

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

CRISTIE R. REYNOLDS

: Case No. 1:13-cv-146

-and-

: J. \_\_\_\_\_

KERRI E. BREEZE

-and-

JENNIFER HERNANDEZ

-and-

TINA M. REYNOLDS

-and-

ELIZABETH A. ROGERS

-and-

MEGHAN G. VERPLANK

-and-

STEPHANIE L. OCHOA

Plaintiffs,

-v-

**COMPLAINT WITH JURY**  
**DEMAND ENDORSED HEREON**

CHIPOTLE MEXICAN GRILL  
c/o National Registered Agents, Inc.  
1300 East Ninth Street  
Cleveland, OH 44114

Defendant.

Come now Plaintiffs Cristie R. Reynolds, Kerri E. Breeze, Jennifer Hernandez, Tina M. Reynolds, Elizabeth A. Rogers, Meghan G. Verplank, and Stephanie L. Ochoa (collectively “Plaintiffs” or individually as “Plaintiff”), by and through counsel, and for their Complaint state as follows:

**PARTIES**

1. Plaintiff Cristie R. Reynolds is a citizen and resident of the State of Ohio.
2. Plaintiff Kerri E. Breeze is a citizen and resident of the State of Kentucky.
3. Plaintiff Jennifer Hernandez is a citizen and resident of the State of Ohio.
4. Plaintiff Tina M. Reynolds is a citizen and resident of the State of Ohio.
5. Plaintiff Elizabeth A. Rogers is a citizen and resident of the State of Ohio.
6. Plaintiff Meghan G. Verplank is a citizen and resident of the State of Kentucky.
7. Plaintiff Stephanie L. Ochoa is a citizen and resident of the State of Ohio.
8. Defendant Chipotle Mexican Grill is a foreign corporation doing business in the State of Ohio. Defendant is an employer within the meaning of federal and state law.

**JURISDICTION AND VENUE**

9. This Court has jurisdiction over Count I pursuant to 28 U.S.C. §1331 because Count I arises under the laws of the United States, including the Title VII of the Civil Rights Act of 1964 as amended (“Title VII”).

10. This Court has supplemental jurisdiction over the state law claims in Count II pursuant to 28 U.S.C. §1367 on the grounds that Plaintiffs’ state law claims are so related to their federal claims over which the Court has original jurisdiction that they form a part of the same case or controversy.

11. This Court has jurisdiction to hear this case pursuant to 28 U.S.C. § 1332 because the parties are completely diverse and the amount in controversy exceeds \$75,000.

12. Plaintiffs filed timely charges of discrimination with the Equal Employment Opportunity Commission (“EEOC”). Plaintiffs Cristie Reynolds, Breeze, Hernandez, Rogers and Verplank filed their charges on March 5, 2012, Plaintiff Breeze filed her charge on March 2, 2012, Plaintiff Tina Reynolds filed her charge on March 7, 2012, and Plaintiff Stephanie Ochoa filed her charge on September 19, 2012, within 300 days of their terminations.

13. Plaintiffs C. Reynolds, Breeze, Hernandez, T. Reynolds, Rogers, and Verplank were issued Notices of Right to Sue on December 3, 2012. Plaintiff Ochoa was issued a Notice of Right to Sue on February 14, 2013. This Complaint is filed within 90 days of receipt of the Notices.

14. Venue is proper in this Division and District because Plaintiffs were employed in the Southern District of Ohio, Western Division.

### **FACTUAL ALLEGATIONS**

#### **Cristie R. Reynolds**

15. Plaintiff Cristie R. Reynolds (“Plaintiff C. Reynolds”) is a female who began working for Defendant on or about February 8, 2004.

16. Plaintiff C. Reynolds most recently held the position of General Manager for Defendant’s Oxford, Ohio location beginning in 2011.

17. Plaintiff C. Reynolds was fully qualified for her position at all relevant times.

18. In fact, Plaintiff C. Reynolds was promoted every year for her first three years with Defendant and received a bonus every year.

19. On January 4, 2012, Plaintiff C. Reynolds met with her Regional Supervisor, Brian Patterson (“Patterson”) and was told her was doing a great job and received no negative feedback.

20. However, on January 9, 2012, Patterson terminated Plaintiff C. Reynolds from her position as General Manager of Defendant’s Oxford location.

21. Male employees were treated more favorable than Plaintiff and Plaintiff’s termination allowed for hiring and retention of male employees.

**Kerri E. Breeze**

22. Plaintiff Kerri Breeze (“Plaintiff Breeze”) is a female who began working for Defendant on or about December 1, 2009 as a Manager-In-Training.

23. Plaintiff Breeze most recently held the position of Apprentice under the supervision of the current general manager and area manager for Defendant’s Kenwood location beginning in 2010.

24. Plaintiff Breeze was fully qualified for her position at all relevant times.

25. In fact, Plaintiff Breeze was promoted each year while employed with Defendant and received positive feedback in her review in February 2011 along with a 2% merit increase.

26. However, on May 12, 2011, Defendant terminated Plaintiff Breeze from her position as General Manager of Defendant’s Kenwood location.

27. Plaintiff Breeze was replaced by a male employee.

**Jennifer Hernandez**

28. Plaintiff Jennifer Hernandez (“Plaintiff Hernandez”) is a female who began working for Defendant on or about February 11, 2004.

29. Plaintiff Hernandez most recently held the position of General Manager for Defendant's Clifton, Ohio location beginning in 2011.

30. Plaintiff Hernandez was fully qualified for her position at all relevant times.

31. Defendant's Regional Supervisor, Brian Patterson ("Patterson") visited the Clifton location and was very pleased with the store and received no negative feedback.

32. However, on September 19, 2011, Patterson terminated Plaintiff Hernandez from her position as General Manager of Defendant's Clifton location during her mid-year review.

33. Plaintiff Hernandez was replaced by a male employee.

**Tina M. Reynolds**

34. Plaintiff Tina Reynolds ("Plaintiff T. Reynolds") is a female who began working for Defendant on or about October 22, 2009.

35. Plaintiff T. Reynolds most recently held the position of General Manager for Defendant's Western Hills location.

36. Plaintiff T. Reynolds was fully qualified for her position at all relevant times.

37. In fact, Plaintiff T. Reynolds was promoted numerous times during her tenure with Defendant and received a bonus in 2011.

38. During her six month review, on September 30, 2011, she received "above expectations" in two categories and was awarded an increase in pay.

39. However, on October 3, 2011, Defendant terminated Plaintiff T. Reynolds from her position as General Manager of Defendant's Western Hills location.

40. Plaintiff T. Reynolds was replaced by a male employee.

**Elizabeth A. Rogers**

41. Plaintiff Elizabeth Rogers (“Plaintiff Rogers”) is a female who began working for Defendant 2003.

42. Plaintiff Rogers most recently held the position of General Manager for Defendant’s Crescent Hills, Kentucky location.

43. Plaintiff Rogers was fully qualified for her position at all relevant times.

44. Plaintiff Rogers notified her Regional Supervisor, Brian Patterson (“Patterson”), she was pregnant with twins in February 2011.

45. Plaintiff Rogers was put on bed rest in April 2011.

46. Plaintiff Rogers delivered her twins at 24 weeks on May 29, 2011. One twin did not survive, while the second twin remained hospitalized until September, 2011.

47. In early July, 2011, Plaintiff Rogers’ brother-in-law died.

48. On or about July 17, 2011, Plaintiff Rogers talked to Patterson and told him she was not ready to come to work.

49. Patterson proposed part-time status for Plaintiff Rogers, to which she agreed.

50. One week later, Patterson contacted Plaintiff Rogers and told her she could not do part-time and she must come back to work when her doctor releases her.

51. Plaintiff Rogers returned to work on August 2, 1011.

52. Herman Mobbs (“Mobbs”) covered Plaintiff Rogers’ store while she was out and offered to help her ease back into working.

53. The next day Mobbs told Plaintiff Rogers he needed her to cover for him the rest of that week, but she couldn’t because she had doctor appointment for her son.

54. On or about September 13, 2011, Jennifer Clark conducted a risk management audit of Plaintiff Rogers' store and the store received a good rating and a grade of "B."

55. Mobbs did an audit ten days later without speaking with Plaintiff Rogers, and the store received a bad rating and a grade of "D."

56. Plaintiff Rogers questioned Mobbs the next time he was in the restaurant as to why he didn't talk to her and he was hostile and argumentative with Plaintiff. Plaintiff ended the interaction in tears.

57. On November 5, Mobbs told Plaintiff Rogers her store was understaffed, even though she told him she had just hired seven new employees.

58. Plaintiff Rogers was written up for that discussion with Mobbs.

59. However, on November 16, 2011, Mobbs told Plaintiff Rogers they needed to part ways and terminated Plaintiff Rogers' employment.

60. Male employees were treated more favorable than Plaintiff and Plaintiff's termination allowed for hiring and retention of male employees.

### **Meghan G. Verplank**

61. Plaintiff Meghan Verplank ("Plaintiff Verplank") is a female who began working for Defendant in March, 2005.

62. Plaintiff Verplank most recently held the position of General Manager for Defendant's Tylersville location.

63. Plaintiff Verplank was fully qualified for her position at all relevant times.

64. In early July, 2011 an audit was conducted on the Tylersville location on a day when two apprentice managers were on duty.

65. The store received a bad audit and Plaintiff Verplank was held accountable even though she was not at work on the day of the audit.

66. Plaintiff Verplank was going to write up the two managers on duty, but was told not to by her regional supervisor, Brian Patterson (“Patterson”).

67. On July 28, 2011, Patterson terminated Plaintiff Verplank’s employment with Defendant.

68. Plaintiff Verplank was replaced by a male employee on the day she was terminated.

**Stephanie L. Ochoa**

69. Plaintiff Stephanie L. Ochoa (“Plaintiff Ochoa”) is a female who began working for Defendant in June 2005.

70. Plaintiff Ochoa was transferred to Defendant’s Downtown Cincinnati location in August 2008.

71. Plaintiff Ochoa was General Manager of Defendant’s Downtown Cincinnati location.

72. Plaintiff Ochoa received a bonus every six months during her employment with Defendant.

73. In January 2012, Defendant’s Managers, Brian Patterson and Herman Mobbs, visited the Downtown Cincinnati location.

74. After that visit, Brian Patterson told Plaintiff Ochoa that he was very impressed and the location had improved 100% since his last visit three months earlier.



75. Despite Brian Patterson's acknowledgment of Plaintiff Ochoa's great performance, Defendant terminated Plaintiff Ochoa only two months later, on March 12, 2012.

76. After her termination, Plaintiff Ochoa received two pay stubs. One pay stub was a bonus for Plaintiff Ochoa's previous six months. The second pay stub was a pay check, which gave Plaintiff Ochoa a 2% raise.

77. Plaintiff Ochoa was replaced by a male employee.

78. Defendant engages in a pattern and practice of discriminating against and/or terminating female managers.

## **COUNT I**

### **(Gender Discrimination - Title VII)**

79. Plaintiffs reallege the foregoing paragraphs as if fully rewritten herein.

80. Plaintiffs are female.

81. Plaintiff were fully qualified for their positions.

82. Defendant's conduct in discriminating against Plaintiffs include, but is not limited to, treating them less favorably than similarly situated, male employees and terminating their employment on account of their gender in violation of Title VII.

83. Defendant's conduct was intentional, willful, wanton, malicious, and in reckless disregard of Plaintiffs' legal rights.

84. Defendant engages in a pattern and practice of discriminating against and/or terminating female employees.

85. As a direct and proximate result of Defendant's unlawful conduct, Plaintiffs have suffered damages and are entitled to judgment and compensation.

**COUNT II**

**(Gender Discrimination - R.C. Chapter 4112)**

86. Plaintiffs reallege the foregoing paragraphs as if fully rewritten herein.

87. Plaintiffs are female.

88. Defendant's conduct in discriminating against Plaintiffs include, but is not limited to, treating them less favorably than similarly situated, male employees and terminating their employment on account of their gender in violation of R.C. Chapter 4112.

89. Defendant's conduct was intentional, willful, wanton, malicious, and in reckless disregard of Plaintiffs' legal rights.

90. Defendant engages in a pattern and practice of discriminating against and/or terminating female employees.

91. As a direct and proximate result of Defendant's unlawful conduct, Plaintiffs have suffered damages and are entitled to judgment and compensation.

**COUNT III**

**(FMLA Interference and Retaliation)**

92. Plaintiff Rogers realleges the foregoing paragraphs as if fully rewritten herein.

93. Plaintiff Rogers was an "eligible employee" as defined by 29 U.S.C. §2611 because Defendant employed her for at least 12 months, she worked at least 1,250 hours in the previous 12-month period, and Defendant employed 50 or more employees.

94. Plaintiff Rogers was entitled to FMLA approved leave for the birth of her child pursuant to 29 C.F.R. §825.120 and 29 U.S.C. §2611.

95. While on leave, Defendant interfered with Plaintiff Rogers' leave when it required her to return to work in violation of the FMLA and Defendant's own policies.

96. Defendant retaliated against Plaintiff Rogers for exercising her rights under the FMLA by terminating her employment.

97. Defendant's actions constitute willful violations of the FMLA, 29 U.S.C. § 2601 et seq.

98. As a result of Defendant's willful violations of the FMLA, Plaintiff Rogers has suffered damages and is entitled to relief.

WHEREFORE, Plaintiffs demand judgment against Defendant as follows:

- (a) That Defendant be enjoined from further unlawful conduct as described herein;
- (b) That Plaintiffs be reinstated to their employment;
- (c) That Plaintiffs be awarded all lost pay and benefits up until the time of trial;
- (d) That Plaintiffs be awarded all lost pay and benefits from the time of trial until a reasonable time in the future.
- (e) That Plaintiffs be awarded other compensatory damages;
- (f) That Plaintiffs be awarded liquidated damages in an amount equal to any lost back pay and benefits up until the time of trial;
- (g) That Plaintiffs be awarded pre-judgment interest;

- (h) That Plaintiffs be compensated for the adverse tax consequences of receiving lump sum awards rather than their compensation over several, separate tax years;
- (i) That Plaintiffs be awarded reasonable attorneys' fees; and
- (j) That Plaintiffs be awarded all other legal and equitable relief to which they may be entitled.

Respectfully submitted,

*/s/ Kelly Mulloy Myers*

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Kelly Mulloy Myers (0065698)  
Trial Attorney for Plaintiffs  
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**JURY DEMAND**

Plaintiff hereby demand a trial by jury on all issues so triable.

*/s/ Kelly Mulloy Myers*

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS DEFENDANTS
(b) County of Residence of First Listed Plaintiff (EXCEPT IN U.S. PLAINTIFF CASES)
(c) Attorney's (Firm Name, Address, and Telephone Number)
County of Residence of First Listed Defendant (IN U.S. PLAINTIFF CASES ONLY)
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.
Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)
1 U.S. Government Plaintiff
2 U.S. Government Defendant
3 Federal Question (U.S. Government Not a Party)
4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)
(For Diversity Cases Only)
PTF DEF
Citizen of This State 1 1
Citizen of Another State 2 2
Citizen or Subject of a Foreign Country 3 3
Incorporated or Principal Place of Business In This State 4 4
Incorporated and Principal Place of Business In Another State 5 5
Foreign Nation 6 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)
CONTRACT TORTS FORFEITURE/PENALTY LABOR IMMIGRATION BANKRUPTCY SOCIAL SECURITY FEDERAL TAX SUITS OTHER STATUTES
110 Insurance 120 Marine 130 Miller Act 140 Negotiable Instrument 150 Recovery of Overpayment & Enforcement of Judgment 151 Medicare Act 152 Recovery of Defaulted Student Loans (Excl. Veterans) 153 Recovery of Overpayment of Veteran's Benefits 160 Stockholders' Suits 190 Other Contract 195 Contract Product Liability 196 Franchise
PERSONAL INJURY 310 Airplane 315 Airplane Product Liability 320 Assault, Libel & Slander 330 Federal Employers' Liability 340 Marine 345 Marine Product Liability 350 Motor Vehicle 355 Motor Vehicle Product Liability 360 Other Personal Injury
PERSONAL INJURY 362 Personal Injury - Med. Malpractice 365 Personal Injury - Product Liability 368 Asbestos Personal Injury Product Liability
PERSONAL PROPERTY 370 Other Fraud 371 Truth in Lending 380 Other Personal Property Damage 385 Property Damage Product Liability
610 Agriculture 620 Other Food & Drug 625 Drug Related Seizure of Property 21 USC 881 630 Liquor Laws 640 R.R. & Truck 650 Airline Regs. 660 Occupational Safety/Health 690 Other
422 Appeal 28 USC 158 423 Withdrawal 28 USC 157
820 Copyrights 830 Patent 840 Trademark
861 HIA (1395ff) 862 Black Lung (923) 863 DIWC/DIWW (405(g)) 864 SSID Title XVI 865 RSI (405(g))
870 Taxes (U.S. Plaintiff or Defendant) 871 IRS—Third Party 26 USC 7609
400 State Reapportionment 410 Antitrust 430 Banks and Banking 450 Commerce 460 Deportation 470 Racketeer Influenced and Corrupt Organizations 480 Consumer Credit 490 Cable/Sat TV 810 Selective Service 850 Securities/Commodities/Exchange 875 Customer Challenge 12 USC 3410 890 Other Statutory Actions 891 Agricultural Acts 892 Economic Stabilization Act 893 Environmental Matters 894 Energy Allocation Act 895 Freedom of Information Act 900 Appeal of Fee Determination Under Equal Access to Justice 950 Constitutionality of State Statutes

V. ORIGIN (Place an "X" in One Box Only)
1 Original Proceeding 2 Removed from State Court 3 Remanded from Appellate Court 4 Reinstated or Reopened 5 Transferred from another district (specify) 6 Multidistrict Litigation 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION
Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
Brief description of cause:

VII. REQUESTED IN COMPLAINT:
CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 >\$ DEMAND \$
CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY
(See instructions): JUDGE DOCKET NUMBER

DATE SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY
RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

## INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

### Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

**I. (a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b) County of Residence. For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)

(c) Attorneys. Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

**II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.C.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.

United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.

United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.

Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.

Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; federal question actions take precedence over diversity cases.)

**III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

**IV. Nature of Suit.** Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerks in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.

**V. Origin.** Place an "X" in one of the seven boxes.

Original Proceedings. (1) Cases which originate in the United States district courts.

Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.

Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.

Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.

Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.

Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.

Appeal to District Judge from Magistrate Judgment. (7) Check this box for an appeal from a magistrate judge's decision.

**VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553  
Brief Description: Unauthorized reception of cable service

**VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.

Demand. In this space enter the dollar amount (in thousands of dollars) being demanded or indicate other demand such as a preliminary injunction.

Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

**VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

**Date and Attorney Signature.** Date and sign the civil cover sheet.