

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 28**

**WALGREEN CO.**

**and**

**Case 28-CA-22651**

**BERNIE SANCHEZ-BELL, an Individual**

**MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF WALGREEN  
CO.'S MOTION FOR SUMMARY JUDGMENT**

**I. Introduction**

Bernie Sanchez Bell, (“Sanchez-Bell” or the “Charging Party”), was an employee of Walgreens in its distribution facility located at 2400 North Walgreens Street in Flagstaff, Arizona for five months from December 9, 2008, until April 28, 2009. The instant NLRB charge arose as a result of incidents surrounding a charge that Sanchez-Bell filed with the Equal Employment Opportunity Commission (*see* Exhibit A) based upon the Charging Party’s, and a co-employee Sheryl Laidlaw’s belief that they were being “harassed” and “discriminated against” because of their gender in violation of Title VII of the Civil Rights Act of 1964.<sup>1</sup>

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<sup>1</sup> The Charging Party and Laidlaw’s charges of gender harassment and discrimination are now the subject of a federal court lawsuit, *Laidlaw v. Walgreen Co.*, CV 09-08154-PXH-PGR (D.Ariz.). While not directly relevant here, evidence procured during the course of discovery in that proceeding shows that the Charging Party and Laidlaw’s gender harassment/discrimination claims are baseless. For example, the Charging Party claims that she was harassed because of her gender by her then function leader Heath Husband primarily because he “grunted” at her and because he did not answer a question for her when he was on break. Even if true, none of this rises to the level of gender harassment. *See National R.R. Passenger Corp. v. Morgan*, 536 U.S. 101, 116 (2002) (“In determining whether an actionable hostile work environment claim exists, we look to all the circumstances, including the frequency of the discriminatory conduct; its severity; whether it is physically threatening or humiliating, or a mere offensive utterance; and whether it unreasonably interferes with an employee’s work performance. (internal quotations omitted)). This claim is even more absurd when one adds the fact that within 5 weeks after she became employed with Walgreens, Sanchez-Bell was transferred from Husband’s area to a team member position reporting to Sheryl Laidlaw whom she admitted was a fair and reasonable Function Lead. (*See* December 14, 2009 Deposition of Bernie Sanchez-Bell (“Sanchez-Bell Dep.”), attached hereto as Exhibit B, at pp. 138:25 – 139:3 and the January 30, 2009 email from Sanchez-Bell to Len Mathieu, attached hereto as Exhibit C.)

Sanchez-Bell now claims, in the instant NLRB charge, that Walgreens violated Section 8(a)(1) of the NLRA when, pursuant to an investigation of Sanchez-Bell's claims of Title VII discrimination, Walgreens, through its Human Resource Manager Len Mathieu, promulgated an "overbroad" rule preventing employees from discussing their sexual harassment claims with each other. *See* Complaint ¶ 4(b) attached hereto as Exhibit E.

Sanchez-Bell also claims that this rule, along with alleged threats of "unspecified reprisals" if she exercised her Section 7 rights and her belief that she and other employees were under increased surveillance which in turn limited her Section 7 rights, led her to terminate her own employment with Walgreens under a theory of constructive discharge. *See* Exhibit E at ¶ 4(i).

This charge should be summarily dismissed. Initially, based on deposition testimony taken of Sanchez Bell in her Title VII lawsuit, the constructive discharge claim filed by the General Counsel has absolutely no basis in evidence. Not only was Sanchez-Bell not fired but when she quit, she has admitted her job duties had not changed, that she was not under any type of a performance warning of any kind and her position with Walgreens was not being threatened in any way whatsoever. (*See* Sanchez-Bell Dep., at p. 289:4-19.) Just as importantly, Sanchez-Bell, who was employed for a grand total of five months, has explicitly admitted in the Title VII proceeding that for the month prior to her decision to quit, *nothing happened to her*. She was not warned, she was not disciplined, and she was not threatened in any way. (*See* Sanchez-Bell

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Similarly, Sanchez-Bell claims that she was discriminated against because she did not get sufficient training from Husband when she was first hired. However, Sheryl Laidlaw has stated under oath that the practice within the company was for new employees to be trained by their co-employees and not only their function leads. (*See* December 15, 2009 Deposition of Sheryl Laidlaw ("Laidlaw Dep."), attached hereto as Exhibit D, at pp. 22:21 – 23:25.) While the Charging Party makes other baseless claims that she was harassed – Heath Husband grunted and ignored her when she asked for help and did not say "hello" to her (*See* Sanchez-Bell Dep., at pp. 117:2 – 118:21, 136:8-22), and Function Manager Casey Rogers threatened to transfer her back to Heath Husband's area (something which did not occur) (*See* Sanchez-Bell Dep. at pp. 247:3 – 249:8) – the fact is that nothing she alleges comes even close to raising a material issue of fact that she was either harassed or discriminated against because of her gender.

Dep. at pp 289:4-19, 290:20-292:24.) Moreover, during that same time frame the evidence is manifest that she was exercising her Section 7 rights to discuss issues surrounding her discrimination claim with co-employees, the EEOC and anyone else she desired. Given this admitted evidence, Sanchez-Bell's claim of constructive discharge is not viable as she cannot, as a matter of law, prove that Walgreens intentionally created an intolerable work environment for Sanchez-Bell with the purpose of causing her to resign her employment. Indeed, if there was any doubt that Sanchez-Bell's work conditions were not intolerable at the time she quit, one need only look to the fact that Sheryl Laidlaw – the co-employee who also filed an EEOC charge of discrimination and whose Section 7 rights Sanchez-Bell claims were likewise circumscribed – continues to be an employee in good standing at Walgreens in the same position she had at the time the events encompassed by this charge occurred to this very day. (*See* Laidlaw Dep., at pp. 43:18-24, 45:24 – 46:10.)

Similarly, the claims that Sanchez-Bell's Section 7 rights were impaired by an overbroad company rule requiring Sanchez-Bell to keep the information on her Title VII investigation a secret from anyone other than the human resource department at Walgreen's Flagstaff Distribution Center are also baseless as a matter of law. First, even assuming that such a rule was issued, it is not an unfair labor practice in this context. It is beyond dispute that Sanchez-Bell, through emails that she wrote, asked for the confidentiality. Indeed, in at least one of the emails, Sanchez-Bell did not merely request confidentiality, she pleaded for complete confidentiality because she did not want to be the target of scuttlebutt in the facility. Where an employee insists that a gender harassment and discrimination investigation be maintained confidentially, it can hardly be a violation of that employee's Section 7 rights to accede to the request.

Additionally, this claim is baseless because an employer has a right to limit the number of people with knowledge about an investigation of a Title VII claim of gender harassment and discrimination. This, as a matter of law, is not an unfair labor practice because under Title VII of the Civil Rights Act of 1964, an employer has a legal obligation to protect an employee against any retaliation for raising a claim of discrimination and to protect other employees who might have information to provide to the company as part of the investigation. *See Faragher v. City of Boca Raton*, 524 U.S. 775, 806-807 (1998) (holding that an employer has a duty to implement procedures for reporting violations of Title VII that are designed to encourage victims to come forward); *see also Crawford v. Nashville*, \_\_\_ U.S. \_\_\_, 129 S.Ct. 846 (2009) (holding that the antiretaliation provision of Title VII applies to employees submitting official complaints of sexual harassment and also to employees who report sexual harassment in response to questions asked during an internal investigation). If an employer cannot stop employees from discussing an ongoing discrimination investigation, then the employer has no ability to keep the information from supervisors who may retaliate.

However, most importantly, the fact of the matter is that while the Charging Party and Walgreens did agree to keep the matter confidential, when the Charging Party decided to change her mind shortly thereafter and not keep the matter confidential, *nothing happened to her*. The Charging Party admitted in an email that within a few days after she had asked for confidentiality, everyone knew that she had filed a complaint of gender harassment and discrimination. This statement was confirmed by Sheryl Laidlaw who stated in her own handwriting that the investigation was the talk of the lunchroom. Moreover, within *8 days* of the Charging Party's request for confidentiality, the Charging Party indicated that she was engaged in a long discussion about her complaints with Sheryl Laidlaw and within two weeks after that

both the Charging Party and Laidlaw sent a letter to Len Mathieu stating that both of them were filing a complaint with the EEOC. Despite these actions, neither the Charging Party nor anyone else can point to any reprisals of any kind, specified or unspecified, for breaching the request for confidentiality. Given these facts, it is simply impossible as a matter of law to find that Sanchez-Bell's Section 7 rights were impaired by any implementation of an "overbroad" rule requiring confidentiality.

Finally, the General Counsel's claim regarding surveillance likewise lacks a basis in the evidence. First, the General Counsel cannot show it to be unreasonable or a violation of Section 7 rights where a large distribution center of a national drug store chain has security cameras located throughout the *working areas* of the facility. Indeed, the fact that Walgreens has multiple security cameras in a distribution facility where tens of millions of dollars of easily stolen products, not to mention prescription drugs, flow through on a daily basis is not in dispute. Thus, even assuming that Len Mathieu made a statement to the charging party that security cameras were watching her in her work areas, which is the only allegation set forth by the General Counsel in the response to the Bill of Particulars, he was merely stating the obvious and something that the charging party and everyone else in the facility already knew. Further, as will be detailed herein, both Laidlaw and Sanchez-Bell have admitted in documents that they prepared at the time that this alleged "threat" had absolutely no effect. Instead, both Laidlaw and the Charging Party have admitted that employees throughout the distribution center discussed their claims of gender harassment/discrimination openly and without fear of reprisal. Finally, the evidence will show that even if the statements about surveillance were made, they could hardly be construed as threats because as a matter of undisputed fact, despite the charging party's admission that her claims were the talk of the lunchroom, the General Counsel will not be able to

point to a single act of discipline, retribution or retaliation that either the Charging Party *or any other employee suffered* as a result of discussing the gender harassment/discrimination claims of the charging party. Accordingly, the Charging Party's allegation that Mathieu's statements impaired the Charging Party or any other employee in his or her exercise of their Section 7 rights is without support in the facts.

For all the reasons set forth in this memorandum, the General Counsel's Complaint should therefore be dismissed and the scheduled hearing vacated.

**II. Background<sup>2</sup>**

Sanchez-Bell began work on December 4, 2008, as a Team Member at the Company's Distribution Center in Flagstaff, Arizona. (See Sanchez-Bell Dep., pp. 61:3-8; 79:7-12.) The Company's Distribution Center in Flagstaff is one of 11 distribution centers the Company has around the country. The Distribution Center houses a large number of each of the thousands of consumer products, non prescription medications and prescription medications that the Company sells at its various retail stores. At any one time the Flagstaff distribution facility contains hundreds of millions of dollars of these products. For purposes of this motion, Walgreens does not dispute that there are security cameras throughout the work areas of the facility. Indeed, the existence of cameras at such a facility is no secret to any employee who works there.

Sanchez-Bell's position involved manual labor (picking, stocking, and stacking products and containers). (See Sanchez-Bell Dep., at pp. 66:13 – 68:2.) For the first month, she worked

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<sup>2</sup> The facts set forth here are those which are either admitted by the Charging Party or which are construed in a light most favorable to the Charging Party. The Respondent applies these "facts" to the law for purposes of summary judgment only to show that there is not a material issue of fact. In the event that summary judgment is not granted, the Respondent reserves the right to challenge any of the facts set forth herein during the remainder of this proceeding.

in the area supervised by Function Lead<sup>3</sup> Heath Husband, whom she did not like and who she believed was harassing her because of her gender. However, by early January 2009, a few weeks after she started work, Sanchez-Bell was transferred to work under Sheryl Laidlaw. Sanchez-Bell characterized Laidlaw as a wonderful Function Lead who provided her with great training. (See Exhibit C.) She continued to work with Laidlaw for the remaining period of her employment. (See Sanchez-Bell Dep., at 144:16 – 145:12.)

Just about the same time that Sanchez-Bell began working under Laidlaw, she applied for a Function Lead position. Sanchez-Bell was not offered the Function Lead position. (See *id.* at pp. 75:5 – 77:12.) Although she admitted that she did not deserve the position (See *id.* at pp.77:19-21; see also March 21, 2009 Correspondence from Sanchez-Bell to Len Mathieu, attached hereto as Exhibit F at WAL000689); shortly after being denied the Function Lead position, Sanchez-Bell began complaining to Len Mathieu, that because of her gender, she was being “harassed” and “intimidated” by the Function Manager to whom she reported, Casey Rogers<sup>4</sup>, and intimidated by the Function Lead to which she had been originally assigned, Heath Husband.

On March 21, 2009, the Charging Party made a formal complaint with regard to these claims to Len Mathieu. (See Exhibit F; Sanchez-Bell Dep., pp. 223:10-15.) Mathieu and other human resources personnel began investigating Sanchez-Bell’s claims, at which time the two began exchanging numerous emails regarding the investigation. At the same time, Mathieu and

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<sup>3</sup> A Function Lead is a non-exempt position that directs the work of Team Members under the direction of the Function Manager.

<sup>4</sup> Significantly, just a few weeks prior to initiating these complaints, Sanchez Bell had written to Len Mathieu to tell him how much of a help Casey Rogers had been to her in seeking the promotion. She also told Mathieu that when she was ill, Rogers had literally been a godsend by helping her get through her shift by putting her on light duty. (See January 17, 2009 email from Sanchez-Bell, attached hereto as Exhibit G; Sanchez-Bell Dep., at pp. 150:7 – 152:22.)

human resources personnel also began investigating complaints made by Sheryl Laidlaw. (*See* Laidlaw Dep., at pp. 89:1 – 91:22.)

It is beyond dispute from the emails between Sanchez-Bell and Mathieu that when she first raised these claims, Sanchez-Bell desperately wanted to keep the investigation “private and internal.” In a March 19, 2009 email, Sanchez-Bell specifically told Mathieu that she was aware that Laidlaw was submitting complaints and she did not even want Laidlaw to know that Sanchez-Bell had been discussing the situation regarding Rogers and Husband for months. (*See* March 19, 2009, 5:08pm email from Sanchez-Bell to Len Mathieu, attached hereto as part of Exhibit H, at p. WAL000678.) In a later email that same day to Mathieu, Sanchez-Bell stated, “I take this is [sic] now private and internal.” (*See* Exhibit H at p. WAL000679, March 19, 2009, 6:06pm email.) Mathieu responded that the investigation was indeed private and internal, and Sanchez-Bell should discuss the situation only with the Company’s human resources group. (*See* Exhibit H at p. WAL000679, March 19, 2009, 18:31:08 email.) However, as is clear in his email, while Mathieu agreed with Sanchez-Bell that her claim and the investigation should be kept confidential, he never threatened reprisal against anyone if the matter was not kept confidential. (*See id.*; *see, e.g.*, Sanchez-Bell Dep., at pp 264:18 – 265:7.)

On March 21, 2009, Sanchez-Bell reiterated her desire in another email to Mathieu, this time in bold: “**I can’t begin to share with you how private I want to keep this[.]**” (*See* Exhibit F at WAL000686 (emphasis in original).) The following day, Sanchez-Bell wrote yet another email to Mathieu in which she again mentioned the “private and internal” nature of the investigation, stating as follows: “I just want to be able to walk in the door, with my head held high, and know that know [sic] this is a private matter!” (*See* March 22, 2009 email from

Sanchez-Bell to Len Mathieu, attached hereto as Exhibit I; Sanchez-Bell Dep. at p. 233:21 – 234:9.)

At some point shortly thereafter, Sanchez-Bell decided to change course. As indicated in her deposition taken in her Title VII case, in an email she wrote to Len Mathieu, and in Sheryl Laidlaw's handwritten notes, Sanchez-Bell's and Laidlaw's claims of harassment/gender discrimination became a popular topic of conversation among employees. (*See* Sanchez-Bell Dep., 236:18 – 237:10; March 26, 2009 email from Sanchez-Bell to Len Mathieu, attached hereto as Exhibit J (“... Wednesday night several team members were talking about Heath[']s investigation during breaks . . . . I told you once, you could sneeze in candy room and five minutes later, some one in shipping would say God Bless You.”); Handwritten Notes of Sheryl Laidlaw, attached hereto as Exhibit K (“Well, word is out that I've turned in Heath Husband. . . . It's the topic of conversation in the lunch room.”); Laidlaw Dep., at pp. 99:1 – 100:6.)

Additionally, Sanchez-Bell and Laidlaw started discussing their claims regularly by, at the very latest, March 30, 2009, less than 10 days after Sanchez-Bell told Len Mathieu that “**I can't begin to share with you how private I want to keep this[.]**” (*See* Exhibit F at WAL000686; Laidlaw Dep., at pp. 97:15-19.) Two weeks thereafter, Sanchez-Bell and Laidlaw notified Mathieu that they had filed an EEOC claim together based on their shared belief that they were the victims of gender harassment/discrimination. Notwithstanding this startling change, there is no evidence whatsoever that Sanchez-Bell, Laidlaw, or any other employee was disciplined or otherwise adversely impacted as a result of discussing Sanchez-Bell's and Laidlaw's claims. (*See* Sanchez-Bell Dep., at pp. 213:11 – 214:6.)

During the last of her five months of employment, i.e. between the beginning of April and the day she voluntarily terminated her employment, April 28, 2009, Sanchez-Bell has

admitted in her deposition that the only purported harassment or intimidation she received was as follows:

Q. From April 2, 2009, until the time that you quit on April 28, 2009, what harassment took place against you?

A. I watched the nicest people I know get harassed because of me. And that is just the same thing.

....

Q. ... Talk to me about anything else.

A. The fact they tried to write me up for something that I felt was just something they were trying to come up with and then –

Q. Are you talking about the attendance?

A. About the attendance and then this and then –

....

Q. And they apologized for that, correct? “They” being Casey Rogers apologized to you and Kori Alderette apologized to you.

A. Yes.

Q. What else besides taking time off and the Fawn Mejias incident that was harassing to you between April 1 and April 28, 2009?

A. It was the attitude. I would see Casey and he wouldn’t even talk to me or acknowledge me, wouldn’t even say hello.

Q. Other than not saying hello, anything else?

A. Not that I can think of.

....

Q. Okay. Other than the fact there was no conversation, did he say anything to you?

A. No. It was his attitude.

Q. Just he didn’t say anything to you. Is that correct?

A. I was nonexistent.

Q. He just didn't say anything to you, right?

A. That is correct.

Q. And this is at a time when you had accused him of intimidating you. Is that correct?

A. Yes.

Q. And so he was not saying anything to you, correct?

A. I find being ignored intimidation.

Q. Okay. Fine. Anything else?

A. No.

(Sanchez-Bell Dep., at pp. 290:20 – 293:24.) Significantly, her working conditions and job duties did not change at all. Not only was Sanchez Bell not harassed, during the last month of her five months of employment, she received no reprimands or other discipline for any of her activities or for any other reasons whatsoever. (*See* Sanchez-Bell Dep., at pp. 289:4-22.) She was working with Sheryl Laidlaw doing the same things she had been doing since her transfer in early January 2009. (*See id.* at 144:16 – 145:12.)

### **III. Argument**

#### **A. Summary Judgment Standard.**

Summary judgment of an NLRB charge is appropriate where there are no genuine issues of fact that would warrant a hearing, and the merits of the case can be decided upon legal grounds. *See* Rules and Regs. § 102.24(b); *Eagle Ray Electric Company*, 354 NLRB No. 109, \*1-2 (2009). Here, given the admissions made by the Charging Party and Sheryl Laidlaw in their depositions and in the documents that were produced in their Title VII lawsuit, the Charging

Party can point to no material issue of fact that would require that the claims made in the NLRB charge be adjudicated through a hearing. Accordingly, summary judgment is warranted.

**B. The Constructive Discharge Claim is Without Merit and Should be Dismissed.**

The General Counsel has claimed in the Complaint that the following alleged actions by Walgreens caused Sanchez-Bell's discharge: (1) Walgreens promulgated an overly-broad rule prohibiting employees from engaging in concerted activities; (2) Walgreens threatened employees with unspecified reprisals if they engaged in concerted activities; (3) Walgreens told employees that there were cameras in the workplace watching them and that additional cameras would be installed "in work areas"; (4) Casey Rogers threatened employees by telling them their promotional opportunities would be withheld if they engaged in concerted activities; and (5) Walgreens increased the presence of security guards at the distribution center. (Exhibit E at ¶ 4(b)-(i) and General Counsel's Response to the Order Granting in Part Respondent's Motion for a Bill of Particulars, attached hereto as Exhibit L.)

However, despite the allegations in the Complaint, the Charging Party has now admitted either in sworn testimony or documents that she produced that 1) she was the one who asked for confidentiality with regard to her claim of discrimination (*See* Exhibits F, H, and I); 2) that she received no discipline of any kind whatsoever when she reversed field and decided to talk to other employees about her claims (*See* Sanchez-Bell Dep., at pp. 264:25 – 265:7, 289:4-22); 3) that she was denied the only promotion she sought because the person who got the job was better qualified (*See id.* at pp.77:19-21; *see also* Exhibit F at WAL000689); 4) that she and other employees regularly discussed the claims she had made in the lunch room (*See* Sanchez-Bell Dep., 236:18 – 237:10; Exhibit J); and 5) that in the last month of her 5 months of employment she was not harassed in any real sense by any manager nor was she disciplined, nor were her

working conditions adversely affected in any way. (See Sanchez-Bell Dep., at pp. 289:4-22, 290:20 – 293:24.)

Under the NLRA, a constructive discharge occurs “when an employee quits because his employer has deliberately made the working conditions *unbearable* and it is proven that (1) the burden imposed on the employee caused and was intended to cause a change in the employee’s working conditions so difficult or unpleasant that the employee is forced to resign, and (2) the burden was imposed because of the employees [protected] activities.” *Scheid Electric and Int’l Brotherhood of Electrical Workers, Local 343*, 2009 WL 3824884 (NLRB Div. of Judges, 2009) (emphasis added) (citing *Grocers Supply Co.*, 294 NLRB 438, 439 (1989)). In *Central Casket Co.*, 225 NLRB 362 (1976), the Board *refused* to find that an employee was constructively discharged where the employee quit after he was reprimanded for engaging in protected union activities by the employer’s president; was told that any such further conduct would result in his discharge; was criticized for his work habits and improperly maintaining worksheets; and finally was warned he would be watched closely with respect to all of these matters. *Id.* at 362-63.

In reversing the Administrative Law Judge’s finding, the Board in *Central Casket* found that there could be no constructive discharge because there was no evidence in the record of the following: (1) that the employee feared harassment or reprisals on the job; (2) that any other employee had been subjected to on-the-job reprisals for engaging in protected activity; and (3) that the employee quit because of an unlawful restriction on his protected activities. *Id.* Further, the Board found that even if there had been such evidence, there would still not be a sufficient basis for a constructive discharge claim because:

[The employee]’s working conditions were not adversely affected as a result of [the president]’s talk; rather he went back to the same job to be performed basically in the same old way. He was not given undesirable tasks or undesirable hours or anything of that nature. At most he was told he would have to produce

more, but the standard imposed was that generally applicable in the plant. He was also warned he had to do a more accurate job on his worksheets. But these conditions can hardly be considered onerous impositions, and, even coupled with a threat of being closely watched to see that they were being complied with, they do not constitute harassment or reprisal. In fact, as noted, there is no evidence that the Respondent actually harassed any employees or engaged in any on-the-job reprisals to force any employees to quit. If Gonzales harbored any fears of such treatment, they rested on no objective basis but were simply the product of his subjective misgivings.

*Id.* The Board also went on to hold that a threat of discharge for engaging in protected activities is also not sufficient grounds to find a constructive discharge. *Id.* at 363-64.

Given the sworn admissions by the Charging Party, the facts in this case cannot, as a matter of law, support a claim for constructive discharge. Put simply, just as in *Central Casket*, the Charging Party has admitted that her job did not change. Indeed, she went even further: not only did her job not change, but in the last 4 months of her 5-month tenure she worked for a function lead who she categorized as wonderful (*see supra* pp.6-7), and she also admitted that during her last month, her employment was not impacted by any harassment, warnings, discipline or any other adverse action. (*See supra* pp. 9-11.) She has also provided no indication that she was given any additional job duties or that her job became more difficult at any time during the brief period of her employment. In sum, by her own admissions, nothing whatsoever happened to the Charging Party that made her job intolerable. The charging party's claim of constructive discharge is further undermined by the fact that Laidlaw, who had the exact same claims, still works at Walgreens in the same position she occupied at the time these alleged events occurred. In short, the General Counsel will be unable to show that a material issue of fact exists that the conditions that the Charging Party was experiencing at the time that she quit were so onerous, difficult, or unpleasant that a reasonable person would have been compelled to

resign. *See Central Casket*, 225 NLRB at 362-64. Accordingly, the claim for constructive discharge should therefore be dismissed as a matter of law.

**C. Walgreens Did Not Promulgate an Overly-Broad and Discriminatory Rule in Violation of Section 8(a)(1) of the NLRA.**

In responding to the Division's order granting a Bill of Particulars, the General Counsel specified that the "rule" at issue in the Complaint was one expressed by Len Mathieu in his March 20, 2009 email to Sanchez-Bell wherein he agreed with Sanchez-Bell's request that her claims of gender harassment/discrimination be kept "private and internal" and accordingly asked Sanchez-Bell not to discuss the matter with anyone, including Laidlaw, other than human resources personnel. (*See Exhibit L*, at p.2; *see also Exhibit H* at WAL000679.) The General Counsel also indicated that this "directive" was expressed orally to employees as well. (*See Exhibit L*, at p.2.) Significantly, nowhere does the General Counsel suggest that the request to keep the claims of discrimination confidential was coupled with a threat to discipline any employee who violated the confidentiality request.

In light of the undisputed facts that: 1) it was the Charging Party who asked for the rule; and 2) the Charging Party *was not disciplined or even threatened with discipline* when she decided to communicate with other employees about her claims of gender harassment/discrimination, even if a rule was articulated by Walgreens agents, as a matter of law, the rule clearly did not unlawfully restrain Sanchez-Bell's Section 7 rights in violation of Section 8(a)(1) of the NLRA.

Initially, Walgreens, like any other employer, is justified in creating such a rule in instances where, as here, an investigation is being undertaken in response to the Charging Party's claim of gender harassment/discrimination. In *Phoenix Transit System*, 337 NLRB No. 78 (2002), while the Board declined to rule on "whether an employer can have a rule under which

employees speak with confidentiality to their employer in the course of an investigation into alleged sexual harassment,” *id.* at 511 n.2, the Board suggested that an employer may very well enact such a rule if it can provide a sufficient justification for maintaining that rule. The ruling in *Phoenix Transit* then cited to *Caesar’s Palace*, 336 NLRB No. 19 (2001), where the Board ruled that an “employer did not violate Section 8(a)(1) by maintaining and enforcing a confidentiality rule during an ongoing investigation of alleged illegal drug activity, where the confidentiality directive was given to each employee who was separately interviewed, the investigation involved allegations of a management cover-up and possible management retaliation, . . . and the confidentiality rule was intended to ensure that witnesses were not put in danger, evidence was not destroyed, and testimony was not fabricated.” *Phoenix Transit System*, 337 NLRB at 510. *See also Charles Schwab & Co., Inc.*, 2004 WL 3023761 at 15 (N.L.R.B. Div. of Judges, 2004), where the ALJ ruled, citing *Caesar’s Palace*, that although a request to keep a sexual harassment claim confidential while the investigation was ongoing could have a brief chilling effect on the right of employees to discuss the claim of sexual harassment, any such intrusion on the employees’ exercise of Section 7 rights was outweighed by the Respondent’s substantial business justification for seeking confidentiality.

The General Counsel has not alleged, and has no evidence of, any directive from Walgreens management or human resources personnel which would be outside the bounds of *Caesar’s Palace*. As with the investigation in that case, Walgreens had a substantial business interest in maintaining the confidentiality of an internal gender harassment/discrimination investigation – namely, such a rule serves to protect the complaining party in a gender harassment case from retaliation as required by Title VII, and it serves to preserve evidence by limiting the potential for fabricating testimony or other evidence.

However, what is even more important here is the fact that the evidence is indisputable that the rule here was enforced in such a way that no one could reasonably have viewed it to impair any employee's Section 7 rights. Specifically, Sanchez-Bell and Laidlaw both testified at their depositions that the rule notwithstanding, Sanchez-Bell and Laidlaw's claims of gender harassment/discrimination were a hot topic among employees in the lunchroom yet the General Counsel will not be able to point to a single employee who was disciplined or reprimanded for discussing these matters. Moreover, when Sanchez-Bell and Laidlaw decided to discuss their claims and work together to file a charge with the EEOC a mere **8 days** after Sanchez-Bell had demanded confidentiality from Walgreens, nothing adverse happened with regard to either complainant's employment. Instead, both have admitted that after they filed joint claims of discrimination with the EEOC and they jointly told Walgreens they had done so, neither received any threats of discipline. (*See supra* pp. 9-10; Laidlaw Dep., at pp. 168:23 –169:7; 246:25 – 247:3; *see also* Laidlaw Dep. at 248:6-24.) Put simply, the evidence indisputably shows that even if a rule against discussing the Charging Party's claim existed, it only existed at the pleasure of the Charging Party and she possessed the ability to ignore it without repercussions. As such, the General Counsel's claim that Walgreens promulgated a rule that violated Section 8(a)(1) raises no material issue of fact that needs to be litigated at hearing.

**D. Walgreens did not Create an Impression of Surveillance Among Employees in Violation of the NLRA.**

In response to the Order requiring the General Counsel to file a Bill of Particulars, the General Counsel specified the following with respect to the claim that Walgreens created an impression of surveillance:

During the time period set forth in paragraph 4(c)(1) [February 21, 2009 – April 28, 2009], it is alleged that Mathieu, on various occasions during the period

alleged, told employees that there were cameras in the workplace watching them and that additional cameras would be installed in the employees' work areas.

(See Exhibit L, at pp.2-3.)

“Creating an impression of surveillance” means “wilful conduct and a justifiable impression.” *NLRB v. Simplex Time Recorder Co.*, 401 F.2d 547, 549 (1st Cir. 1968). Stated differently, “[t]he Board’s test for determining whether an employer has created an impression of surveillance is whether the employee would reasonably assume from the statement in question that his [protected] activities had been placed under surveillance.” *Tres Estrellas de Oro*, 329 NLRB 50, 51 (1999). The Tenth Circuit applied *Simplex* in its reversal of a Board decision finding that a supervisor’s statements had created the impression of surveillance. See *NLRB v. Int’l Typographical Union*, 452 F.2d 976, 978-79 (10th Cir. 1971.) In *International Typographical*, a supervisor had informed assembled employees that “three unnamed sources had reported” that another employee had contacted the Union regarding workplace problems. *Id.* at 978. Noting that there was no evidence in the record that any of the activities of the complaining employee were covert and that nothing in the record suggested the supervisor had decried protected activities during non-working hours, the court eventually stated as follows:

Our difficulty arises from the showing that after [the supervisor]’s remarks, grievance procedures were initiated by the employees. This action indicates that they were not in fact coerced or restrained from exercising their § 7 rights.

*Id.* at 979.

Here, even assuming the truth of the General Counsel’s allegation that Len Mathieu told employees that there were cameras in the workplace and that additional cameras would be installed in work areas (something which Walgreens denies), such does not amount to “creating the impression of surveillance” under the NLRA or relevant case law outlined above. First, it should be noted that this facility is a one of 11 distribution centers for the country’s largest drug

store chain. As a result, it cannot be disputed that the distribution center contains millions of dollars of prescription drugs and other easily secreted items that it stores and processes at this facility. For obvious security reasons, Walgreens does not dispute for this motion that there have always been security cameras in the work areas. Thus, even if Mathieu made the statement he is alleged to have made, this is hardly news or coercive as everyone who has ever worked in the facility knows that there are cameras in the work areas. Second, just as in *International Typographical*, the fact that employees discussed Sanchez-Bell and Laidlaw's claims of gender harassment/discrimination freely and without retaliation strongly "indicates that [the employees] were not in fact coerced or restrained from exercising their § 7 rights." *Id.* at 979. Finally, the conduct of the Charging Party herself shows that this statement did not in any way impair her exercising her Section 7 rights. While the Charging Party initially requested that her claims be handled confidentially, 8 days later, she was conferring with Sheryl Laidlaw concerning steps that they wished to take together to discuss the terms and conditions of their employment. Similarly in April 2009, the Charging Party and Laidlaw sent Walgreens a letter asking Walgreens to stop the alleged harassment and discrimination against them. (*See* April 14, 2009 email and attached correspondence from Sanchez-Bell and Laidlaw, attached hereto as Exhibit M.) Nowhere is there any indication that the Charging Party was ever intimidated or coerced into giving up or limiting the exercise of her Section 7 rights at any time. Indeed as already pointed out, during this same period, the Charging Party has admitted that she was never threatened or disciplined in any way about anything and that her job duties never changed.

**E. All Other Claims of Threats or Surveillance Must Also Fail.**

The General Counsel has also included other vague claims that unnamed employees were threatened with "unspecified reprisals" or with the loss of promotional opportunities. For the

reasons outlined above in Sections III.B. – D., these claims must also fail. As outlined above, no employees were disciplined for discussing Sanchez-Bell's and Laidlaw's claims of gender harassment/discrimination. Once again, the General Counsel will not be able to point to one employee who was transferred, given harder job duties, was disciplined or terminated because they discussed either Laidlaw or Sanchez Bell's gender harassment/discrimination claims. As such, the reasoning of *International Typographical* applies here and these claims fail as a matter of law. *See International Typographical* at 979.

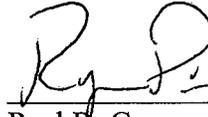
As to denial of promotions, Sanchez-Bell has admitted that, with regard to the only promotional opportunity she was denied, she was less qualified than the person who received the promotion. Further, to the best of Walgreen's knowledge, the only other employee who has complained about Casey Rogers allegedly denying her promotional opportunities is Laidlaw – who, when asked, admitted she has not applied for any promotions and could not come up with any specific instances in which she was denied a promotional opportunity. (*See Laidlaw Dep.*, at pp. 51:16 – 52:10.) As such these claims fail as well.

#### **IV. Conclusion**

The issues and claims brought by Sanchez-Bell should never have been brought before the NLRB. The allegations are not supported by the facts and undisputed evidence and, even when those allegations are assumed to be true, there is no violation of Section 8(a)(1) of the NLRA. Therefore, because there are no genuine issues as to any material facts, and this case can be decided as a matter of law, the Complaint should be dismissed.

WHEREFORE, Walgreens respectfully seeks an Order dismissing the General Counsel's Complaint and vacating the hearing currently set for February 2, 2010.

Dated this 5<sup>th</sup> day of January, 2010.



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# **EXHIBIT A**



# **EXHIBIT B**



1                   Is that a no?

2           A.    No, sir, I'm not doing anything else.

3           Q.    All right. I want to go back to Walgreens now.

4    You started working at Walgreens, I believe, in September  
5    of 2009 -- 2008. Is that correct? December of 2008. I  
6    apologize.

7           A.    I thought it was December 4th, but I could be  
8    wrong.

9           Q.    At the time you went to work at Walgreens, where  
10   did you go to work? What area?

11          A.    Oh, I don't know what it's called. It's where  
12   you -- you drive a machine, and that machine goes up in  
13   the air. I don't know what department that's called.

14          Q.    How long did you work in that area?

15          A.    I lasted one night in that area.

16          Q.    Okay. And then you asked for a transfer. Is  
17   that correct?

18          A.    Yes, sir.

19          Q.    And then where did you move from there?

20          A.    They put me in with Casey Rogers.

21          Q.    Okay. And Casey Rogers -- and his area is  
22   called, I believe, what? Split something? What is it  
23   called? Split case?

24          A.    Casey Rogers's area?

25          Q.    Yeah.

1 Q. So a tote is a plastic box. Is that right?

2 A. That opens -- that opens and closes. It's a  
3 plastic box, yes.

4 Q. And your job was -- If I understand it  
5 correctly, when you say "cut boxes," that -- this is a --  
6 You worked at a distribution center, correct?

7 A. Yes, sir.

8 Q. The purpose of the distribution center was to get  
9 product from this place, this distribution center, to the  
10 various Walgreens stores that are served by that  
11 distribution center. Is that correct?

12 A. Correct.

13 Q. Okay. And your job as a -- working for -- in the  
14 West Mod was that of a stock picker. Is that correct?

15 A. Yes. Pic to light. That's what they called it.  
16 Pic to light.

17 Q. Can you spell that?

18 A. I think it would be P-i-c to light.

19 Q. To light, like l-i-g-h-t?

20 A. Yes.

21 Q. Okay.

22 A. So if the light went on and said do this, you  
23 picked what it told you, and you put it into the tote.

24 Q. Got it. Okay. All right. And that's what I  
25 wanted to just make sure we're clear on.

1 A. Yes.

2 Q. So your first job was to -- First of all, there  
3 was packages that came into the distribution center that  
4 had to be put on the shelves of the distribution center,  
5 is that correct, the product that you -- that was to be  
6 put on the shelves in the distribution center, correct?

7 A. Yes.

8 Q. And that's what you were doing when you said you  
9 cut boxes and stacked product, correct?

10 A. Yes.

11 Q. All right. Then -- That was the first part of  
12 your job each shift?

13 A. Yes.

14 Q. And then the second part of your job each shift  
15 was to fill these plastic boxes called totes with the  
16 product, pull it off the shelves, and put it into the  
17 correct tote so that it got to the store that needed that  
18 particular product?

19 A. Yes, sir.

20 Q. Okay.

21 A. Just quickly.

22 Q. And you needed to do it quickly?

23 A. Yes.

24 Q. Okay. There were requirements both for speed and  
25 accuracy in picking the product off the shelf and putting

1 it into these plastic boxes, correct?

2 A. Yes.

3 Q. Okay. And there was a period of time when you  
4 started out where you were given the opportunity to, as I  
5 will call it, get up to speed, in other words, to learn  
6 how to pick and meet the requirements set forth in order  
7 to -- you know, the number of products you had to pick and  
8 the accuracy. Is that correct?

9 A. Yes.

10 Q. Okay. I believe that period lasted for, what, 45  
11 days?

12 A. I think so.

13 Q. And so you started out -- And now let's get back  
14 to you. At the time that you were hired and placed into  
15 the W Mod, you were not the only new person placed into  
16 the W Mod at that time. Is that correct?

17 A. Into my mod?

18 Q. Yes. Or do you know?

19 A. I don't know.

20 Q. Well, you said earlier that Walgreens hired in --  
21 I believe you called it phases.

22 A. Yes.

23 Q. So they waited until they had a number of people  
24 to hire at the same time, and then they hired them all at  
25 the same time, and they started them all at the same time.

1 any hiring.

2 Q. Okay. All right. So you never interviewed for  
3 that position?

4 A. No.

5 Q. All right. Then the next position that you  
6 applied for was something called a function lead position.

7 A. Yes.

8 Q. All right. And that occurred sometime in January  
9 of 2009. Is that correct?

10 A. Yes.

11 Q. And that was before or after you finished your  
12 90-day period?

13 A. Before.

14 Q. Okay. And were you allowed to -- Now, are  
15 people who are on their 90-day probationary period allowed  
16 to apply for additional positions or higher level  
17 positions?

18 A. Yes.

19 Q. Okay. And you were allowed to do that, correct?

20 A. Yes.

21 Q. Okay. Now, did you interview for that position?

22 A. Yes.

23 Q. Okay. And who did you interview with for that  
24 position?

25 A. Mike.

1 Q. A guy by the name of Mike? Do you know his last  
2 name?

3 A. Wells.

4 Q. Wells? Okay.

5 And what was Mr. Wells's position at  
6 Walgreens -- at the Walgreens distribution center?

7 A. Function manager Rx.

8 Q. Okay. And was this -- Why was Mr. Wells  
9 involved in interviewing you?

10 A. And Kori Alderette.

11 Q. So the other person who interviewed you was Kori?

12 A. Alderette.

13 Q. Alderette?

14 A. I don't know how to spell that name.

15 Q. I believe that spelling for Ms. Alderette is  
16 K-o-r-i, Kori, and A-d- -- A-d-l-r-e-t-t-i (sic). I  
17 believe that it's right.

18 MR. GARRY: I'll get it for you for sure.

19 BY MR. GARRY:

20 Q. And she's in HR. Is that correct?

21 A. Correct.

22 Q. And "HR" being human resources, correct?

23 A. Correct.

24 Q. And was the reason that Mr. Wells was involved in  
25 this function lead position that you were applying for was

1 due to the fact that the function lead was in the  
2 prescription area?

3 A. Correct.

4 Q. And when you say "function manager Rx," that  
5 means prescription drugs. Is that correct?

6 A. Right.

7 Q. So this was -- The job that you had applied for  
8 was a function lead in the prescription drug area of the  
9 distribution center in Flagstaff?

10 A. Correct.

11 Q. Okay. And did you get that position?

12 A. No, sir.

13 Q. Okay. Do you know who got that position?

14 A. A young man by the name of Raul.

15 Q. I'm sorry?

16 A. Raul.

17 Q. Raul? Do you know his -- Raul's last name?

18 A. No, I do not.

19 Q. Do you know whether or not Raul had a longer  
20 tenure with the company or a shorter tenure than you?

21 A. I believe he had longer.

22 Q. Do you recall how much longer his tenure was with  
23 the company than yours?

24 A. No.

25 Q. And did you apply for any other positions while

1 do that because of the problem that you have physically --

2 A. Right.

3 Q. -- getting up in the air. Is that correct?

4 A. Right.

5 Q. Did you apply for any other positions?

6 A. No.

7 Q. All right. During the period that you worked at  
8 Walgreens, did anybody in your area -- in the -- working  
9 for Casey Rogers, did any of -- I believe you call  
10 yourself team members. The stock pickers are called team  
11 members?

12 A. That is correct.

13 Q. So when I say "team members," you understand what  
14 I mean?

15 A. Yes.

16 Q. Did any team members get promoted to higher level  
17 positions during the period you were there in Casey  
18 Rogers' area, to your knowledge?

19 A. I don't know.

20 Q. Well, to your knowledge?

21 A. No.

22 Q. Okay. As I understand Mr. Rogers' area, there  
23 were three -- there were three function leads that  
24 reported to him. Is that correct?

25 A. Yes.

1 BY MR. GARRY:

2 Q. Now, during the period of time that you worked  
3 for Mr. Husband, besides not providing you training, I  
4 believe you indicate in your complaint that Mr. Husband  
5 was rude to you. Is that correct?

6 A. Yes.

7 Q. Okay. How was he rude to you?

8 A. I would ask him for help and he would either walk  
9 away or grunt or not answer at all.

10 Q. Do you recall specific instances when this  
11 occurred?

12 A. There were many.

13 Q. Okay. Which one do you recall first?

14 A. The one I recall is the one where Fawn Mejias  
15 made a comment about it.

16 Q. And when did this take place? Was this before or  
17 after the incident involving the lifting of the totes?

18 A. I don't remember if it was before or after.

19 Q. You don't remember whether it was before or after  
20 that? Okay.

21 And what -- Where were you at the time --  
22 What occurred -- Strike that.

23 Can you tell me what occurred?

24 A. Yes. We sat down. It was -- it was a break  
25 time. We sat down, and I said, "Excuse me," walked over

1 to Heath, and I said, "Heath, I really need help. I have  
2 to understand why my totes are backed up. I have to pick  
3 up my pace faster. There's got to be some secrets to move  
4 a little bit faster. Can you help me?"

5 Q. And this was during a break time?

6 A. Yes.

7 Q. And what was Mr. Husband doing at the time?

8 A. I don't remember.

9 Q. Okay. And was anyone else in the area besides  
10 yourself and Mr. Husband when you made this comment to  
11 him?

12 A. There was a lot of movement everywhere.

13 Q. Well, who else was within earshot?

14 A. I don't know.

15 Q. Don't know?

16 And so you asked him this question. What  
17 did he say in response?

18 A. He grunted and didn't answer.

19 Q. When you say "he grunted," what do you mean by  
20 that?

21 A. Grunts.

22 Q. Such as what? He said "Uhhh," something like  
23 that?

24 A. He goes "Uhhh."

25 Q. Other than that, did he say anything else? Did

1 Q. Then what did he -- What happened then?

2 A. He said, "Would you like to work in the candy  
3 room?"

4 And I said, "Sure. That's fine."

5 Q. And were you moved to the candy room then?

6 A. I think a few days later I was moved to the candy  
7 room. I can't remember the specific date.

8 Q. Okay. After that your -- any comments or  
9 anything from Mr. Husband ceased, is that correct, as far  
10 as it pertained to you?

11 MR. GRIFFIN: Objection.

12 BY MR. GARRY:

13 Q. Isn't that right? After you moved to the candy  
14 room?

15 MR. GRIFFIN: Same objection.

16 THE WITNESS: No.

17 BY MR. GARRY:

18 Q. No?

19 Well, didn't you write that in one of your  
20 notes?

21 A. Just I would pass him, say hello. He would  
22 ignore me. That would continue.

23 Q. But as far as anything to do with your treatment  
24 as an employee, that all ended, correct?

25 MR. GRIFFIN: Objection.

1 identification.)

2 BY MR. GARRY:

3 Q. Showing you what's been marked as Exhibit No. 4,  
4 is this a document that you prepared?

5 A. Yes.

6 Q. Is this your handwriting?

7 A. Yes.

8 Q. It says this is -- and this is the conversation  
9 that you had with Casey that you've just described when he  
10 offered you the move to the candy room. Is that right?

11 Is that a yes?

12 A. Uh-huh.

13 Q. Is that a yes?

14 A. Yes, sir.

15 Q. And would you take a look at the -- Have you had  
16 a chance to look at both pages?

17 A. I will.

18 Yes.

19 Q. When did you prepare this document?

20 A. The night that it happened.

21 Q. Okay. And then you said in this document -- at  
22 the second page, it says, "My harassment from Heath  
23 Husband ended here. . . ." Is that correct?

24 A. Yes.

25 Q. So that was -- So by the time that you moved to

1 the candy room in early January of 2009, harassment by  
2 Heath Husband ended. Isn't that right?

3 A. Yes.

4 MR. GRIFFIN: Objection.

5 BY MR. GARRY:

6 Q. Is the answer yes?

7 A. Yes.

8 Q. And have you told me all of the incidences where  
9 Mr. Husband harassed you in your testimony today?

10 MR. GRIFFIN: Objection.

11 BY MR. GARRY:

12 Q. That you can recall?

13 A. I believe I have.

14 Q. Now, at one point in time, you thought that  
15 Mr. Husband also was rude to a person by the name of  
16 Freddie Nez. Is that correct?

17 A. Yes.

18 MR. GARRY: And Nez is spelled N-, as in  
19 Nancy, e-, z-, as in zebra.

20 BY MR. GARRY:

21 Q. When did that incident occur?

22 A. I don't remember the time.

23 Q. Okay. What did you observe?

24 A. I was walking to the candy room. It was right  
25 after a start-up meeting. And Heath was talking very loud

1 A. Yeah.

2 Q. What about with Colette?

3 A. No.

4 Q. Okay. No what?

5 A. No.

6 Q. Did you ever see or observe any interaction  
7 between Colette and Heath Husband?

8 A. No.

9 Q. Okay. Did you observe any interaction between  
10 Loretta and Heath husband?

11 A. No.

12 Q. Did you ever observe any interaction with  
13 Mr. Husband and any of the other persons or team members  
14 that worked in W Mod?

15 A. No.

16 Q. All right. Now, you went to work at -- for  
17 Ms. Laidlaw in January of '09 in the candy room. Is that  
18 correct?

19 A. Yes.

20 Q. You became a stock picker in the candy room. Is  
21 that right?

22 A. Yes.

23 Q. And she provided training to you. Is that  
24 correct?

25 A. Yes.

1 Q. Do you know who else she had to train at the same  
2 time, if anyone --

3 A. I don't know.

4 Q. -- or were you the only one?

5 A. I don't know.

6 Q. You don't know?

7 A. I don't know who she's trained.

8 Q. Do you -- Other than -- Who else was in -- who  
9 else was in the candy room besides yourself during this  
10 period of time? And this is the period from January of  
11 2009 until you terminated in April of 2009.

12 A. Coby.

13 Q. I'm sorry. Coby?

14 A. Coby.

15 Q. All right.

16 A. Danielle.

17 Q. Danielle? What's Danielle's last name?

18 A. I don't know.

19 Q. What is Coby's last name?

20 A. I don't know.

21 MR. GRIFFIN: I think it's Darden.

22 BY MR. GARRY:

23 Q. Does that ring a bell to you?

24 A. Yes.

25 Whitney.

1 A. No.

2 Q. Your answer is no?

3 A. No.

4 (Deposition Exhibits 6 and 7 were marked for  
5 identification.)

6 BY MR. GARRY:

7 Q. I want you to take a look at Exhibits No. 6 and  
8 No. 7 for me, if you could. And tell me when you're done  
9 reviewing them.

10 A. Yes.

11 Q. You've looked at both of the documents?

12 A. Yes. I do remember them.

13 Q. Have you --

14 A. Yes.

15 Q. Now, in Exhibit No. 6, that's a document you  
16 prepared on January 17, 2009. Is that correct?

17 A. Uh-huh.

18 Q. Is that a yes?

19 A. Yes, sir.

20 Q. And that date is three days before Exhibit No. 5.  
21 Is that correct?

22 A. Yes, sir.

23 Q. Now, during the period that you were working in  
24 the candy room before January 17th of 2009, you got ill.  
25 Isn't that correct?

1 A. Yes.

2 Q. And you were out for how many days?

3 A. Two.

4 Q. Two.

5 And under the -- Do you know whether or  
6 not -- Strike that.

7 During those two days, were you ever told  
8 that -- you received a -- Excuse me. You received a  
9 final written warning with regard to attendance, isn't  
10 that right?

11 A. I don't know if it was a final written warning.  
12 They didn't think that I had -- I had not punched in, but  
13 they looked, and they saw that I was there. I just forgot  
14 to punch in.

15 Q. Okay.

16 A. So it wasn't -- It was a warning, but I was  
17 there.

18 Q. But there were two days when you were not there.  
19 Is that right?

20 A. That is correct.

21 Q. And you had the flu or something like that. Is  
22 that correct?

23 A. That is correct.

24 Q. All right. And do you -- Are you aware that  
25 under the policy, if you miss two days of work during your

1 probationary period, you can be terminated?

2 A. Yes.

3 Q. But you were not terminated. Is that right?

4 A. Correct.

5 Q. Do you know whether or not Mr. Rogers was  
6 involved in that decision at all?

7 MR. GRIFFIN: Objection. Foundation.

8 THE WITNESS: I don't know.

9 BY MR. GARRY:

10 Q. Did you ever ask him whether he was involved in  
11 that decision or not?

12 A. No.

13 Q. Now, during at least one of the days that you  
14 were at work, you were still ill, correct?

15 A. Several days, yes.

16 Q. And at least on one of those occasions,  
17 Mr. Rogers made sure that you had an easy job so that you  
18 could last through the evening. Isn't that right?

19 MR. GRIFFIN: Objection.

20 BY MR. GARRY:

21 Q. Isn't that right?

22 A. Yes.

23 Q. Okay. In fact, you commended him to Mr. Mathieu  
24 on January 17th indicating that you were thankful to  
25 Mr. Rogers for allowing you to do that, correct?

1 Q. Do you know of anyone who actually received a  
2 write-up?

3 A. I don't know everybody else was called in. Every  
4 one was talking about it.

5 Q. Did anyone ever show you -- Did you ever see  
6 anyone receive a write-up?

7 A. No.

8 Q. Did you ever see -- Did anyone ever hand you one  
9 and say, "See, I got written up after I was called in"?

10 A. No. Everyone was just talking about it.

11 Q. So you never -- So regardless of what everybody  
12 was talking about, you never saw anyone being disciplined  
13 or written up? You never saw a document saying that  
14 somebody had poor productivity after they had talked to  
15 Mr. Mathieu about the allegations made in your document to  
16 him?

17 A. No, sir.

18 Q. All right. So do you know of anyone, as you sit  
19 here today -- do you know of anyone who was disciplined in  
20 any other way? Was anyone fired after they talked to  
21 Mr. Mathieu about -- or Mr. Rogers about your claims of  
22 unfair treatment?

23 MR. GRIFFIN: Objection.

24 THE WITNESS: I don't know.

25

1 BY MR. GARRY:

2 Q. Do you know of anyone who was denied a promotion  
3 after they talked to Mr. -- either to Mr. Mathieu or  
4 someone else about your claims of unfair treatment?

5 MR. GRIFFIN: Objection.

6 THE WITNESS: I don't know.

7 BY MR. GARRY:

8 Q. Do you have any information indicating that  
9 anyone was adversely affected in any way because they  
10 gave -- made statements regarding your claims of unfair  
11 treatment?

12 A. Yes.

13 Q. Who?

14 A. Fawn Mejias.

15 Q. Who?

16 A. Fawn Mejias.

17 Q. And what happened to Fawn Meji- -- what is her  
18 name? Mejias?

19 A. Mejias.

20 Q. Right. What happened to her?

21 A. She told me one evening that she was upset, and I  
22 said, "What are you upset about?"

23 And she said, "Casey wanted me to go in and  
24 write a statement against Sheryl Laidlaw."

25 I said, Okay.

1 Q. Okay. But even that -- Even though you felt --  
2 You didn't ever say it to anybody else, you felt it was  
3 appropriate to tell Mr. Mathieu, the human resource  
4 manager, that they were bozos?

5 MR. GRIFFIN: Objection.

6 THE WITNESS: Yes, sir.

7 (Deposition Exhibit 15 was marked for  
8 identification.)

9 BY MR. GARRY:

10 Q. Showing you what's been marked as Exhibit No. 15,  
11 is this a document that you prepared?

12 A. Yes.

13 Q. And you prepared this on or about March 21st,  
14 2009?

15 A. Yes.

16 Q. And is this the document you prepared in response  
17 to what Sheryl Laidlaw asked you to do?

18 A. No. This was the one he told me he wanted me  
19 to -- Sheryl had asked me to say -- I guess she said,  
20 "Can you write something about your experiences with Casey  
21 and Heath?" And then when I wrote to him in the e-mail, I  
22 told him here he had my information regarding the two  
23 bozos, and then he stated that he -- in an e-mail that he  
24 needed -- that he needed a detailed statement written from  
25 me, signed and --

1 BY MR. GARRY:

2 Q. You did put it in there. Thank you.

3 A. We had talked about it already.

4 Q. Yeah, you're right, and you did put it in there,  
5 and that was my fault. I'm sorry.

6 Now, in this document, which is Exhibit  
7 No. 15, did you set forth all of the incidences that had  
8 occurred between you and Mr. Husband and you and  
9 Mr. Rogers up to March 21 of 2009, as best as you could  
10 recall?

11 A. There were so many incidences, I probably just  
12 brought out the ones that stood out.

13 Q. Okay. In looking at this document, do you recall  
14 any others, other than the ones that are in here that took  
15 place and that we've talked about, from the time that you  
16 started until March 21 of 2009?

17 A. Not that I can recall at this time.

18 (Deposition Exhibit 16 was marked for  
19 identification.)

20 BY MR. GARRY:

21 Q. Okay. Did you have a chance to look at Exhibit  
22 No. 16?

23 A. Yes, sir.

24 Q. All right. This is a document that you sent to  
25 Mr. Mathieu. I believe it was on the day after you sent

1 him Exhibit No. 15.

2 A. Yes.

3 Q. And this is where you asked him again to maintain  
4 the confidential nature of the document. Is that  
5 correct -- of the investigation?

6 A. Yes, sir.

7 Q. Okay. And you sent that to Mr. Mathieu on or  
8 about March 22nd of 2009. Is that correct?

9 A. Yes, sir.

10 Q. Okay. And -- Strike that.

11 Did you and Mr. Mathieu ever have a --  
12 Strike that. Never mind.

13 (Deposition Exhibit 17 was marked for  
14 identification.)

15 BY MR. GARRY:

16 Q. Showing you what's been marked as Exhibit No. 17  
17 for your deposition, I'll ask you to take a look at that.

18 Now, Exhibit No. 17 is, I believe, where you  
19 were talking about the numbers that you received from  
20 Casey Rogers that you talked about earlier. Is that  
21 correct?

22 A. Uh-huh.

23 Q. Is that a yes?

24 A. Yes.

25 Q. Okay. And it says here that, ". . . I was at

1 Q. No, no. There's a document you're supposed to  
2 receive which starts a process so that if you don't bring  
3 your numbers up, you get further discipline until you get  
4 terminated, right? That's how Walgreens works.

5 A. Okay.

6 Q. All right. You never got the first document, did  
7 you?

8 A. No. Because I brought my numbers -- Well, my  
9 numbers weren't really down.

10 Q. And so you never got any document of any kind,  
11 correct?

12 A. No.

13 Q. Am I correct?

14 A. Correct.

15 (Deposition Exhibit 18 was marked for  
16 identification.)

17 BY MR. GARRY:

18 Q. Showing you what's been marked as Exhibit No. 18,  
19 I'll ask you to take a look at that document.

20 A. Yes, sir.

21 Q. Okay. Is that a document that you sent to Len  
22 Mathieu?

23 A. Yes.

24 Q. All right. And this indicates that -- a couple  
25 of things I wanted to point out. Number one, you told

1 Mr. Mathieu at that point in time that when you returned  
2 Wednesday night, ". . . several team members were talking  
3 about Heath's investigation during breaks and how no one  
4 wanted to be involved. I told you once, you could sneeze  
5 in the candy room and five minutes later, some one in  
6 shipping would say God Bless You."

7 I take it, then, that the fact that you were  
8 involved in -- that there was complaints raised against  
9 Heath Husband became known almost --

10 A. Instantly.

11 Q. -- instantly. And it was also known that  
12 Ms. Laidlaw had made complaints as well. Isn't that  
13 right?

14 MR. GRIFFIN: Objection.

15 THE WITNESS: I don't know. I didn't know  
16 about Sheryl.

17 BY MR. GARRY:

18 Q. Well, isn't it true that everyone knew about  
19 Sheryl Laidlaw's complaints almost instantly as well?

20 MR. GRIFFIN: Objection.

21 THE WITNESS: I didn't know.

22 BY MR. GARRY:

23 Q. Okay. So were you at -- So when -- If Sheryl  
24 Laidlaw said in a document that everyone in the lunchroom  
25 knew about her complaints against Heath Husband, as of

1 Q. And did you tell him?

2 A. I showed him.

3 Q. Okay. And then he said something about the fact  
4 that this had not happened when you were in W Mod. Is  
5 that correct?

6 A. Correct. He said he wanted -- He says, "I think  
7 I need to send you back to W Mod. You never got hurt in  
8 W Mod."

9 Q. Now, where did you say that he said, "I need to  
10 send you back to W Mod"?

11 A. He actually made that statement.

12 Q. Where did -- Now, I'm looking at the document  
13 you prepared on or about April 1, 2009. Do you see it?  
14 That's Exhibit No. 20.

15 A. Uh-huh.

16 Q. Okay. Where do you say that Casey said, "I  
17 believe I'm going to have to send you back to W Mod"?

18 A. Because it's what he said.

19 Q. He did say -- According this, you said, "Casey  
20 started telling me he needed to take me out of the candy  
21 room."

22 A. Uh-huh.

23 Q. All right. He didn't say, "I'm moving you back  
24 to W Mod," did he?

25 A. Yes.

1 Q. Okay. Because there was another mod that you  
2 could go to, which was Perg Alonso's Mod.

3 A. Correct. He didn't say Perg Alonso. He told me,  
4 "I need to send you back to W Mod with Heath because you  
5 never got hurt there."

6 Q. And did you -- But the document that you  
7 prepared on April 1 doesn't say he was going to send you  
8 back to W Mod, does it? Unless I'm missing something, I  
9 don't see that.

10 A. It is what he said.

11 Q. But I don't see that you reported that back in  
12 April of 2009. Is that right?

13 A. Doesn't look like I wrote it, but it is what he  
14 said.

15 Q. Okay. So at the time also he said -- when he  
16 said, "I'm going to send you back to W Mod," what did you  
17 say? Did you say anything?

18 A. I don't remember. I was in a lot of pain.

19 Q. Okay. Did you get sent back to W Mod?

20 A. No. I wrote this letter immediately.

21 Q. Okay. Did anyone ever move you at any point in  
22 time even for a day back to W Mod?

23 A. They completely stopped moving me, including  
24 sending me to -- They wouldn't even send me to HR  
25 department anymore. It had nothing to do with HR. It had

1 everything to do with him telling me he was going to send  
2 me to Heath Husband's mod.

3 Q. Your testimony is he said he was going to send  
4 you to Heath Husband's W Mod -- the W Mod for Heath  
5 Husband at that time. You said no, correct?

6 A. Correct.

7 Q. And it never happened. Is that correct?

8 A. Correct.

9 Q. You said, "No, I don't want to go." Is that  
10 correct? And it never happened, right? Okay.

11 Now, after that occurred, when you got  
12 the -- when they -- After this accident occurred, were  
13 you out for any period of time?

14 A. I think I was just out for one or two days or  
15 something.

16 Q. Okay. And when you returned, at any point in  
17 time, was a camera put into the candy room, to the best of  
18 your knowledge, a camera to see why boxes were falling on  
19 people?

20 A. I don't know. The only -- I was told cameras  
21 were going to be watching me in early January when I  
22 talked to Len. He said he was increasing cameras.

23 Q. In early January. Do you know whether or not  
24 cameras were increased in early January?

25 A. I'm not there all day. I don't know what they

1                   (Deposition Exhibit 22 was marked for  
2                   identification.)

3                   THE WITNESS: Yes. I think this was the  
4 one. This is the one.

5 BY MR. GARRY:

6           Q.     So you wrote --

7           A.     I can't remember how they were written. Yes, I  
8 think this one was written first.

9           Q.     Exhibit No. 21 was written first?

10          A.     I think this one was written first.

11          Q.     Let the record reflect that you're pointing to  
12 the second page of Exhibit 21.

13          A.     Yes. Yes.

14          Q.     Okay.

15          A.     Yes, sir.

16          Q.     Then you wrote Exhibit 22?

17          A.     Yes. I believe -- Yes, sir.

18          Q.     Okay. And did Fawn Mejias ask you to write these  
19 letters on her behalf?

20          A.     I told her that I could write a letter on her  
21 behalf and try and protect her. And she says, "I'm going  
22 to lose my job."

23                   I said, "Honey, all I can do is write a  
24 letter."

25          Q.     Did you receive any kind of discipline of any

1 kind for writing this letter on behalf of Fawn Mejias?

2 A. No.

3 Q. Did anybody ask you -- or come to you and tell  
4 you that if you did anything like that again, you would be  
5 terminated or threaten you in any way for writing that  
6 letter?

7 A. No.

8 Q. And as I think you've already testified, after  
9 this letter was sent on -- to the company, your  
10 understanding was, from Fawn Mejias, that she was treated  
11 better than she was before. Is that correct?

12 A. No. She was interrogated the next day.

13 Q. After April 15 of 2009 -- after April 15 of 2009,  
14 she was interrogated again?

15 A. Yes. She was interrogated the next day.

16 Q. What was she interrogated about the next day?  
17 About your conversation with her?

18 A. Because I had written the letter saying that I  
19 had letters that -- although they did not have a very good  
20 private internal investigation, I had no problem getting  
21 letters when they claimed that they found no guilt  
22 anywhere.

23 Q. Where did you say you had letters? I'm sorry.  
24 I'm missing that. Where did you say that?

25 A. I'll see if I can find it.

1 or written warning or anything as of that time, correct,  
2 with regard to your attendance?

3 A. No.

4 Q. Now, as of the date that you were terminated, you  
5 were under no written warnings of any kind. Is that  
6 correct?

7 A. That's correct.

8 Q. You had no performance issues. Is that correct?

9 A. No.

10 Q. And you had no attendance issues. Is that  
11 correct?

12 A. No.

13 Q. And as far as you knew, you were an employee in  
14 good standing in every way, shape, or form. Is that  
15 correct?

16 A. No.

17 Q. Well, was there any paper on you -- were there  
18 any write-ups of you of any kind at that time?

19 A. No.

20 Q. Now, at that time that you quit, it was just  
21 after your house had been foreclosed on, correct?

22 A. Yes.

23 Q. And so one of the reasons that you remained  
24 employed was because of your house -- you were trying to  
25 refinance your home. Is that correct?

1 A. I was trying to save my home.

2 Q. When your home was foreclosed upon, you decided  
3 to quit. Is that right?

4 A. I didn't have to go back to be harassed anymore.

5 Q. During the period from April 15th until you left  
6 on April 28th, how were you harassed? Strike that.

7 During the period from April -- I'm sorry --  
8 March 31, the day that you hit your nose -- from March 31  
9 to April 28, can you describe for me how you were  
10 harassed?

11 MR. GRIFFIN: Objection.

12 THE WITNESS: At this second, I can't think  
13 of anything. But if you want me to, I will try to later.

14 BY MR. GARRY:

15 Q. Well, there's not going to be a later unless your  
16 counsel allows me to, and I doubt if he will.

17 Can you recall -- Do you want to take five  
18 minutes?

19 A. Give me the dates. I'm sorry.

20 Q. From April 1, 2009, until the time that you quit  
21 on April 28, 2009, what harassment took place against you?

22 A. I watched the nicest people I know get harassed  
23 because of me. And that is just the same thing.

24 Q. Who got harassed because of you?

25 A. Fawn Mejias.

1 Q. Okay. Fawn Mejias had that one incident that you  
2 talked about in April 15th and 16th. Is that right?

3 A. Yes.

4 Q. Anything else?

5 A. That's a lot to do something to a young woman all  
6 night.

7 Q. How long was she -- Well, we'll talk to her and  
8 find out. Because you were not there, correct? You don't  
9 know how long she was talked to or what the circumstances  
10 were, do you?

11 A. She just told me she was so scared she told them  
12 anything. She said she didn't remember what she told  
13 them. She just wanted out of there. And she said, "I got  
14 sick and started hyperventilating." She said, "I really  
15 don't know anything, Bernie."

16 I said, "I know, hon."

17 Q. We'll ask Ms. Mejias about that.

18 What else happened to you -- What happened  
19 to you from April 1 until April 28 that you felt was  
20 harassing?

21 A. What happened to Fawn to me --

22 Q. Besides that?

23 A. -- was personal.

24 Q. You already talked to that. Talk to me about  
25 anything else.

1           A.    The fact they tried to write me up for something  
2   that I felt was just something they were trying to come up  
3   with and then --

4           Q.    Are you talking about the attendance?

5           A.    About the attendance and then this and then --

6           Q.    What's "this"?  The attendance was on April 22nd.  
7   And they apologized for that.

8           A.    Okay.  And then --

9           Q.    What else?

10          A.    Then trying to find something wrong with -- when  
11   I'm trying to take time off and saying I didn't have the  
12   right to have the time off.

13          Q.    And they apologized for that, correct?  "They"  
14   being Casey Rogers apologized to you and Kori Alderette  
15   apologized to you.

16          A.    Yes.

17          Q.    What else besides asking to take time off and the  
18   Fawn Mejias incident that was harassing to you between  
19   April 1 of 2009 and April 28 of 2009?

20          A.    It was the attitude.  I would see Casey and he  
21   wouldn't even talk to me or acknowledge me, wouldn't even  
22   say hello.

23          Q.    Other than not saying hello, anything else?

24          A.    Not that I can think of.

25          Q.    Casey Rogers wasn't always in the candy room, was

1 he?

2 A. No. But you would see him throughout the  
3 evening. If he was going to the ladies -- if he was going  
4 to the bathroom, the men's room is right next door, stuff  
5 like that. Sometimes I would say hello or I would pass  
6 him in the early morning as he was coming in, there was no  
7 conversation.

8 Q. Okay. Other than the fact there was no  
9 conversation, did he say anything to you?

10 A. No. It was his attitude.

11 Q. Just he didn't say anything to you. Is that  
12 correct?

13 A. I was nonexistent.

14 Q. He just didn't say anything to you, right?

15 A. That is correct.

16 Q. And this is at a time when you had accused him of  
17 intimidating you. Is that correct?

18 A. Yes.

19 Q. And so he was not saying anything to you,  
20 correct?

21 A. I find being ignored intimidation.

22 Q. Okay. Fine.

23 Anything else?

24 A. No.

25 MR. GARRY: Let's go off the record for just

1 STATE OF ARIZONA )

2 COUNTY OF MARICOPA )

3 BE IT KNOWN the foregoing deposition was  
4 taken by me pursuant to stipulation of counsel; that I was  
5 then and there a Certified Reporter of the State of  
6 Arizona, and by virtue thereof authorized to administer an  
7 oath; that the witness before testifying was duly sworn by  
8 me to testify to the whole truth; notice was provided that  
9 the transcript was available for signature by the  
10 deponent; that the questions propounded by counsel and the  
11 answers of the witness thereto were taken down by me in  
12 shorthand and thereafter transcribed into typewriting  
13 under my direction; that the foregoing pages are a full,  
14 true, and accurate transcript of all proceedings and  
15 testimony had and adduced upon the taking of said  
16 deposition, all to the best of my skill and ability.

17 I FURTHER CERTIFY that I am in no way related to  
18 nor employed by any parties hereto nor am I in any way  
19 interested in the outcome hereof.

20 DATED at Phoenix, Arizona, this day of  
21 , 2009.

22

23

24

Meri Coash, RMR, CRR

25

Certified Reporter #50327

# **EXHIBIT C**



Bernie Sanchez-Bell  
<berniesanchez-bell@q.com>

To Len Mathieu <len.mathieu@walgreens.com>

cc

01/30/2009 03:03 PM

bcc

Subject Hello Len

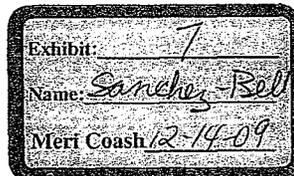
Hello and good afternoon, although I feel like this is my morning:) I am sorry I did not have the opportunity to speak with you last night. Unfortunately, when I had time at 3 am, they stated you had just left.

I am at 92% and feeling confident I will pass my 3rd review coming up next week. Everything is going well on night shift. Casey has been very helpful and even asked me questions before my interview to assist me. He has also given me regular updates every few days to help keep me on target for my last review next week. I am now picking at 128 and I think my highest has been 133. I worked 2 weeks with the flu and when I finally got rid of it, my numbers started climbing quickly.

I cant brag enough about my function lead Cheryl. When I become a function lead I want to run my dept like hers. She has created a team environment, that makes working in the candy room fun. We are all hustling, laughing and enjoying our jobs. There is a reason everybody picks over 100% there. She gets right in with us and picks beside us every night hustling and laughing with us. This is a great person to emulate.

I was glad to hear the MIR position was not a part of the company wide freeze. Personally, I feel physically exhausted and mentally unchallenged and anxious for upward mobility with more responsibility. I have an idea I would like to share with you and get your opinion next time I see you.

Thank you  
Bernie



WAL000665

# **EXHIBIT D**



1 A. Regular team member.

2 Q. And in what -- Where?

3 A. X Mod.

4 Q. And who was your function lead at the time that  
5 you went to third shift?

6 A. I don't recall his last name, but he's no longer  
7 there. I want to say his first name was Jason.

8 Q. Who was your function manager at the time?

9 A. I don't recall at this time.

10 Q. Okay. How long -- What were your job duties as  
11 a team member in X Mod?

12 A. Cutting stock, picking.

13 Q. Anything else?

14 A. No, sir.

15 Q. Okay. And how long were you in that job?

16 A. Several months. I don't recall exactly.

17 Q. By the way, when you started in -- you were in  
18 W Mod on the day shift for how long?

19 A. Two weeks.

20 Q. Two weeks?

21 Did you receive any training during that  
22 time in the W Mod?

23 A. I recall having difficulty in having someone show  
24 me the job.

25 Q. Okay. Who showed you? Another team member?

1           A.    Yes, sir.  I was watching other team members,  
2 asking questions to find out how to do it.

3           Q.    And then when you went to X Mod, who trained you  
4 there?

5           A.    Once again, I don't recall his last name, but I  
6 want to say Jason.

7           Q.    Was he the function leader at the time?

8           A.    Yes, sir.

9           Q.    How much time did he spend training you?

10          A.    It wasn't very much.  He gave me my equipment to  
11 cut stock, showed me how to do it, and left me.

12          Q.    And how long -- And you said you were there for  
13 several months.  Is that correct?

14          A.    Yes, sir.

15          Q.    And just going back to that training for a  
16 minute, were other team members -- did they help train you  
17 as well in the X Mod like was the case in the W Mod?

18          A.    Yes, sir.

19          Q.    Was that pretty standard how people got trained  
20 in order to learn how to, you know, cut boxes, pick stock,  
21 was that the other team members helped train them?

22                   MR. GRIFFIN:  Objection.

23 BY MR. GARRY:

24          Q.    If you know.

25          A.    As far as I know, yes, sir.

1 didn't you?

2 A. Yes, sir.

3 Q. So it's a little bit different when you're  
4 applying for a lateral position, then, at least as far as  
5 what you know?

6 A. As far as I know, yes.

7 Q. Now, when you told your manager that you were  
8 interested in going over to the function lead as a --  
9 going over to the function lead in candy and high val, do  
10 you recall doing any kind of interview with anyone before  
11 you got that job?

12 A. No, sir.

13 Q. Okay. So the only thing -- You found out there  
14 was an opening. You went to your manager and said, "I  
15 would like to be considered for that opening," and the  
16 next thing you knew, you got it. Is that what happened?

17 A. Yes, sir.

18 Q. Okay. And when did you become the function lead  
19 for candy, high val?

20 A. Approximately 18 months ago.

21 Q. So that would be -- if I'm thinking correctly --  
22 sometime in June of 2008. Is that correct?

23 Is that a yes?

24 A. Yes, sir.

25 Q. Okay. All right. And at the time that you

1 A. Correct.

2 Q. And this was in your cubicle -- near his cubicle.

3 Is that correct?

4 A. Yes, sir.

5 Q. Was this shortly after you had been given the  
6 position?

7 A. Yes, sir.

8 Q. Was there anybody else present, or was it just  
9 him?

10 A. It was just him.

11 Q. What did he say to you and you to him at that  
12 time, as best as you can recall?

13 A. Best I can recall, I introduced myself, let him  
14 know I had just found out I got the position as his  
15 function lead.

16 Q. Do you know if he had any involvement in you  
17 coming over as a function lead in the high -- candy, high  
18 val area?

19 A. No, sir, I don't know.

20 Q. All right. Now, when you came over -- Now I  
21 want to talk a little bit about this function lead  
22 position. Do you get paid on a salary or an hourly basis?

23 A. Hourly.

24 Q. What is your hourly -- what was your hourly rate  
25 when you started in the candy, high val area? Do you

1 know?

2 A. As?

3 Q. As a function lead. Excuse me.

4 A. 20.

5 Q. \$20 an hour?

6 A. 20.05.

7 Q. 20.05?

8 A. Yes, sir.

9 Q. What is your current hourly rate?

10 A. 20.35.

11 Q. 20.35? Okay.

12 Have you received more than one increase  
13 during the time that you've worked there or just one as a  
14 function lead in high val, candy?

15 A. We received cost-of-living raises yearly in  
16 October. Other than that, no.

17 Q. To your knowledge, during the period of time that  
18 you've been a function lead in candy, high val, have other  
19 people received increases you have not received -- other  
20 function leads in the same area received increases you  
21 have not received?

22 A. Not to my knowledge.

23 Q. Okay. All right. Are you paid overtime for  
24 the -- when you work overtime?

25 A. Yes, sir.

1 toys, almost every type of Band-Aid you can think of.

2 Q. Those are considered high value?

3 A. Yes, sir.

4 Q. Okay.

5 A. We have various products.

6 Q. Okay. And is the process in high val the same as  
7 the process in the candy area as far as picking -- you  
8 know, getting totes, scanning it, picking what's  
9 illuminated in front of the team member, and putting it  
10 into the tote and then shipping it out?

11 A. Yes, sir.

12 Q. Okay. So the work is the same. It's just  
13 different products. Is that correct?

14 A. Correct.

15 Q. Okay. Got it.

16 All right. Since the time that you've been  
17 working in candy, high val, have you applied for any other  
18 positions?

19 A. No, sir.

20 Q. Okay. Have there been other function -- have  
21 there been function manager positions available in  
22 Flagstaff since you've become a -- Strike that.

23 Is it your intent or is it your desire to  
24 stay on third shift, or would you -- you know, would you  
25 also look for positions on other shifts as well?

1 A. I love third shift.

2 Q. So you want to stay on third shift. Is that  
3 right?

4 A. Yes, sir.

5 Q. Have there been function manager positions  
6 available on third shift since you became the function  
7 lead for candy, high val, to your knowledge?

8 A. To my knowledge, yes, there has.

9 Q. Did you apply for any of those?

10 A. No, sir.

11 Q. Okay. Have there been other function lead  
12 positions in areas other than split case that have come  
13 available during the time that you've been a function  
14 lead?

15 A. There was one, yes, sir.

16 Q. Okay. Where was that?

17 A. That was on four 10 shift --

18 Q. The 4:00 to 10:00 shift?

19 A. Four 10s -- you work four days, 10 hours.

20 Q. Okay.

21 A. On weekends, there was a function lead position  
22 open there, but it quickly dissipated.

23 Q. When you say it "dissipated," somebody got it or  
24 it didn't get filled?

25 A. It -- The current function lead had -- The

1 Q. This document was dated on March 18, 2009. Is  
2 that correct?

3 A. Yes, it is.

4 Q. This is the first time that you talked -- that  
5 you brought this issue with Mr. Husband to the attention  
6 of anyone at human resources. Is that correct?

7 MR. GRIFFIN: Objection.

8 THE WITNESS: No.

9 BY MR. GARRY:

10 Q. Okay. When was the first time you did that?

11 A. Obviously the 18th.

12 Q. That's what I'm asking. Is this the first time  
13 you brought the issue with Mr. Husband to the attention of  
14 anybody in human resources?

15 A. Best I can recall.

16 Q. All right. And you mentioned in here that you  
17 ". . . discussed this situation with my manager, Casey  
18 Rogers, and the response I received was ignored." Does  
19 that refer back to the conversation that you had with  
20 Mr. Rogers back in August of 2008?

21 A. I don't recollect the time.

22 Q. So you don't recollect the time when you had --  
23 You said, "I have discussed this situation with my  
24 manager, Casey Rogers. . . ." That's in Exhibit No. 2.  
25 You don't recollect the time frame that you had that

1 conversation. Is that correct?

2 A. That's correct.

3 Q. It could have been the August 2008 time frame  
4 period. You just don't recall?

5 A. Exactly.

6 Q. Okay. Thank you.

7 Now, did you have a conversation with Mr. --  
8 Mr. Mathieu after you sent him this document, which is  
9 Exhibit No. 2?

10 A. Did he have a conversation? Would you repeat  
11 that?

12 Q. Sure.

13 Did you have a conversation with Mr. Mathieu  
14 about this situation, that's referred to in Exhibit No. 2,  
15 after you sent him the document that's marked Exhibit  
16 No. 2?

17 A. Yes, I did.

18 Q. And was this a telephone conversation, or was  
19 this a face-to-face conversation?

20 A. It was a face-to-face conversation.

21 Q. And where did this conversation take place?

22 A. In his office.

23 Q. Okay. Was anybody else present besides the two  
24 of you?

25 A. No.

1 Q. What did Mr. -- you say to Mr. Mathieu and  
2 Mr. Mathieu say to you?

3 A. The best I can recollect is I thanked him for  
4 coming in to speak with me, and I gave him the gist of my  
5 complaint, and I remember him commenting, "Where did they  
6 get this guy?" I remember him commenting to me that I was  
7 his junior manager.

8 Q. I'm sorry. You were his what?

9 A. Junior manager.

10 Q. Okay. You were whose junior manager?

11 A. Len's.

12 Q. Okay.

13 A. I didn't understand what that comment meant. He  
14 then asked me if I had any documentation. I said, "My  
15 documentation is at home, but let me see if I have any  
16 with me." I had my notebook. I did have one  
17 documentation that I read to him. And, again, he stated,  
18 "Where did they get this guy? Burger King?"

19 Q. Okay.

20 A. And he told me that with the one letter I had,  
21 that he was going to do an investigation, and he would let  
22 me know, and he would take care of it.

23 Q. Okay. Anything else?

24 A. To the best of my recollection, no.

25 Q. Okay. Now, when you said you told him the gist

1 she's not the only one?

2 A. No, sir, I did not.

3 Q. So the only thing you said is "You're not the  
4 only one"?

5 A. Yes, sir, I did.

6 Q. And did she ask you any questions at that time,  
7 to the best of your knowledge?

8 A. No, sir, she did not. She went ahead and went  
9 back to picking.

10 Q. Okay. How long after she came to your mod did  
11 she have that conversation with you, to the best of your  
12 recollection?

13 A. It was approximately the middle of March. I want  
14 to say mid, towards the third week.

15 Q. When was the next time you ever had a  
16 conversation with Sanchez-Bell concerning either Heath  
17 Husband or Casey Rogers?

18 A. I would say it was about the 30th of March, 1st  
19 of April time frame.

20 Q. Okay. What did you say to her? Excuse me.

21 What -- Where did this conversation take  
22 place?

23 A. Where?

24 Q. Yeah.

25 A. At her house.

1                   Take a look at Exhibit 19 of yesterday, Bell  
2 Exhibit No. 19. I want to show you a document that was  
3 marked yesterday for Ms. Sanchez-Bell's deposition.

4                   Is that your handwriting, ma'am?

5           A.    Yes, it is.

6           Q.    And do you see the date March 26th in the middle  
7 of the document?

8           A.    I see March 22nd.

9           Q.    Go down to the next paragraph.

10          A.    Yes, sir.

11          Q.    Do you see where it says "March 26"?

12          A.    Yes, sir.

13          Q.    Is that your handwriting that says, "Well, word  
14 is out that I've turned in Heath Husband"?

15          A.    Yes, sir.

16          Q.    "So much for private internal investigations!!,"  
17 correct?

18          A.    Yes.

19          Q.    "It's the topic of conversation in the  
20 lunchroom." Is that right?

21          A.    Yes, sir.

22          Q.    So by March 26th, it was -- everyone in -- pretty  
23 much it was common knowledge that you had made a complaint  
24 against Heath Husband. Is that correct?

25                   MR. GRIFFIN: Objection.

1 BY MR. GARRY:

2 Q. Is that correct?

3 MR. GRIFFIN: Objection.

4 BY MR. GARRY:

5 Q. You can answer.

6 A. It appears to be.

7 Q. Based upon your own handwriting. Is that  
8 correct?

9 A. Yes, sir.

10 Q. And that note was made on or about March 26th.  
11 Is that correct?

12 A. That's what it says, yes, sir.

13 Q. Is that true that that note was made on or about  
14 March 26th, ma'am?

15 A. Yes, sir.

16 Q. And were you being accurate and truthful at the  
17 time that you wrote that note down?

18 A. Yes, I was.

19 Q. Okay. Going back, I want to make sure I  
20 understand.

21 So you then talk to Mr. Mathieu, and he said  
22 he was going to do an investigation. The one thing that  
23 you said -- and I didn't understand this statement -- you  
24 said something about this was -- something about a junior  
25 manager.

1 time, however, you made numerous complaints about  
2 Mr. Husband to HR. Isn't that correct?

3 A. Yes, I did.

4 Q. So you were affecting his upward mobility. Isn't  
5 that right?

6 A. No, I was not.

7 Q. Well, wouldn't that affect his upward mobility if  
8 you were making complaints to (sic) him about HR --

9 MR. GRIFFIN: Objection.

10 BY MR. GARRY:

11 Q. -- based upon what you've testified to today?

12 MR. GRIFFIN: Objection.

13 THE WITNESS: But it didn't.

14 BY MR. GARRY:

15 Q. Okay. Well, my question is -- my question is  
16 that wouldn't your complaints to Mr. -- to HR affect  
17 Mr. Husband's upward mobility?

18 A. Normally, yes.

19 Q. Okay. Now, to your knowledge, did Mr. Rogers  
20 make any complaints to HR about you during the period of  
21 time that you were working for him?

22 A. To my knowledge, I don't know.

23 Q. Did Mr. Husband ever write you up or discipline  
24 you in any way -- I'm sorry. Did Mr. Rogers discipline  
25 you in any way during the period of time that you were

1 reporting to him -- or during the period of time you've  
2 been reporting to him?

3 A. No, sir.

4 Q. Did you apply for any job -- any kind of  
5 promotion of any kind during the 18 months that you've  
6 been working for Mr. Rogers?

7 A. No, sir.

8 Q. Have you talked to Mr. Rogers about -- Strike  
9 that.

10 Have you had any discussions with Mr. Rogers  
11 about any particular position that you would like to apply  
12 for?

13 A. Yes, sir.

14 Q. What position is that?

15 A. Function manager.

16 Q. Was there a particular function manager position  
17 that was posted on the board that you asked him about?

18 A. None in particular.

19 Q. Okay. So what -- That's really what my question  
20 is. Did you ever go to Mr. Rogers and say, "There's a  
21 particular function manager position I would like to apply  
22 for. Do you think I have a chance of doing it? Or could  
23 you help me get that promotion?"

24 A. There was none particular, no.

25 Q. Well, let me ask you that question. Were there

1 team members come to you and talk to you about Heath  
2 Husband and -- and/or Casey Rogers?

3 A. I don't recall at this time.

4 Q. Other than this -- Excuse me. Other than Sandra  
5 and Bernie Sanchez-Bell?

6 A. Not that I recall at this time.

7 Q. Have you ever observed Mr. Rogers harassing or  
8 intimidating other employees -- I'm not going to -- I'm  
9 not going to ask about you, because I think you've already  
10 testified about yourself. But with regard to any other  
11 employees, have you ever observed them intimidating or  
12 harassing any other employee?

13 MR. GRIFFIN: Objection.

14 THE WITNESS: No.

15 BY MR. GARRY:

16 Q. Were you ever intimidated in any way by Len  
17 Mathieu?

18 A. No, sir.

19 Q. Were you ever harassed because of your gender by  
20 Len Mathieu?

21 A. No, sir.

22 Q. Were you ever discriminated against because of  
23 your gender by Len Mathieu?

24 A. No.

25 Q. Did Len Mathieu retaliate against you for filing

1 any of the complaints or sending any of the e-mails that  
2 you sent to him?

3 A. Not that I'm aware of.

4 Q. Now, in March of 2009, you asked Mr. -- you asked  
5 Mr. Mathieu to conduct an investigation with regard to  
6 Casey Rogers and Heath Husband. Is that correct?

7 A. I don't recall.

8 Q. You don't recall? Take a look at --

9 A. March 26th?

10 Q. No. The document, I believe, is Exhibit No. 2.

11 A. Yes.

12 Q. That's on -- in March of 2009, correct?

13 A. Yes.

14 Q. You asked him to conduct an investigation. Is  
15 that correct?

16 A. I did not ask to him conduct an investigation. I  
17 asked to discuss -- to talk to him and discuss something.

18 Q. Okay. Then as a result of that, you had a  
19 conversation with Kori Alderette. Is that right?

20 A. Yes.

21 Q. All right. Did you ask Ms. Alderette to keep the  
22 conversation confidential?

23 A. She told me that.

24 Q. She told you to keep it confidential?

25 A. Yes.

1 Q. But after that -- you did have a conversation  
2 after that with Ms. Sanchez-Bell. Is that correct?

3 A. The end of March, yes.

4 Q. So several weeks after that. Is that correct?

5 A. Yes.

6 Q. And by having the conversation with  
7 Ms. Sanchez-Bell, you were basically not keeping it  
8 confidential, as you were requested to do by  
9 Ms. Alderette, correct?

10 A. It was already out. Team members were already  
11 talking --

12 Q. That's not my question, ma'am. I'm just asking,  
13 you were asked to keep that confidential, and you didn't,  
14 correct?

15 A. Correct.

16 Q. Did you receive any discipline at all as a result  
17 of that?

18 A. No, sir.

19 Q. Did anybody come to you and write you up or say  
20 you violated a company policy or anything like that?

21 A. No, sir.

22 Q. Was there any kind of retaliatory action against  
23 you whatsoever?

24 A. Not that I'm aware of.

25 Q. And the fact of the matter is that people were

1 STATE OF ARIZONA )

2 COUNTY OF MARICOPA )

3 BE IT KNOWN the foregoing deposition was  
4 taken by me pursuant to stipulation of counsel; that I was  
5 then and there a Certified Reporter of the State of  
6 Arizona, and by virtue thereof authorized to administer an  
7 oath; that the witness before testifying was duly sworn by  
8 me to testify to the whole truth; notice was provided that  
9 the transcript was available for signature by the  
10 deponent; that the questions propounded by counsel and the  
11 answers of the witness thereto were taken down by me in  
12 shorthand and thereafter transcribed into typewriting  
13 under my direction; that the foregoing pages are a full,  
14 true, and accurate transcript of all proceedings and  
15 testimony had and adduced upon the taking of said  
16 deposition, all to the best of my skill and ability.

17 I FURTHER CERTIFY that I am in no way related to  
18 nor employed by any parties hereto nor am I in any way  
19 interested in the outcome hereof.

20 DATED at Phoenix, Arizona, this day of  
21 , 2009.

22  
23  
24 Meri Coash, RMR, CRR

25 Certified Reporter #50327

# **EXHIBIT E**

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 28**

**WALGREEN CO.**

**and**

**Case 28-CA-22651**

**BERNIE SANCHEZ-BELL, an Individual**

**COMPLAINT AND NOTICE OF HEARING**

Bernie Sanchez-Bell, an individual, herein called Bell, has charged that Walgreens Corporation, herein described by its correct name, Walgreen Co., and herein called the Respondent, has been engaging in unfair labor practices as set forth in the National Labor Relations Act, 29 U.S.C. § 151, et seq., herein called the Act. Based thereon the General Counsel, by the undersigned, pursuant to Section 10(b) of the Act and Section 102.15 of the Rules and Regulations of the National Labor Relations Board, herein called the Board, issues this Complaint and Notice of Hearing and alleges as follows:

1. (a) The charge in this proceeding was filed by Bell on August 21, 2009, and a copy was served by regular mail on the Respondent on the same date.
- (b) The amended charge in this proceeding was filed by Bell on October 28, 2009, and a copy was served by hand-delivery on the Respondent on the same date.
2. (a) At all material times the Respondent, an Illinois corporation, with an office and place of business in Flagstaff, Arizona, herein called the Respondent's facility, has been engaged in the operation of a chain of pharmacy and sundries retail stores.

(b) During the 12-month period ending August 21, 2009, the Respondent, in conducting its business operations described above in paragraph 2(a), derived gross revenues in excess of \$500,000.

(c) During the 12-month period ending August 21, 2009, the Respondent, in conducting its business operations described above in paragraph 2(a), purchased and received at the Respondent's facility goods valued in excess of \$50,000 directly from points outside the State of Arizona.

(d) At all material times the Respondent has been an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

3. At all material times the following individuals held the positions set forth opposite their respective names and have been supervisors of the Respondent within the meaning of Section 2(11) of the Act and agents of the Respondent within the meaning of Section 2(13) of the Act:

Len Mathieu	-	Human Resources Manager
Casey Rogers	-	Function Manager
Barb Liska	-	Function Manager
Kori Alderetti	-	Human Resources Representative
Linda Ohumaki	-	Human Resources Representative
Rhonda Snyder	-	Human Resources Representative

4. (a) During the period from December 2008 to April 28, 2009, the Respondent's employee Bell and other employees of the Respondent engaged in concerted activities with each other for the purposes of mutual aid and protection, including by discussing among themselves and complaining to the Respondent about harassment, discrimination, the conduct of supervisors, and other matters concerning wages, hours, and working conditions.

(b) During the period from on or about February 21, 2009, to April 28, 2009, more precise dates being unknown to the General Counsel, the Respondent, by Len Mathieu, herein called Mathieu, Barb Liska, and Rhonda Snyder, at the Respondent's facility:

(1) promulgated and has since maintained an overly-broad and discriminatory rule prohibiting employees from discussing their own and other employees' harassment complaints with other employees;

(2) promulgated and since then has maintained an overly-broad and discriminatory rule prohibiting employees from engaging in concerted activities;

(3) promulgated and since then has maintained an overly-broad and discriminatory rule requiring that employees may only discuss their complaints regarding harassment or discrimination with the Respondent's managers and Human Resources Department; and,

(4) threatened employees with unspecified reprisals if employees engaged in concerted activities.

(c) During the period from on or about February 21, 2009, to April 28, 2009, more precise dates being unknown to the General Counsel, the Respondent, by Mathieu, at the Respondent's facility:

(1) created the impression among employees that their concerted activities were under surveillance by the Respondent;

(2) created the impression among employees that their concerted activities were under surveillance by the Respondent by telling employees that the Respondent's security cameras were watching them; and,

(3) threatened employees with unspecified reprisals by telling employees that the Respondent's security cameras were watching them.

(d) During the period from on or about February 21, 2009, to April 28, 2009, more precise dates being unknown to the General Counsel, the Respondent, by the use of security cameras at the Respondent's facility, engaged in surveillance of employees engaged in concerted activities.

(e) During the period from on or about February 21, 2009, to March 19, 2009, more precise dates being unknown to the General Counsel, the Respondent, by Casey Rogers, threatened employees by telling them that promotional opportunities would be withheld from them because they engaged in concerted activities.

(f) On or about March 19, 2009, the Respondent, by Mathieu, by e-mail, promulgated an overly-broad and discriminatory rule prohibiting employees from discussing with other employees any complaints or concerns regarding allegations of workplace harassment.

(g) In or around mid-April 2009, more precise dates being unknown to the General Counsel, the Respondent, by the increased presence of security guards at Respondent's facility, engaged in surveillance of employees engaged in concerted activities.

(h) In or around mid-April 2009, more precise dates being unknown to the General Counsel, the Respondent, by Mathieu, at Respondent's facility:

(1) created an impression among its employees that their concerted activities were under surveillance by the Respondent by telling employees that security in their work areas had been increased; and,

(2) threatened employees with unspecified reprisals by telling employees that security in their work areas had been increased.

(i) On or about April 28, 2009, by the conduct described above in paragraphs 4(b) through 4(h), the Respondent caused the termination of its employee Bell.

(j) The Respondent engaged in the conduct described above in paragraph 4(i), because Bell engaged in the conduct described above in paragraph 4(a) and to discourage employees from engaging in these or other concerted activities.

5. By the conduct described above in paragraph 4, the Respondent has been interfering with, restraining, and coercing employees in the exercise of the rights guaranteed in Section 7 of the Act in violation of Section 8(a)(1) of the Act.

6. The unfair labor practices of the Respondent described above affect commerce within the meaning of Section 2(6) and (7) of the Act.

**WHEREFORE**, as part of the remedy for the unfair labor practices alleged above in paragraphs 4 through 6, the General Counsel seeks an Order requiring that the Respondent pay interest on any back pay or other monetary awards on a compounded, quarterly basis. The General Counsel further seeks all other relief as may be just and proper to remedy the unfair labor practices alleged.

#### **ANSWER REQUIREMENT**

The Respondent is notified that, pursuant to Sections 102.20 and 102.21 of the Board's Rules and Regulations, it must file an answer to the complaint. **The answer must be received by this office on or before November 13, 2009, or postmarked on or before November 12, 2009.** The Respondent should file an original and four copies of the answer with this office and serve a copy of the answer on each of the other parties. An answer may

also be filed electronically by using the E-Filing system on the Agency's website. In order to file an answer electronically, access the Agency's website at <http://www.nlr.gov>, click on **E-Gov**, then click on the **E-Filing** link on the pull-down menu. Click on the "File Documents" button under "Regional, Subregional and Resident Offices" and then follow the directions. The responsibility for the receipt and usability of the answer rests exclusively upon the sender. A failure to timely file the answer will not be excused on the basis that the transmission could not be accomplished because the Agency's website was off-line or unavailable for some other reason. The Board's Rules and Regulations require that such answer be signed by counsel or non-attorney representative for represented parties or by the party if not represented. See Section 102.56(a). If the answer being filed electronically is a pdf document containing the required signature, no paper copies of the answer needs to be transmitted to the Regional Office. However, if the electronic version of an answer to a complaint is not a pdf file containing the required signature, then the E-filing rules require that such answer containing the required signature continue to be submitted to the Regional Office by traditional means within three (3) business days after the date of electronic filing. Service of the answer on each of the other parties must still be accomplished by means allowed under the Board's Rules and Regulations. The answer may not be filed by facsimile transmission. If no answer is filed, the Board may find, pursuant to a Motion for Default Judgment, that the allegations in the complaint are true.

#### **NOTICE OF HEARING**

**PLEASE TAKE NOTICE THAT** on January 26, 2010, at 9:00 a.m. (local time), at a place to be later designated in Flagstaff, Arizona, and on consecutive days thereafter until concluded, a hearing will be conducted before an administrative law judge of

the National Labor Relations Board. At the hearing, the Respondent and any other party to this proceeding have the right to appear and present testimony regarding the allegations in this complaint. The procedures to be followed at the hearing are described in the attached Form NLRB-4668. The procedure to request a postponement of the hearing is described in the attached Form NLRB-4338.

Dated at Phoenix, Arizona, this 30<sup>th</sup> day of October 2009.



---

Cornele A. Overstreet, Regional Director

Attachments

# **EXHIBIT F**



Bernie Sanchez-Bell  
<berniesanchez-bell@q.com>

To Len Mathieu <len.mathieu@walgreens.com>

cc

03/21/2009 12:45 PM

bcc

Subject Statement for HR

History:

This message has been forwarded.

Hello Len, this is one of the hardest statements I have had to write in my professional life. Mainly because you cant believe it is happening to you. Then the questions come, whom would believe you? It was hard not coming straight out and telling you. Harder when my husband read my notes, and asked me why didn't I come forward.

I have sat over the years, and have heard many of these type of stories, and what every woman has in common is fear. I have never understood that fear until now. People knowing or talking, and feeling helpless and embarrassed. Not wanting to admit it to yourself much less anyone else. I don't want to be Walgreens next scuttlebutt. **I can't begin to share with you how private I want to keep this**, and my husband understands my concern, and respects my feelings. You question yourself, is it worth staying around for in hopes you can move up quickly and get out from under the situation, and you ask yourself, do you just leave quietly, not say anything, and question is it worth the embarrassment of coming forward.

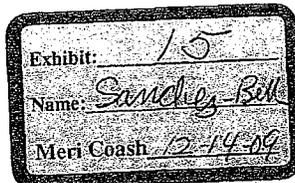
I know this is about Heath Husbands, and I am proud of the person or persons who finally came forward. I just can't talk about my experiences regarding Heath without it including my experiences with Casey Rogers. I have written many training programs over the years regarding mentoring new leadership, Heath is everything you should not look for in a manager or leadership position.

I am sorry Len, for not telling you sooner. I have a tremendous amount of respect for you. Its hard to explain why unless you are a woman. Maybe now, you will understand the anger I was trying not to express, but I am sure was showing.

This is the statement I am submitting regarding Heath Husband and Casey Rogers.



Bernie challenges 1-2-9 thru 3-21-9.doc



WAL000686

March 21, 2009

Heath Husbands training consisted of cutting open boxes and stocking for about 20 minutes. Then Heath took me to the bottom floor, he did not explain I needed to clock in and out consistently. He took me to the middle of the aisle worked with me for 15 minutes and left. My training consisted of 35 minutes total on W Mod bottom floor!

I spent a frustrating week asking other employees to assist me in areas I did not understand. I was untrained asking other employees to help me. The second week, I was backed up 10 – 15 totes, consistently on the flow side and on the bin side. I never picked in front of my tote. I asked Heath to come and assist me because I felt I had to be doing this wrong. Heath stated I do not have time for you, just count five picks per minute. I stated I do count five picks a minute but it does not work when your tote is 12-15 totes away from where your picking, he ignored me and walked away.

I was trying to pick up speed when I got two totes confused. I knew I could ask for an audit, so I continued to pick both totes until both totes were closed. I set them to the side and went on first break. When I saw Heath at first break I told him I needed an audit on 2- totes, he was sarcastic and asked me why I needed an audit, I stated because I made a mistake. He told me to carry the 2-totes from the bottom floor to the top floor for an audit. I told him the totes were heavy and packed all the way to the top, and both over 50 to 60 pounds. (I am five feet tall and weigh 120 pounds) Heath then stated, do not make a mistake so you do not have to carry them to the top floor. I carried the first tote to the second floor when Jessie Rodriguez came to help me. I told him there was another tote and he went to the bottom floor to get it. I had become unbalanced and injured my back holding on to the heavy tote.

At second break I told Heath his suggestion to carry heavy totes was not safe and they were too heavy for anyone to be carrying, he condescendingly stated then do not make a mistake.

I went home used a heating pad and took hot baths every 2 hours to ease the back pain and returned to work the next evening. I spoke with Casey Rogers and he filled out an SIR. I explained to him that I have trained companies in OSHA, EPA, and safety regulations and that Heath's suggestion was a safety issue. I also stated that I did not appreciate Heath's attitude. Heath ignored me when I asked him questions, and would grunt and walk away.

The next day at the start up meeting Casey commented that OSHA regulations stated that women could lift 50 lbs. He looked straight at me when he said it. In my own mind, I thought his comment showed his lack of understanding regarding safety issues. OSHA states you can lift 50 pounds, not carry them up two flights of stairs. After the meeting, I went to talk with Casey and he said "Personally Bernie, I don't see anything wrong with totes being carried upstairs for auditing by anyone"

A week later trying to pick up speed I made another mistake with 2- totes. I called Heath and asked him to take the totes to the top floor. He told me to carry them myself! I told it was not safe and he told me to set them to the side. I went to see Casey at break, I told Casey that Heath told me to carry heavy totes to the top floor, Casey then stated are they really too heavy? In which I answered it is not safe, and against OSHA regulations. Casey stated, maybe it was my attitude. Answered, I do not have an attitude; Casey

WAL000687

stated I act as if I am a manager! (**Intimidation**) I told Casey I am not acting like a manger, when I am asking my function lead for help and he grunts and ignores me.

My problem with Heath got worse after that. He would not acknowledge me or speak with me. If I called him on the phone, he would not answer. I had gone to see Len in HR regarding the situation on January 2, 2009 and I knew Len would talk to Casey. This was my retaliation from Heath.

I went in to see Casey after Christmas and let him know I had applied for FMR position, Casey told me that he did not know what type of management experience I had, but he did not think I would be happy in a management position with Walgreen's, because he stated ,you can't do anything without human resources approval. I told Casey that as a corporate manager and many years in management positions, that human resources and management have to work together to be successful. (Casey was discouraging me from applying) (**Intimidation**)

One night, Heath called in and was gone for the evening. I was shocked when Casey had all of us wait after the start up meeting to ask us what our positions were in the mod, he did not know. When Perg was gone one evening, Casey did the same thing, after the start up meeting he had to ask team members where they were working. We never saw Casey on the floor unless it was around five or there were VIPs coming in from corp.

Casey called me in for a 15-day evaluation; he told me my numbers were lower than usual for a new employee. I told him I never picked by the tote on the flow side or the bin side and he stated he would train me the next day. The next day I drew a copy of the layout of the W-mod showing how I was always 10-15 totes away from where I was picking. I suggested that if I could start at the other end I could pick with the tote in front of me. After the start up meeting, Casey brought Heath to where I was working. Heath stated didn't I tell you to start on the other ends? In which I answered no you did not.

I went in New Years night excited about the evening and how much easier picking had become. When I finished the flow side on the second waive I realized something was wrong with the totes, the pick to light gave me five names of totes I did not have or could not find. I walked half way down the mod and still could not find the totes. I thought the pick to light had made a mistake since the totes were always there. Not to loose production I decided to hit the light for the five totes to get to the totes that were in front of me. When the pick to light continued to show there were five totes I decided to walk to the end of the mod and found the totes out of order. I set up an empty box between the five totes, that I knew was of short product. I separated them to ask for an audit.

Casey came down and I tried to explain that the totes where not in there place. I told him I did not set up totes for the new waves and I needed five audits. Later Casey came down after speaking with Heath and told me there were 17 mistakes and he did not know how that had happened. When I tried to explain, again someone who sets up totes had set them on the wrong end of the mod out of order, he repeated I had 17 mistakes and walked away, acting angry.

( looking at my notes, this is where I wrote for the first time, that Casey Rogers was (**harassing me**) he was acting upset about something, that could be easily solved, an audit, did not cause a problem, it solved a problem.

WAL000688

Casey came down into the w-mod and told me my numbers were low. By then I had started to make friends, and talk to other team members, and I knew there were others with lower numbers, **(Casey was not harassing or threatening them, just me.)** He stated, maybe you have a problem with Heath or even me. I told him I do not have a problem with people who communicate. I have a problem with Heath, who either ignores or intimidates people that work for him. Casey asked if I wanted to work in the candy room. I stated I would enjoy working in the candy room, I had heard other team members state that the candy room had a good function lead, and everyone wanted to work there. Casey transferred me!

When I got to the candy room, Sheryl was my new function lead. I think she quickly realized that I had no training. She worked by me, on and off, for days, answering questions and then had Myra work beside me, in case I needed help. I think the switch to a cold room came unexpected and within two days I had the flu. I was so sick the first night that Sheryl stated that, I needed light duty. If I missed any days, I would be terminated. I was running fever, sick to my stomach, and had to throw up several times through out the evening. Sheryl encouraged me to hang in, and she asked Casey if I could be one of the team members who could go home at three. I kept coming to work with the flu nightly. One day as I was walking in the hall, Casey came by me and stated, you can always just stay home Bernie. He passed me quickly, not giving me a chance to respond. **(Harassment)** This was not the last time I was going to hear this statement.

I had applied for a position as a function lead, with the encouragement of Len Mathieu, human resources manager. I went to my interview, and to my surprise Casey called me out earlier to go over the questions, he stated to help me.

I was still in my 45- day review and I told my function lead, Cheryl that I hoped I did not get the position. I stated as a trainer you could not ask someone to do something you cannot do. I was called in to a meeting with Cory from HR, and Mike Wells. They told me they had chosen someone else, who knew the job well and the Matrix my function manager had done showed, I was not ready. I felt it was a good decision, but was concerned at the same time. If Casey Rogers was always going to do my Matrix to determine if I would get the job, I knew I was not going to grow with Walgreen's, **(Casey Rogers was harassing and intimidating me)**

My experiences with Heath did not end. I would pass him and out of courtesy would say hello or hi, and he would grunt or totally ignore me. Once we were in the lunch- room standing next to each other waiting for our food, and I said hello and he just stared at me, and took his food out and ignored me.

Heath Husbands is not a well-kept man. He wore the same cloths daily. Many times, he would pass me and he had an odor. It was a joke among team members, how long he would go between taking a bath, and combing his hair.

I am usually the first team member at work nightly. I was standing, and reading the Manager in Rotation displays on the wall when Casey passed me, shook his head and he gave me a smirk, **(Intimidation)**

After a start up meeting, I was walking from the ladies room to the candy room. I saw Heath talking loudly to Freddie, another team member, almost standing over him. Heath is a tall man. Freddie is small in stature, and was shrugged over looking down at the

floor. I could hear it was something about tags. I kept walking and opened the door to enter the candy room. They were standing just outside. I stock the bottom floor, and heard Freddie speak with Sheryl, and he was upset how Heath had spoken to him.

It was time for my second review, and Casey called me in. I never had a good review although I knew I was close to making my numbers. Fawn started on the same day I did, and our numbers were the same. She was excited and was told she was going to make it and stay focused and she would be fine. Casey was always encouraging with her. When I went in he told me I had 2 weeks left and I probably was not going to make it, that others were doing better numbers by that time. I told him I was going to make it, and I did not want to go through an extension. He said I cannot promise you an extension, the he stated you could always stay home, **(harassment and intimidation)** this was the second time he had made that statement to me, and I was shocked and said "Casey?" He laughed and stated he was just joking. I was upset when I got to the candy room; Sheryl asked if I was ok. I told her what Casey had said to me, and she apologized to me stating I was a good team member for the candy room and that I was going to make my numbers, and Casey could not change that.

Another position for a lead came up. Casey had come down to tell me I was over 100 %. It was not positive or negative, just, this is the information. I asked Casey if he thought I should try for the function lead position, since he did my Matrix evaluation, and it would waste my time if he did not think I was qualified. Casey stated, he thought I should wait 8 months to a year to see if I would make a good candidate as a trainer. I told him my background was corporate training and you do not get to that level unless you can train. He stated it is my opinion **(harassment and intimidation)** so as long as this is your opinion, I stated, I am not going to have up ward mobility. Casey ignored me, and started to walk away, when I stated that Heath is highly unqualified, leads by intimidation, highly disliked, not respected, but you think he is qualified? That is the first time I ever saw Casey angry. **I personally think the man would have hit me if he could have gotten away with it.** He turned around and came back to where I was cutting. He stated Heath was highly qualified in his opinion. **I could see he was struggling to stay in control of his anger toward me.** I told him about Freddie, and how team members will not tell him how Heath treats them, because the word is out that you protect Heath, and they are scared of losing there jobs. Casey stated that was not true and I stated it was. I told him he has no social etiquette and Casey stated strongly, I am working with him now on how to be sociable! I told Casey, "You don't find something wrong with having to teach someone just to be sociable, or treat people with courtesy" I told him I had been documenting all my experiences with Heath, leaving out that I had been documenting my experiences with him as well. He told me Len was there that I should go and talk to Len. He stated you think I am a bad manager. **(Intimidation and harassment)** he left. I was so upset I stood there shaking. Sheryl came over and asked if I was ok. I told her what he told me and she encouraged me to speak with Len. I did not know how to tell Len, that my conversations with Casey Rogers had become confrontational, and I felt I was a victim of sexual discrimination.

I did speak with Len that night, controlling how serious the confrontation with Casey had gotten. I did not think it was a good idea at the time, with it being a -he- said, she- said conversation., I know HRs position is to protect the manager. Since another team member has come forward to validate my concerns with Heath, I thought this was the time to detail, my experiences with Casey Rogers.

WAL000690

I sent an e-mail to Len Mathieu, regarding what happened after our meeting. I am making a copy of that e-mail and signing it and submitting it with this statement

Even with all my experience working with HR, there is a concern of retaliation or losing my job, or worse, remaining with no opportunity for upward mobility. My goal, to become a trainer or function manager, remains my main objective.

I am a victim of sexual harassment and intimidation by Casey Rogers, and a victim of intimidation by Heath Husbands. I submit this statement for your serious consideration.

This is a true statement made on March 21, 2009

Thank you

Bernie Sanchez-Bell  
Team Member/ Walgreen's

WAL000691

# **EXHIBIT G**



Bernie Sanchez-Bell  
<berniesanchez-bell@q.com>

01/17/2009 12:51 PM

To Len Mathieu <len.mathieu@walgreens.com>

cc

bcc

Subject Looking forward to our meeting

Hello Len, I have to state, I am looking forward to our meeting on Sunday. I was appreciate of the courtesy that was extended to me by Casey Rogers. He knew I was still ill, and gave me the opportunity to get on the computer and look up where product went. It was a tough night but Casey made it easy so I could last the evening. I praised God all the way home.

I got home early, Lee had home made hot chicken soup , and I could smell the aroma from the minute I opened the door. I have been gargling with hot salt water to get my voice back. I told Lee I should be growing gills. I do it every half hour. I have beat the fever, the chills, got rid of the upset stomach, an occasional cough, and I am working on having my voice back!

I am very excited for the opportunity to interview for the position in the RX dept. **I may not understand the industry, but I do understand people.** I like developing working relationships and getting to know what is important to each person I meet. Its easy to bring out the best in people you work with by listening to them. I have never asked anyone a personal question but this is what I have learned from a few individuals I work with.

Loretta is a great mom, she works nights because she has too. She takes care of her grand baby in the day time so her daughter can work and go to school. She feels Walgreens has helped her so she can help her daughter

Lupe had a rough life, he came to Flagstaff to get his life together, He has 2 little girls and he still struggles to be responsible. He feels Walgreens helps him be a better person.

Coulette has a young son, and someday wants to go to go back to school. She very appreciate to be working for Walgreens.

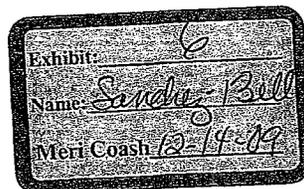
DeeDee, she is a tough lady, her and her husband party a lot, when she talks about the pride she has for her kids her voice softens. she states she is a night owl and could never hold down a day job.....loves working nights for Walgreens.

Fawn, she is a little lazy when it comes to work. She went to college and got her CNA but past mistakes in her youth have kept her from using her education,,,,, she gets frustrated about her bad choices, and she is happy she is working for Walgreens.

I have always believed if we take time to get to know the people that work for us, without asking them personal questions, you can motivate them to take personal pride in there work ethic and bring out the best in them to create a team environment. Every manager I trained had to send me personal information on each of the people that worked for them, and how they felt this information could best motivate that individual to be more successful.

Thank you again, and I look forward to seeing you tomorrow night.

Bernie



WAL000664

# **EXHIBIT H**

Bernie,

I appreciate your e-mail documentation, but I need signed versions per our ER attorneys. Otherwise, there may be a question later on if there's any sort of litigation as to who actually typed and sent out your electronic documentation. A signed (and dated) witness statement or statements take care of this problem. Please let me know if you have any questions.

Len

Bernie Sanchez-Bell <berniesanchez-bell@q.com>  
03/19/2009 05:08 PM

To Len Mathieu <len.mathieu@walgreens.com>  
cc  
Subject Re: CHERYL REQUEST

Good morning, your afternoon Len. As I was leaving work this morning, Cheryl stopped me and asked if I would write a detailed report of my experiences working with Heath. I asked her why and she stated she wanted to turn it in to you. I told her I would e-mail it to you. I did not want to let her know that I have been documenting and discussing the Heath, Casey situation with you for months.

I have all ready sent you documentation regarding my experiences with Heath and Casey. My position and opinion regarding Casey and Heath are unchanged. Casey Rogers is a poor manager, who leads through intimidation, and has chosen Heath to mentor in the same poor leadership skills.

If you need any further information, please let me know. My experiences with whom I personally call the two bozos are unchanging. Respect is earned and neither one of them has earned my respect.

Bernie

----- Forwarded by Len Mathieu/LOG/Walgreens on 03/20/2009 10:55 AM -----

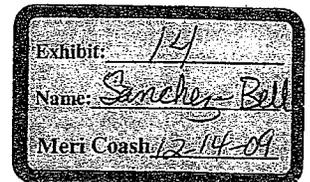
Bernie Sanchez-Bell <berniesanchez-bell@q.com>

To Len Mathieu <len.mathieu@walgreens.com>

cc

03/19/2009 06:53 PM

Subject RE: CHERYL REQUEST



Len, as a corporate manager, I have dealt with many internal investigations over the years. I have not discussed personal business situations with anyone except you. I am happy others have come

WAL000678

forward, Heath is a walking class action suit, ready to happen.

Do you want my documentation, on my confrontations and incidents with Casey Rogers as well?

Bernie

---

To: berniesanchez-bell@q.com  
Subject: RE: CHERYL REQUEST  
From: Len.Mathieu@Walgreens.com  
Date: Thu, 19 Mar 2009 18:31:08 -0700

Yes—it is private and internal. In fact, I need you to not discuss anything about this inquiry to anyone (including Sheryl) except for Rhonda, Kori, or myself. Sunday night should be fine, but my team will definitely bring you in before that for an interview.

Len

Bernie Sanchez-Bell <berniesanchez-bell@q.com>  
03/19/2009 06:06 PM

To: Len Mathieu <len.mathieu@walgreens.com>  
cc  
Subject RE: CHERYL REQUEST

What? what is going on? Please tell me other team members have finally come forward? I apologies now for being so unprofessional on my last e-mail. I remain angry over my last conversation with Casey Rogers telling me to wait for 8 months to a years to see if I qualified as a good trainer. His intimidation tactics border on harassment, and Casey resents me for not taking it.

I take it your looking for the documentation of incidents since I have started. I will go over my notes and get them in order for you by Sunday night. Is this time frame good for you?

I suddenly do not feel so alone, with all the issues, all of us have been forced to put up with daily.

I take this is now private and internal.

Bernie

---

To: berniesanchez-bell@q.com  
Subject: Re: CHERYL REQUEST  
From: Len.Mathieu@Walgreens.com  
Date: Thu, 19 Mar 2009 17:45:58 -0700

WAL000679

# **EXHIBIT I**

Bernie Sanchez-Bell  
<berniesanchez-bell@q.com>  
>

To Len Mathieu <len.mathieu@walgreens.com>

cc

03/22/2009 08:38 AM

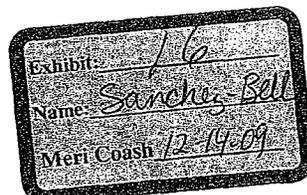
Subject RE: CHERYL REQUEST

Hello Len, its 8 am and I have gotten about 4 hours sleep since Friday morning. I will be there this evening, but I will be one tired puppy. **My mind wont let me rest**, since I quit coming out with bits and pieces of the situation, and just out right told you what was happening. I just could not say anything till another team member came forward about Heath, **so you knew it was the truth, and not just my word**. But, it does not make it any easier.

I understand private and internal investigations, I just want to be able to walk in the door, with my head held high, and know that know this is a private matter! I have always been a confidant and assertive individual, but I am personally surprised, I did not handle this better. It takes on a different perspective when its you, and not someone else that it is happening too.

Harassment is Harassment, even it is a lot or a little, it should never be allowed to happen in any degree, and is an abuse, of a position of authority.

Bernie



WAL000692

# **EXHIBIT J**



Bernie Sanchez-Bell  
<berniesanchez-bell@q.com>

To Len Mathieu <len.mathieu@walgreens.com>

cc

03/26/2009 06:08 PM

bcc

Subject Thank you

History:

↳ This message has been forwarded.

March 26, 2009

Len, I wanted to thank you for listening to me, through a difficult time. I had a good night, and no problems with Casey. This was not an experience I had ever had to deal with.

Its like Collin stated after reviewing the documentation, it was not sexual harassment in his professional opinion, although he did believe it was sexual discrimination through the abuse of Casey's position, he genuinely felt it was personals since no one else has had the same experience I have had with Casey, and you stated that Walgreens came to the same conclusion.

My personal goal is to get out of 3rd shift as quickly as possible, to eliminate the problem. Collin was correct, that I have been in an corporate environment for many years dealing with HR issues, I was confused with Casey's reaction to me.

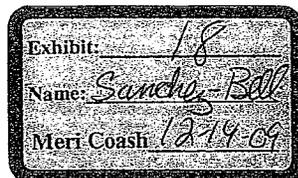
Hopefully, until I can get another shift, he will leave me alone!

By the way, when I returned Wednesday night several team members were talking about Heaths investigation during breaks and how no one wanted to be involved. I told you once, you could sneeze in candy room and five minutes later, some one in shipping would say God Bless You.

We are on our way to pick up Lees sister Tama. She has been in flight a long time. From Tokyo to Hawaii and from Hawaii to Phoenix, to Flagstaff. She is going to be exhausted when she and Katsumi get off that plane.

Have a great week end

Bernie



WAL000697

# **EXHIBIT K**

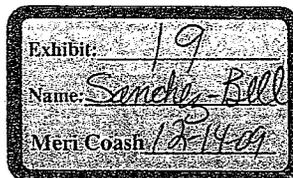
MAR 25-09

I went to talk with Ken about the situation with Heath and Casey. He said there was going to be an investigation on the matter. I had read Ken some of my documentation on Heath. Ken asked "where'd they get this guy." I said I don't know, he's an outside hire. I left there with Ken telling me it will be investigated and if more info was needed, he'd let me know. Ken told me I was his gr. manager! hua!

mar 26 Wed, word is out that she turned in Heath's husband. So much for private internal investigations!! At the 40pc of conversation in the lunch room.

Rhonda told me that Lou Luna, manager in Asset protection, was going to put in surveillance. WHAT!! Cameras on me? - why? I also gave Rhonda names of team members who come to me with issues about Heath. They were called in over the intercom, so everyone knew.

Plot of tension. I told Ken the team members won't talk because Casey could see and hear who came forward. This is NOT a Private investigation!!!



SL/BS-B000159

# **EXHIBIT L**

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 28**

**WALGREEN CO.**

**and**

**Case 28-CA-22651**

**BERNIE SANCHEZ-BELL, an Individual**

**GENERAL COUNSEL'S RESPONSE TO ORDER GRANTING IN PART  
RESPONDENT'S MOTION FOR BILL OF PARTICULARS**

On December 11, 2009, Associate Chief Administrative Law Judge Mary Miller Cracraft issued an Order Granting in Part Respondent's Motion for Bill of Particulars with regard to Complaint paragraphs 4(b)(1), 4(b)(2), 4(b)(3), 4(c)(1), and 4(f), ordering that Counsel provide the following information:

1. With regard to complaint paragraphs 4(b)(1), (2), and (3), and 4(f), if the rules are in writing, set forth the written rule. If the rules were orally promulgated, specify so and state the substance of the rules.
2. With regard to complaint paragraph 4(c)(1), the conduct upon which the claim of creation of an impression of surveillance is based.

In response, Counsel for the General Counsel provides the following information:

Complaint paragraphs 4(b)(1), (2), and (3) allege as follows:

4. (b) During the period from on or about February 21, 2009, to April 28, 2009, more precise dates being unknown to the General Counsel, the Respondent, by Len Mathieu, herein called Mathieu, Barb Liska, and Rhonda Snyder, at the Respondent's facility:
  - (1) promulgated and has since maintained an overly-broad and discriminatory rule prohibiting employees from discussing their own and other employees' harassment complaints with other employees;

- (2) promulgated and since then has maintained an overly-broad and discriminatory rule prohibiting employees from engaging in concerted activities;
- (3) promulgated and since then has maintained an overly-broad and discriminatory rule requiring that employees may only discuss their complaints regarding harassment or discrimination with the Respondent's managers and Human Resources Department.

Respondent's rules described in Complaint paragraphs 4(b)(1), (2), and (3) were promulgated both in writing and orally. As to the written promulgation, it is alleged that on or about March 20, 2009, the Respondent, by Mathieu, directed an employee in writing to "not discuss anything about this inquiry to anyone (including [a named co-worker]) except for Rhonda, Kori, or myself," and that such matters were "private and internal." As to the oral promulgation of the rules, it is alleged that the directives were also expressed orally to employees by the individuals named in, and during the time periods set forth in, the subject Complaint paragraphs.

Complaint Paragraph 4(c)(1) alleges as follows:

4. (c) During the period from on or about February 21, 2009, to April 28, 2009, more precise dates being unknown to the General Counsel, the Respondent, by Mathieu, at the Respondent's facility:
  - (1) created the impression among employees that their concerted activities were under surveillance by the Respondent[.]

During the time period set forth in paragraph 4(c)(1), it is alleged that Mathieu, on various

occasions during the period alleged, told employees that there were cameras in the workplace watching them and that additional cameras would be installed in the employees' work areas.

Dated at Phoenix, Arizona, this 18<sup>th</sup> day of December 2009.

/s/ Eva Shih Herrera  
Eva Shih Herrera  
Counsel for the General Counsel  
National Labor Relations Board - Region 28  
2600 North Central Ave. Suite 1800  
Phoenix, Arizona 85004-3099

# **EXHIBIT M**



Bernie Sanchez-Bell  
<bemiesanchez-bell@q.com>

To <daniel.coughlin@walgreens.com>, Len Mathieu  
<len.mathieu@walgreens.com>

cc

04/14/2009 08:05 AM

bcc

Subject Requested EEOC Investigation

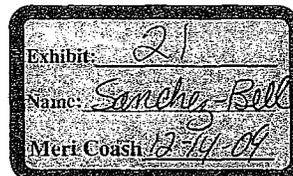
History: This message has been forwarded.

We request that the retaliation stop immediately.

Thank you



Sheryl Laidlaw and Bernie Sanchez-Bell requested EEOC investigation.doc



WAL000709

April 14, 2009

Dear Len;

This is to inform you that both Sheryl Laidlaw, and I, Bernie Sanchez-Bell, have submitted all e-mails and documentation to the EEOC to investigate the charges of gender harassment, intimidation, age discrimination, and adverse action of retaliation.

This evening a team member told me, Bernie Sanchez Bell, that she heard another team member was approached by Casey Rogers, and asked to complain about Sheryl Laidlaw, HR was doing an internal investigation on Sheryl to terminate her. They wanted her submit a complaint to HR. Which the employee was happy to do so, since she was angry that she was taken out of the candy room where she enjoyed working. What the employee did not know is that Fawn Mejias was moved out of the canyroom , so I, Bernie Sanchez-Bell could be placed there, and it was Casey Rogers's decision to move her, not Sheryl's. This attempt of retaliation will be submitted for investigation. (This letter will be forwarded to the EEOC.)

Speaking to an investigator at length with the EEOC, we both have submitted all our e-mails and documentation. Including the letters that I have gotten from employees who might have been afraid to tell HR due to retaliation, but not afraid to tell EEOC, regarding the harassment and intimidation by Heath Husband, and how Casey Rogers protected him. They also wrote how Casey Rogers was there to intimidate them when they walked into the HR. office and how scared they were, so they did not say what they wanted, due to fear of retaliation from Casey and fear of losing their jobs. I have a letter from an employee whom heard a conversation between Heath and Casey, regarding Women and upward mobility, this letter has been submitted to the EEOC for their investigation.

After a poor internal investigation, Casey Rogers and Heath Husband remain to take the names of the employees as they are called to HR. Heath Husband is now bragging to everyone about his becoming a function manager, during a hiring freeze. Casey attempts to retaliate against Sheryl Laidlaw for coming forward about Heath Husbands and himself, and the hostile environment team members work in, under their supervision.

Sheryl Laidlaw came forward to HR (Len Mathieu) regarding this harassment and intimidation months before I, Bernie Sanchez-Bell was hired. EEOC has all this documentation proving it. HR (Len Mathieu) did not eliminate the harassment in the workplace, telling Sheryl the same thing they told me months later. that it was a he said ...she said situation. They took no actions to protect Sheryl or investigate. Months later when I, Bernie Sanchez-Bell complained about harassment and intimidation, HR (Len Mathieu) still saw no pattern of abuse to the same allegations. We were told, at different times, no one else had ever come forward.

WAL000710

If it were not for the fact, that the Walgreen's grapevine, allows no private internal investigations to occur, we both found out about the other, and decided to contact the EEOC . Now we both of us wondering how many other woman have come forward, and if continued to be disregarded by HR as he said...she said and strictly a personality conflict!

I, Bernie Sanchez-Bell started to look for job opportunities, knowing my upward mobility would be stagnate under Casey Rogers, and the fact that HR protected his behavior toward women who had an ambition to go into management.

After hearing what the team member told me this morning, I became so ill I started throwing up from the stress, and asked if I could come home.

Both Sheryl Laidlaw and myself, will not talk to HR to protect our federal rights, without an attorney present, and until EEOC completes its investigation.

We just want to go to work with out any hostility, or retaliation for coming forward about this serious issue that continues to be swept under the rug, by our local HR department (Len Mathieu) This was a very mishandled investigation.

Heath Husband continues to be verbally abusive to Sheryl Laidlaw, in front of Casey Rogers, and he continues his behavior. We request that this verbal abuse from Heath Husband stop immediately, it will be documented, and sent to the EEOC as continued harassment and retaliation. Heath Husband was rewarded upward mobility, within a week of an internal investigation for harassment and intimidation, and retaliation.

Casey Rogers behavior went unchecked to harass and retaliate against Sheryl Laidlaw and myself, as continued documentation to the EEOC for their investigation.

Thank you

Bernie Sanchez-Bell

Sheryl Laidlaw

WAL000711