges and hereby incorporates by reference the above paragraphs as if set forth in their entirety.
100. Diaz's employer, Moody's, discriminated against Diaz in violation of the Maine Human Rights Act on the basis of religion.

101. Moody's religious discrimination affected Diaz's compensation, terms, conditions, or privileges of employment at Moody's.
102. Moody's violated 5 M.R.S. § 4572.
103. Moody's acted with malice or reckless indifference to the rights of Diaz.
104. These violations caused harm to Diaz, including loss of pay, emotional distress, suffering, inconvenience and other pecuniary and non-pecuniary losses.
105. Moody's engaged in, by and through its employees, agents, and/or representatives, unwelcome comments, acts, or other verbal or physical conduct of a religious nature which were not welcomed by Diaz.
106. Moody's unwelcome comments were of a religious nature and such comments occurred because of Diaz's religious beliefs or would not have occurred but for Diaz's religion.
107. Diaz's submission to such conduct by Moody's was made explicitly as a term or condition of Diaz's employment.
108. Diaz's submission to or rejection of such conduct by Moody's was used by Moody's as a basis for employment decisions affecting Diaz.
109. Moody's conduct in this instance had the purpose or effect of unreasonably interfering with Diaz's work performance or created an intimidating, hostile, or offensive working environment.

**Count IV**  
**(Retaliation and Interference under 5 M.R.S. § 4633(1) and (2))**

110. Diaz realleges and hereby incorporates by reference the above paragraphs as if set forth in their entirety.
111. Moody's by and through its employees, agents, and/or representatives discriminated against Diaz on the basis of Diaz's religion.
112. Diaz as a result of Moody's discrimination made a charge, testified, assisted, or otherwise participated in an investigation, proceeding, or hearing under the Maine Human Rights Act.
113. Moody's by and through its employees, agents, and/or representatives coerced, intimidated, or threatened Diaz while Diaz was in the course of her employment with Moody's.

114. Diaz, during the course of her employment with Moody's was in exercise or enjoyment of the right to freely practice her religion which is a right granted or protected under the Maine Human Rights Act.
115. Moody's by and through its employees, agents, and/or representatives engaged in coercion, intimidation, or threats of Diaz while Diaz was in the course of her employment. Said coercion, intimidation, or threats disrupted Diaz's exercise and enjoyment of the right to freely practice her religion.
116. Immediately after Diaz expressed her opposition to being told she had to leave employment, she was hauled into a disciplinary meeting and written up.
117. Right after Diaz had a lawyer write a letter about religious discrimination, Moody's accused Diaz of filing a lawsuit against it and called her a "liar," punishing her for exercising her right to file with the Commission (even though she had not in fact done that at the time.) Such conduct harmed Diaz.
118. Moody's acted with malice or reckless indifference to the rights of Diaz.

**Count V**

**(Aiding, abetting, inciting, compelling, or coercing another to engage in employment discrimination under 5 M.R.S. § 4553(10))**

119. Diaz realleges and hereby incorporates by reference the above paragraphs as if set forth in their entirety.
120. Moody's by and through its corporate officers and/or principle shareholders aided, abetted, incited, compelled, or coerced the employees, agents, and/or representatives of others to engage in discriminating against Diaz on the basis of religion, with such employment discrimination on the basis of religion being unlawful.
121. Indeed, Moody's attempted to, and did get, the Governor's Office to interfere with the Maine Human Rights Commission process. It made up claims about the investigator in an effort to make an end run around the process. (Exh. A).
122. Moody's went so far as to withhold a tape recording of a meeting with Diaz and then claim it should get a second and new hearing on the basis that the investigator should hear the recording it chose to withhold from her.
123. Moody's acted with malice or reckless indifference to the right of Diaz.

**PRAYER FOR RELIEF**

WHEREFORE, Diaz prays that this Court enter an order providing as follows:

- A. Enter judgment declaring Moody's practices complained of herein are unlawful as alleged;
- B. Grant Diaz a permanent injunction enjoining Moody's, its officers, agents, successors, employees, attorneys and assigns and other representatives, and all persons acting in concert with them and at their direction, from engaging in any employment policy or practice which retaliates against Diaz;
- C. Order Moody's to make Diaz whole by providing reinstatement and/or front pay, appropriate back pay, and reimbursement for lost pension, health, Social Security, and other benefits in amounts to be shown at trial;
- D. Order Moody's to pay Diaz compensatory damages for non-pecuniary losses, including, but not limited to, pain and suffering, psychological upset, and interference with the enjoyment of life;
- E. Order Moody's to pay Diaz punitive damages;
- F. Order Moody's to pay Diaz civil penal damages pursuant to 5 M.R.S. §4613(2)(B)(7);
- G. Order Moody's to pay all litigation costs and expert witness fees;
- H. Order Moody's to pay Diaz nominal damages;
- I. Order Moody's to pay pre-judgment, post-judgment interest, and reasonable attorneys' fees to Diaz; and
- J. Grant such additional relief as this Court deems appropriate.

/s/ Rebecca S. Webber

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DATE: May 4, 2015