SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

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ANDREA MACKRIS,

Plaintiff,

-against-

BILL O'REILLY, NEWS CORPORATION, FOX NEWS CHANNEL, TWENTIETH CENTURY FOX FILM CORP., and WESTWOOD ONE, INC.,

Defendants.

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VERIFIED COMPLAINT

Index No.: 04114558

Plaintiff ANDREA MACKRIS, by her attorneys, BENEDICT P. MORELLI & ASSOCIATES, P.C., complaining of the Defendants herein, upon information and belief respectfully alleges as follows:

1. Plaintiff ANDREA MACKRIS is a resident of the City, County and State of New York.

2. Plaintiff ANDREA MACKRIS, a graduate of the Columbia School of Journalism, is a highly driven and successful journalist whose television news production career has included stints at NBC, CNN and Fox. In 1991, Plaintiff served as an intern in George Bush's White House. Throughout her career, Plaintiff ANDREA MACKRIS has been praised for her proficiency, dedication and skill.

3. At all times mentioned herein, Defendant NEWS CORPORATION, was and is a corporation incorporated in Delaware with its principal place of business in New York. Defendant NEWS CORPORATION is one of the largest media corporations in the world.

4. At all times mentioned herein, Defendant **FOX NEWS CHANNEL** was and is a corporation incorporated in Delaware with its principal place of business in New York.

5. At all times mentioned herein, Defendant **FOX NEWS CHANNEL** was and is the wholly-owned subsidiary of Defendant **NEWS CORPORATION.**

6. At all times mentioned herein, Defendant **TWENTIETH CENTURY FOX FILM CORP.** was and is a corporation incorporated in Delaware with its principal place of business in New York. Defendant **TWENTIETH CENTURY FOX FILM CORP.** produces, acquires and distributes big-budget motion pictures.

7. At all times mentioned herein, Defendant **TWENTIETH CENTURY FOX FILM CORP.** was and is the wholly-owned subsidiary of Defendant **NEWS CORPORATION.**

8. Hereinafter, Defendants **FOX NEWS CHANNEL FOX , TWENTIETH CENTURY FOX FILM CORP.** and **NEWS CORPORATION** shall be designated collectively as Defendants "**FOX.**"

9. At all times mentioned herein, Defendant **WESTWOOD ONE, INC.** was and is a corporation incorporated in Delaware with its principal place of business in New York. Defendant **WESTWOOD ONE, INC.** ("**WESTWOOD ONE**") is one of the largest producers and distributors of radio programming in the United States.

10. At all times mentioned herein, Defendant **BILL O'REILLY** has held himself out as a morally upright, independent political pundit.

11. At all times mentioned herein, Defendant **BILL O'REILLY** was and is the host and "star" of "The O'Reilly Factor." "The O'Reilly Factor" is broadcast on cable television throughout the United States by Defendants **FOX.** "The O'Reilly Factor" is broadcast on radio throughout the United States by Defendant **WESTWOOD ONE.** Defendants **FOX,**

WESTWOOD ONE and BILL O'REILLY utilize this forum to preach the principles of the so-called "compassionate conservatism" espoused by George W. Bush and the Republican Party. The Defendants also use this forum to preach their belief in family values and to bemoan the moral decline of politicians and others in positions of power.

12. As of the week of September 20, 2004, "The O'Reilly Factor" ranked among the top ten most popular cable television broadcasts in the United States. "The O'Reilly Factor" generates approximately $60,000,000.00 annual revenue for Defendants.

13. During the period from on or about April 2000 through on or about January 2004, and again during the period from on or about July 6, 2004 through the present, Plaintiff ANDREA MACKRIS was and is now employed by Defendants FOX.

14. During the period from on or about July 6, 2004 through the present, Plaintiff ANDREA MACKRIS was and is now also employed by Defendant WESTWOOD ONE.

15. From on or about April 2000 through or about January 2004, and commencing again on or about July 6, 2004 through the present, Plaintiff ANDREA MACKRIS was and continues to be employed by Defendants FOX as an "Associate Producer" for "The O'Reilly Factor."

16. Commencing on or about July 6, 2004 through the present, Plaintiff ANDREA MACKRIS was and continues to be employed by Defendants FOX and Defendant WESTWOOD ONE a staff member of "The O'Reilly Factor."

17. Throughout Plaintiff's employment at FOX, Rupert Murdoch was and continues to be Chief Executive Officer, the highest ranking supervisor, an officer, manager and employee of Defendants FOX.

18. Throughout Plaintiff's employment at FOX, Roger Ailes was and continues

to be President, the highest ranking supervisor of Fox News Channel, an officer, manager and employee of Defendants **FOX**. At all times mentioned herein, President Roger Ailes was and continues to be supervised by Chief Executive Officer Rupert Murdoch.

19. Throughout Plaintiff's employment at **FOX**, Defendant **BILL O'REILLY** was and continues to be the "star" of "The O'Reilly Factor," Plaintiff's immediate supervisor, and a manager and employee of Defendants **FOX**. At all times mentioned herein, Defendant **BILL O'REILLY** was and continues to be supervised by **FOX** President Roger Ailes.

20. Throughout her employment at Defendant **FOX**, Plaintiff **ANDREA MACKRIS** has reported directly to, and been supervised by, Defendant **BILL O'REILLY**.

21. Throughout Plaintiff's employment at **WESTWOOD ONE**, Defendant **BILL O'REILLY** was and continues to be the "star" of "The O'Reilly Factor," Plaintiff's immediate supervisor, and a manager and employee of Defendants **WESTWOOD ONE**.

22. Throughout her employment at Defendant **WESTWOOD ONE**, Plaintiff **ANDREA MACKRIS** has reported directly to, and been supervised by, Defendant **BILL O'REILLY**.

23. At all times material to this Complaint, the individual officers, directors, supervisors, managers, employees and/or agents mentioned herein, acted within the scope of their duties as officers, directors, supervisors, managers, employees and/or agents of Defendants **FOX** and/or **WESTWOOD ONE**.

ALLEGATIONS OF *QUID PRO QUO* SEXUAL HARASSMENT AND A SEXUALLY HOSTILE WORK ENVIRONMENT

24. Throughout her employment at Defendants **FOX**, commencing approximately May 2002 through January 2004, and commencing again approximately July 6, 2004 through the

present, Plaintiff **ANDREA MACKRIS** has been subjected to *quid pro quo* sexual harassment at the hands of her immediate supervisor, Defendant **BILL O'REILLY**, and a sexually hostile work environment, perpetrated by Defendant **BILL O'REILLY**, and other supervisors, managers, officers, employees and/or agents of Defendants **FOX**.

25. Throughout her employment at Defendant **WESTWOOD ONE**, commencing approximately July 6, 2004 through the present, Plaintiff **ANDREA MACKRIS** has been subjected to *quid pro quo* sexual harassment at the hands of her immediate supervisor, Defendant **BILL O'REILLY**, and a sexually hostile work environment, perpetrated by Defendant **BILL O'REILLY**, and other supervisors, managers, officers, employees and/or agents of Defendant **WESTWOOD ONE**.

26. Within Defendants **FOX** and **WESTWOOD ONE** a permissive and encouraging environment for gender discrimination and sexual harassment reigns among supervisors, managers and employees of the companies

27. During the period from approximately May 2002 through January 2004, and commencing again approximately July 6, 2004 through the present, extending prior to and subsequent to those dates, Defendants **BILL O'REILLY** and **FOX**, its employees, managers, directors, officers and agents, harassed and intimidated Plaintiff, and created and maintained a virulently hostile work environment through explicit, rampant, pervasive and continued sex discrimination and sexual harassment against Plaintiff **ANDREA MACKRIS** and other female employees that was so offensive and severe that it detrimentally altered the terms and conditions of Plaintiff's employment.

28. During the period from approximately July 6, 2004 through the present, extending prior to and subsequent to those dates, Defendants **BILL O'REILLY** and **WESTWOOD ONE**,

its employees, managers, directors, officers and agents, harassed and intimidated Plaintiff, and created and maintained a virulently hostile work environment through explicit, rampant, pervasive and continued sex discrimination and sexual harassment against Plaintiff **ANDREA MACKRIS** and other female employees that was so offensive and severe that it detrimentally altered the terms and conditions of Plaintiff's employment.

29. Throughout her employment on "The O'Reilly Factor" Plaintiff **ANDREA MACKRIS** has found her work challenging and engaging. Indeed, her career as an Associate Producer at **FOX** and a staff member at **WESTWOOD ONE** has involved precisely the type of work that she studied and prepared for her entire adult life.

30. However, throughout her employment on "The O'Reilly Factor," Plaintiff **ANDREA MACKRIS** has been subjected to the mercurial and unpredictable mood swings of her boss, Defendant **"BILL O'REILLY,"** a personality who can be paternal and engaging at one instant, tyrannical and menacing the next.

31. Commencing approximately May 2002 through January 2004, and commencing again approximately July 6, 2004 through the present, Plaintiff **ANDREA MACKRIS** was sexually harassed by her immediate supervisor, Defendant **BILL O'REILLY.**

32. On or about May 1, 2002, Plaintiff **ANDREA MACKRIS** informed Vice President Bill Shine of the break-up of her long-term relationship with her fiancé. During the course of that conversation, Plaintiff informed Mr. Shine that she would no longer be able to afford to work at Defendants **FOX** on her approximately $56,000 salary.

33. Shortly thereafter, in or about early May 2002, Plaintiff's supervisor, Defendant **BILL O'REILLY**, invited Plaintiff **ANDREA MACKRIS** out to dinner, purportedly to discuss

her future at FOX. During the course of their conversation, Defendant **BILL O'REILLY** praised Plaintiff's skill as a Booker, told Plaintiff he could not afford to lose her from his production team, and promptly raised her salary to $65,000.

34. During the course of this dinner in approximately early May 2002, Plaintiff's supervisor, Defendant **BILL O'REILLY**, lavished Plaintiff **ANDREA MACKRIS** with unsolicited advice regarding her handling of future relationships with members of the opposite sex. Defendant **BILL O'REILLY** advised Plaintiff **ANDREA MACKRIS** to avoid future contact with her ex-fiancé, to have manicures and pedicures and "pick up 23-year-old men in bars," to attend charity events and meet men with credentials, and to otherwise spend the next year doing what she felt like doing, without thinking twice about the consequences. Defendant **BILL O'REILLY** then suggested that at the end of the year, they'd discuss promoting Plaintiff to a producer position for "The O'Reilly Factor."

35. After these words during the course of their dinner in early May 2002, Defendant **BILL O'REILLY**'s demeanor abruptly changed. O'REILLY's eyes became glazed and bizarrely strayed in opposite directions. Suddenly, without provocation or warning, Defendant **BILL O'REILLY** said to Plaintiff **ANDREA MACKRIS**: "And just use your vibrator to blow off steam." When Plaintiff reddened, Defendant **BILL O'REILLY** asked lewdly: "What, you've got a vibrator, don't you? Every girl does." When Plaintiff responded indignantly, "No, and no, they don't. Does your wife?" Defendant replied: "Yes, in fact she does. She'd kill me if she knew I was telling you!" Plaintiff was repulsed.

36. During the course of their dinner in early May 2002, Defendant **BILL O'REILLY** proceeded, without solicitation or invite, to inform Plaintiff **ANDREA MACKRIS** that he had advised another woman to purchase a vibrator, and had taught that woman how to masturbate

while telling her sexual stories over the telephone. **O'REILLY** told Plaintiff **ANDREA MACKRIS** she knew the woman from **FOX**. Defendant **O'REILLY** then boasted that the woman had her first orgasm via masturbation as he spoke to her on the telephone.

37. When Plaintiff responded that she never engaged in phone sex, Defendant **BILL O'REILLY** professed disbelief, and told her that the sexual stories he told were all based upon his own experiences, such as when he received a massage in a cabana in Bali and the "little short brown woman" asked to see his penis and was "amazed." Defendant **BILL O'REILLY** then suggested that he tell Plaintiff the same sexual stories, which he knew she would "just love." Shocked and embarrassed, Plaintiff **ANDREA MACKRIS** informed Defendant in no uncertain terms that she was neither experienced in nor interested in gaining experience in telephone sex. Defendant expressed disbelief.

38. As they left the restaurant next to Defendant's hotel, Plaintiff **ANDREA MACKRIS** thanked her boss for the dinner and raise. Defendant **BILL O'REILLY** responded suggestively: "Stick with me and I'll take care of you," winked, and walked into his hotel.

39. On or about March 9-13, 2003, Defendant **BILL O'REILLY**, Plaintiff **ANDREA MACKRIS** and other **FOX** employees traveled with "The O'Reilly Factor" to tape in Los Angeles. At approximately 10:30 p.m. one of those evenings, **O'REILLY** called Plaintiff on her cell phone. Plaintiff was at dinner with a woman friend from college. Defendant was flirtatious, repeatedly asking Plaintiff what she and her friend were wearing.

40. Later during that week, on or about March 9-13, 2003, Defendant **BILL O'REILLY** joined Plaintiff **ANDREA MACKRIS** and other staff members at the Peninsula Hotel for cocktails. Plaintiff **ANDREA MACKRIS'** college friend was with her. **O'REILLY** approached the two and commented: "University of Missouri... Boy, I would've had fun with you

two" and alluded to having a menage a trois with Plaintiff and her friend.

41. On or about May 2003, Defendant **BILL O'REILLY** took Plaintiff **ANDREA MACKRIS** and her college friend to dinner at Da Silvano's. During the course of the dinner, **O'REILLY** repeatedly propositioned the women, singing the praises of telephone sex, offering to telephone them both, and suggesting that the three of them "go to a hotel together and have the time of [their] lives." **O'REILLY** further suggested that the women needed to be trained so they'd be equipped and ready to go when a "real man shows up in your lives," and offered "lessons." **O'REILLY** further suggested they use their sexuality to their advantage so they'd have power over men, otherwise men would have power over them. Plaintiff was extremely embarrassed and protested: "Bill, you're my boss!"

42. During the course of this dinner, in approximately May 2003, Defendant **BILL O'REILLY**, without solicitation or invite, regaled Plaintiff and her friend with stories concerning the loss of his virginity to a girl in a car at JFK, two "really wild" Scandinavian airline stewardesses he had gotten together with, and a "girl" at a sex show in Thailand who had shown him things in a backroom that "blew [his] mind." Defendant then stated he was going to Italy to meet the Pope, that his pregnant wife was staying at home with his daughter, and implied he was looking forward to some extra-marital dalliances with the "hot" Italian women. Both Plaintiff and her friend were repulsed, but felt powerless to protest strongly since Defendant was Plaintiff's boss and a powerful man at **FOX**. Defendant finally stopped after noting: "**MACKRIS** can't handle it."

43. On or about September 2003, Defendant **BILL O'REILLY** asked Plaintiff **ANDREA MACKRIS** to dinner at an Italian restaurant around the corner from **FOX**, purportedly to discuss business. During the course of dinner, Defendant once again raised the

specter of telephone sex, repeatedly professing disbelief that Plaintiff had never engaged in telephone sex. Defendant **O'REILLY** repeatedly begged Plaintiff to have telephone sex with him that night. Plaintiff refused.

44. In approximately early December 2003, Defendant **BILL O'REILLY** noted that Plaintiff **ANDREA MACKRIS** had endured a hard day at work, and took her to dinner at the Italian restaurant around the corner. Plaintiff informed Defendant that CNN had been recruiting her for a position. Defendant attempted to persuade Plaintiff not to leave **FOX**.

45. During that same dinner in approximately December 2003, Defendant **BILL O'REILLY** once again tried to convince Plaintiff **ANDREA MACKRIS** to engage in telephone sex with him. Plaintiff again adamantly refused, becoming extremely embarrassed and reminding **O'REILLY** that he was her boss.

46. During the course of this dinner, Defendant **BILL O'REILLY** bragged that he had telephone sex with other young women.

47. On or about January 2004, Plaintiff **ANDREA MACKRIS** left Defendants **FOX** and "The O'Reilly Factor" for a position with CNN.

48. On or about mid-February 2004, Defendant **BILL O'REILLY** announced to the staff of his show that by leaving "The O'Reilly Factor" for CNN, Plaintiff **ANDREA MACKRIS** had committed "career suicide."

49. On or about early March 2004, Defendant **BILL O'REILLY** telephoned Plaintiff **ANDREA MACKRIS** and promised, "If anything bad happens to you at CNN, I'll get you a job."

50. On or about March 16, 2004, Defendant **BILL O'REILLY** telephoned Plaintiff at

home, purportedly with advice as to how to handle office politics at CNN.

51. On or about March 21, 2004, Defendant **BILL O'REILLY** telephoned Plaintiff **ANDREA MACKRIS** again at home.

52. On or about early April 2004, Defendant **BILL O'REILLY** left a message on Plaintiff's answering machine at home after her boss at CNN was terminated for sexual harassment, purportedly to determine if anything untoward was directed toward her. **O'REILLY** suggested they go to dinner to discuss her future, as Plaintiff had previously expressed unhappiness with her position at CNN.

53. On or about early April 2004, Defendant **BILL O'REILLY** telephoned Plaintiff at home. Plaintiff **ANDREA MACKRIS** then told Defendant that she would only have dinner with him if the talk was professional. Defendant **BILL O'REILLY** agreed.

54. On or about April 13, 2004, during dinner at Milos, Plaintiff **ANDREA MACKRIS** again told Defendant **BILL O'REILLY** that she would return to work on "The O'Reilly Factor" only if he no longer engaged in inappropriate conduct. Defendant agreed: "Of course, because then you'd be working for me and I'd have power over you, so that couldn't happen, that wouldn't be fair." When Plaintiff reminded Defendant that he had done the same thing to other women who worked on "The O'Reilly Factor," and that he should be careful or they might tell someone, **O'REILLY** vehemently threatened with words to the effect:

> If any woman ever breathed a word I'll make her pay so dearly that she'll wish she'd never been born. I'll rake her through the mud, bring up things in her life and make her so miserable that she'll be destroyed. And besides, she wouldn't be able to afford the lawyers I can or endure it financially as long as I can. And nobody would believe her, it'd be her word against mine and who are they going to believe? Me or some unstable woman making outrageous accusations. They'd see her as some psycho, someone unstable. Besides, I'd never make the mistake of picking

unstable crazy girls like that.

55. During the course of this conversation, Defendant **BILL O'REILLY** further sternly warned, to the effect:

> If you cross **FOX NEWS CHANNEL**, it's not just me, it's [FOX President] Roger Ailes who will go after you. I'm the street guy out front making loud noises about the issues, but Ailes operates behind the scenes, strategizes and makes things happen so that one day BAM! The person gets what's coming to them but never sees it coming. Look at Al Franken, one day he's going to get a knock on his door and life as he's known it will change forever. That day will happen, trust me.

56. During the course of this conversation, Defendant **BILL O'REILLY** bizarrely rambled further about Al Franken: "Ailes knows very powerful people and this goes all the way to the top." Plaintiff queried: "To the top of what?" Defendant responded: "Top of the country. Just look at who's on the cover of his book [Bush and Cheney], they're watching him and will be for years. [Al Franken's] finished, and he's going to be sorry he ever took **FOX NEWS CHANNEL** on." Plaintiff found **O'REILLY**'s paranoid rambling both strange and alarming.

57. On or about April 13, 2004, during dinner, Defendant **BILL O'REILLY** and Plaintiff **ANDREA MACKRIS** discussed the possibility of her returning to Defendants **FOX** and working on "The O'Reilly Factor."

58. At the conclusion of their dinner on April 13, 2004, Defendant **BILL O'REILLY** asked Plaintiff **ANDREA MACKRIS** to come watch the President's press conference on the television in his hotel room. They watched the press conference without incident. Plaintiff ridiculed President Bush, **O'REILLY** laughed, and decided which highlight he would focus upon during his show the next day.

59. On or about June 4, 2004, following the departure of yet another female Producer from "The O'Reilly Factor," Defendant **BILL O'REILLY** and Plaintiff **ANDREA MACKRIS** again discussed the possibility of her returning to **FOX** to work on the show. Plaintiff stated she would be willing to return to **FOX** if **FOX** matched her salary at CNN.

60. On or about June 7, 2004, Defendant **BILL O'REILLY** telephoned Plaintiff **ANDREA MACKRIS** and offered her her former position at the same salary she was earning at CNN. Plaintiff accepted the offer and thanked him. Defendant **BILL O'REILLY** told Plaintiff: "You can thank me by taking me out to dinner."

61. On or about June 8, 2004, Defendant **BILL O'REILLY** confessed to Plaintiff **ANDREA MACKRIS** that Roger Ailes had refused to match her salary at CNN and that Defendants **FOX** would only pay her former salary of $73,000. However, Defendant **BILL O'REILLY** assured Plaintiff that he would also pay her to serve as a staff member of his radio show, distributed by Defendant **WESTWOOD ONE**, to make up the difference.

62. On or about July 6, 2004, Plaintiff **ANDREA MACKRIS** returned to her position as Associate Producer of "The O'Reilly Factor" at the **FOX NEWS CHANNEL**, and simultaneously commenced her position as a staff member of "The O'Reilly Factor" for Defendant **WESTWOOD ONE**.

63. Upon her return to Defendants **FOX**, Plaintiff expressed her interest in covering one or both of the political conventions to Defendant **BILL O'REILLY**. **O'REILLY** indicated it was too late for her to be given those assignments.

64. Throughout July and August 2004, Defendant **BILL O'REILLY** repeatedly reminded Plaintiff that she "owed" him dinner.

65. On or about August 2, 2004, Defendant **BILL O'REILLY** telephoned Plaintiff

ANDREA MACKRIS at her home after interviewing two porn stars on "The O'Reilly Factor." Apparently, O'REILLY was "excited" from the show. With little preamble, Defendant BILL O'REILLY launched into a vile and degrading monologue about sex.

66. During the course of O'REILLY's telephone monologue on August 2, 2004, he suggested that Plaintiff ANDREA MACKRIS purchase a vibrator and name it, and that he had one "shaped like a cock with a little battery in it" that a woman had given him. It became apparent that Defendant was masturbating as he spoke. After he climaxed, Defendant O'REILLY said to Plaintiff: "I appreciate the fun phone call. You can have fun tonight. I'll appreciate it. I mean it." Plaintiff felt as if the floor had fallen out from beneath her. She was shocked, frightened and upset. She felt trapped.

67. On or about August 15, 2004, Defendant BILL O'REILLY telephoned Plaintiff ANDREA MACKRIS at her home. Plaintiff did not answer.

68. At approximately 10:20 p.m. on or about August 17, 2004, Defendant BILL O'REILLY called Plaintiff's home phone and left a message on her answering machine asking that she return his call on his cell phone.

69. On or about August 18, 2004, concerned that his call was work-related, Plaintiff ANDREA MACKRIS returned her boss' telephone call and left a message that she was returning his call.

70. At approximately 9:25 p.m. on or about August 19, 2004, Defendant BILL O'REILLY telephoned Plaintiff ANDREA MACKRIS again at home. Again, Plaintiff decided not to answer the phone. Defendant left a message indicating that he would like to go out for the dinner "owed" him on August 24, 2004.

71. On or about August 24, 2004, Defendant BILL O'REILLY and Plaintiff

ANDREA MACKRIS went to dinner at Periyal. O'REILLY informed Plaintiff that both he and "The O'Reilly Factor" were really hurt when she left Defendants FOX for CNN, that it's made a big difference to have her back, that "the second floor," (alluding to FOX management) liked her, and that: "You have a bright career ahead of you."

72. During the course of this conversation, on or about August 24, 2004, Defendant BILL O'REILLY again started talking about sex, and suggested that if he had a hotel room that night he would have invited her up. Defendant further suggested that Plaintiff ANDREA MACKRIS purchase a vibrator. When Plaintiff became embarrassed and told him that she was not interested, O'REILLY again suggested: "We should do it together, I could coach you through it." Plaintiff declined.

73. During the course of this conversation, on or about August 24, 2004, Defendant BILL O'REILLY further indicated that "the second floor," (i.e., FOX management) considered a woman producer to be "psychotic" and that she was "as far as she'll ever go at FOX."

74. On or about August 26, 2004, within two days of their dinner, Plaintiff ANDREA MACKRIS learned that she had been assigned to attend the Republican National Convention, and that she was the only staffer attending the convention with full access passes to the booth and floor.

75. On or about August 26, 2004, within two days of their dinner, Plaintiff ANDREA MACKRIS learned that she would be interviewing Senator Hillary Clinton on August 29, 2004 for "The O'Reilly Factor."

76. At approximately 11:06 p.m. on or about September 1, 2004, during the course of the Republican National Convention, Defendant BILL O'REILLY telephoned Plaintiff ANDREA MACKRIS on her cell phone and asked that she call. Plaintiff believed that the call

would be work-related, and returned the call. Instead, Defendant **BILL O'REILLY** once again launched into a lewd and lascivious, unsolicited and disturbing sexually-graphic talk.

77. Despite informing him that she was not at all interested in the conversation, and despite her adamant refusal to participate in such talk, Defendant **O'REILLY** informed Plaintiff **ANDREA MACKRIS** that he was watching a porn movie and babbled perversely regarding his fantasies concerning Carribean vacations because, purportedly: "Once people get into that hot weather they shed their inhibitions, you know they drink during the day, they lay there and lazy, they have dinner and then they come back and fool around... that's basically the modus operandi."

78. During the course of his monologue, Defendant **O'REILLY** further stated:

> Well, if I took you down there then I'd want to take a shower with you right away, that would be the first think I'd do... yeah, we'd check into the room, and we would order up some room service and uh and you'd definitely get two wines into you as quickly as I could get into you I would get 'em into you... maybe intravenously, get those glasses of wine into you....
>
> You would basically be in the shower and then I would come in and I'd join you and you would have your back to me and I would take that little loofa thing and kinda' soap up your back... rub it all over you, get you to relax, hot water... and um... you know, you'd feel the tension drain out of you and uh you still would be with your back to me then I would kinda' put my arm - it's one of those mitts, those loofa mitts you know, so I got my hands in it... and I would put it around front, kinda' rub your tummy a little bit with it, and then with my other hand I would start to massage your boobs, get your nipples really hard... 'cuz I like that and you have really spectacular boobs....
>
> So anyway I'd be rubbing your big boobs and getting your nipples really hard, kinda' kissing your neck from behind... and then I would take the other hand with the falafel (*sic*) thing and I'd put it on your pussy but you'd have to do it really light, just kind of a tease business....

Plaintiff **ANDREA MACKRIS** was frightened and disturbed.

79. During the course of this monologue, Defendant **BILL O'REILLY** suggested that he would perform oral sex upon Plaintiff **ANDREA MACKRIS**, and that she would start to perform fellatio upon his "big cock" but not complete the sex act: "you'd tease me, like you wouldn't really do it, you'd just like - 'cuz I know you... you're like a tease."

80. During the course of his perverted ravings, Defendant **BILL O'REILLY** told Plaintiff that they would then engage in sexual intercourse. When Plaintiff **ANDREA MACKRIS** again reminded Defendant **O'REILLY** that she did not want to participate reminding him that he was her boss, **O'REILLY** responded: "you just have to suspend that."

81. During the course of Defendant **BILL O'REILLY**'s sexual rant, it became clear that he was using a vibrator upon himself, and that he ejaculated. Plaintiff was repulsed.

82. Immediately after climaxing, Defendant **BILL O'REILLY** launched into a discussion concerning how good he was during a recent appearance on "The Tonight Show" with Jay Leno: "It was funny, they used a big clip of me.... Right after Brokaw and Brokaw was absolutely the most unfunny guy in the world, and the audience got a big charge out of my.... It was good."

83. After climaxing, Defendant **BILL O'REILLY** again boasted that none of the women he'd engaged in sexual relations with would ever tell:

> Nobody'd believe 'em... they wouldn't [tell] anyway, I can't imagine any of them ever doing that 'cuz I always made friends with women before I bedded them down.

84. Defendant **BILL O'REILLY** concluded stating:

> You know, Mackris, in these days of your celibacy and your hibernation this is good for you to have a little fantasy outlet,

> you know, just to keep it tuned, keep that sensuality tuned until you know Mr. Right comes along and then you can put him in traction.... I'm trying to tell you, this is good for your mental health.

Plaintiff **ANDREA MACKRIS** felt angry, abused and disgusted.

85. On or about September 21, 2004, Defendant **BILL O'REILLY** telephoned Plaintiff **ANDREA MACKRIS** and, once again, without invitation or solicitation, launched into yet another disgusting, lewd and disturbing monologue concerning his sexual fantasies with her, until he climaxed. During the course of this call, **O'REILLY** said to Plaintiff: "Next time you'll come up to my hotel room and we'll make this happen." Plaintiff felt frightened and threatened.

AS AND FOR A FIRST CAUSE OF ACTION
NYSHRL - *QUID PRO QUO* SEXUAL HARASSMENT

86. Plaintiff **ANDREA MACKRIS** repeats and realleges each and every allegation contained in paragraphs 1 through 85 inclusive, with the same force and effect as though more fully set forth at length herein.

87. The aforesaid acts of intentional *quid pro quo* sexual harassment, perpetrated by Defendant **BILL O'REILLY** violated Plaintiff **ANDREA MACKRIS'** rights as provided under New York State Human Rights Law - Executive Law Section 290 et. seq.

88. As a consequence of Defendant **BILL O'REILLY's** sexual harassment during Plaintiff's employment at Defendants **FOX** and **WESTWOOD ONE**, Plaintiff sustained conscious pain and suffering, physical injury, great mental distress, shock, fright and humiliation.

89. As a consequence of the foregoing misconduct of Defendants, Plaintiff **ANDREA MACKRIS** has been damaged in an amount exceeding the jurisdictional requirements of this Court.

AS AND FOR A SECOND CAUSE OF ACTION
NYSHRL - SEXUAL HARASSMENT

90. Plaintiff **ANDREA MACKRIS** repeats and realleges each and every allegation contained in paragraphs 1 through 85 inclusive, with the same force and effect as though more fully set forth at length herein.

91. The aforesaid acts of intentional *quid pro quo* sexual harassment, perpetrated by Defendant **BILL O'REILLY**, an employee of Defendants **FOX**, their officers, directors, supervisors, managers and/or employees, violated Plaintiff **ANDREA MACKRIS'** rights as provided under New York State Human Rights Law - Executive Law Section 290 et. seq.

92. As a consequence of Plaintiff's sexual harassment by her supervisor, Defendant **BILL O'REILLY** during Plaintiff's employment at Defendants **FOX**, Plaintiff sustained conscious pain and suffering, physical injury, great mental distress, shock, fright and humiliation.

93. As a consequence of the foregoing misconduct of Defendants **FOX**, Plaintiff **ANDREA MACKRIS** has been damaged in an amount exceeding the jurisdictional requirements of this Court.

AS AND FOR A THIRD CAUSE OF ACTION
NYSHRL - SEXUAL HARASSMENT

94. Plaintiff **ANDREA MACKRIS** repeats and realleges each and every allegation contained in paragraphs 1 through 85 inclusive, with the same force and effect as though more fully set forth at length herein.

95. The aforesaid acts of intentional *quid pro quo* sexual harassment, perpetrated by Defendant **BILL O'REILLY**, an employee of Defendant **WESTWOOD ONE**, their officers, directors, supervisors, managers and/or employees, violated Plaintiff **ANDREA MACKRIS'** rights as provided under New York State Human Rights Law - Executive Law Section 290 et.

seq.

96. As a consequence of Plaintiff's sexual harassment by her supervisor, Defendant **BILL O'REILLY** during Plaintiff's employment at Defendant **WESTWOOD ONE**, Plaintiff sustained conscious pain and suffering, physical injury, great mental distress, shock, fright and humiliation.

97. As a consequence of the foregoing misconduct of Defendant **WESTWOOD ONE**, Plaintiff **ANDREA MACKRIS** has been damaged in an amount exceeding the jurisdictional requirements of this Court.

AS AND FOR A FOURTH CAUSE OF ACTION
NYSHRL - SEXUALLY HOSTILE WORK ENVIRONMENT

98. Plaintiff **ANDREA MACKRIS** repeats and realleges each and every allegation contained in paragraphs 1 through 85 inclusive, with the same force and effect as though more fully set forth at length herein.

99. The sexually hostile work environment created by the sexual harassment of Defendant **BILL O'REILLY** during Plaintiff's employment at Defendants **FOX**, and perpetuated by Defendants **FOX**, its officers, directors, supervisors, managers and/or employees violated Plaintiff **ANDREA MACKRIS'** rights as provided under New York State Human Rights Law - Executive Law Section 290 et. seq.

100. As a consequence of the sexually hostile work environment created by Defendants **FOX**, Plaintiff sustained conscious pain and suffering, physical injury, great mental distress, shock, fright and humiliation, and incurred monetary loss.

101. As a consequence of the foregoing misconduct of Defendants, Plaintiff **ANDREA MACKRIS** has been damaged in an amount exceeding the jurisdictional requirements of this

Court.

AS AND FOR A FIFTH CAUSE OF ACTION
NYSHRL - SEXUALLY HOSTILE WORK ENVIRONMENT

102. Plaintiff **ANDREA MACKRIS** repeats and realleges each and every allegation contained in paragraphs 1 through 85 inclusive, with the same force and effect as though more fully set forth at length herein.

103. The sexually hostile work environment created by the sexual harassment of Defendant **BILL O'REILLY** during Plaintiff's employment at Defendant **WESTWOOD ONE**, and perpetuated by Defendant **WESTWOOD ONE,** its officers, directors, supervisors, managers and/or employees violated Plaintiff **ANDREA MACKRIS'** rights as provided under New York State Human Rights Law - Executive Law Section 290 et. seq.

104. As a consequence of the sexually hostile work environment created by Defendant **WESTWOOD ONE**, Plaintiff sustained conscious pain and suffering, physical injury, great mental distress, shock, fright and humiliation.

105. As a consequence of the foregoing misconduct of Defendants, Plaintiff **ANDREA MACKRIS** has been damaged in an amount exceeding the jurisdictional requirements of this Court.

WHEREFORE, Plaintiff **ANDREA MACKRIS** demands judgment against Defendant **BILL O'REILLY** in the First Cause of Action in an amount exceeding the jurisdictional requirements of this Court; Plaintiff **ANDREA MACKRIS** demands judgment against Defendants **FOX** in the Second Cause of Action in an amount exceeding the jurisdictional requirements of this Court; Plaintiff **ANDREA MACKRIS** demands judgment against

Defendants **WESTWOOD ONE** in the Third Cause of Action in an amount exceeding the jurisdictional requirements of this Court; Plaintiff **ANDREA MACKRIS** demands judgment against Defendants **FOX** in the Fourth Cause of Action in an amount exceeding the jurisdictional requirements of this Court; and Plaintiff **ANDREA MACKRIS** demands judgment against Defendants **WESTWOOD ONE** in the Fifth Cause of Action in an amount exceeding the jurisdictional requirements of this Court, all together with the costs and disbursements of this action, including attorneys' fees, plus interest, and for any other relief which this Court deems just and proper.

Dated: New York, New York
September 28, 2004

BENEDICT P. MORELLI & ASSOCIATES, P.C.

By: _____

Benedict P. Morelli, Esq.
David S. Ratner, Esq.
Martha M. McBrayer, Esq.
950 Third Avenue, 11th Floor
New York, New York 10022
(212) 751-9800