

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF HENNEPIN

FOURTH JUDICIAL DISTRICT

Eva Biswas,

Plaintiff,

Court File No. _____

Judge: _____

Case Type: Employment

vs.

Target Corp.,

Defendant.

**COMPLAINT
(Jury Trial Demanded)**

Plaintiff Eva Biswas, by her attorneys, Halunen Law, brings this action for damages and other legal and equitable relief resulting from Defendant's violations of law.

Plaintiff states the following as her claims against Defendant:

PARTIES

1. Plaintiff, Eva Biswas ("Plaintiff" or "Biswas"), is an individual who resides in the City of Fridley, County of Anoka, State of Minnesota.

2. Defendant, Target Corp. ("Defendant" or "Target") is a Minnesota corporation doing substantial business in the State of Minnesota, with its principal place of business located at 1000 Nicollet Mall, Minneapolis, MN 55403.

FACTS

3. Biswas is an immigrant from Bangladesh. Biswas began working at the Fridley Target store as a Cashier on November 7, 2017. When she was hired, she was told that after 90 days of working as a Cashier, she would be eligible to seek additional training and then a promotion to management.

4. Almost immediately after she began working, Biswas noticed that Phil (last name unknown), one of her managers at Target, was constantly leering at her and staring at her breasts in an obvious and inappropriately sexual manner. To make matters worse, whenever she ran into Phil in the hallways, Phil would brush up against her and touch her breasts as she was walking. Biswas tried to avoid Phil as much as possible to avoid his harassing and unwanted behavior.

5. After Biswas reached her 90-day mark, she began to ask members of management at her store about the training and promotion opportunities she had been promised when she began her employment. However, whenever she asked Phil about these opportunities, he told her no, without providing any explanation. Biswas began to see others, who had also started around November 2017, receive promotions and wondered why she was not receiving these opportunities.

6. On April 19, 2018, Diraar Jefferson ("Jefferson"), one of the Grocery Department managers, asked Biswas why she had not been promoted yet. Biswas said she did not know, since she had asked Phil numerous times for training, which Phil had denied. Jefferson then radioed Phil over his walkie-talkie and asked him to come over. Once Phil arrived, Jefferson asked him: "Do you have any plan for [Biswas]? You should train her on the Service Desk or give her Assistant GSTL training. She's very qualified." Phil said "I don't have any plans for her," and abruptly walked away.

7. The next day, April 20, 2018, Biswas summoned the courage to ask Phil once again about potential managerial training. After she asked for a moment to talk with him, to Biswas' surprise, Phil agreed. Phil then told Assistant Managers Robin and Sheila (last names unknown) that he was going to go back to his office with Biswas to talk.

Biswas followed Phil down a dimly lit hallway to his secluded office. Once they arrived, Biswas noticed a pair of men's underwear hanging over the back of the lone chair in the office. Noticing this, Phil left his office and quickly brought in another chair for Biswas. Before she sat, Phil pulled the chair extremely close to and facing his underwear-laden chair. After getting situated, Phil rose to close and lock the door. While he was locking the door, Biswas inched her chair away from his, but as Phil walked back to his chair, he once again pushed his chair right up to and facing hers. As Phil sat down, he took his underwear off the back of his chair and shook it in Biswas' face, actually touching her face with it. Phil then sat down in his chair, sitting so close to Biswas that his knees were touching hers. At this point, Biswas was beginning to feel extremely concerned for her physical safety due to her past experiences with sexual assault and Phil's actions, and she began to cry.

8. Phil then took his walkie-talkie and put it down on his desk. He spread his legs apart, still facing Biswas with his legs touching hers, put his hand down the front of his pants, and began fondling himself underneath his pants. He then said "Why are you crying? I'm here to help you, I know you've had a hard past," all the while touching his genitals—skin to skin. As Biswas continued to cry, and while continuing to fondle himself, Phil then said "How do you expect to get a promotion if you don't do hard work? If you want a promotion, you're going to have to do some hard work for me. I'm not going to give you a promotion unless you do the hard work for it." Knowing full well that Phil meant that Biswas would have to perform sexual favors for him in order for her to receive a promotion, Biswas began to uncontrollably sob. Finally, realizing Biswas was not going to perform any sexual favors for him, Phil took his hand out of his pants. Biswas, seeing

her chance for escape, pulled her chair back and stood up. Phil stood up too and grabbed Biswas' shoulders, but Biswas managed to step back out of his grasp. Terrified of what Phil might do, Biswas mustered up the courage to say "Please, I have to go." Phil reluctantly opened the door to his office and let Biswas out.

9. Biswas continued working at Target for a few days following this incident, not telling anyone what had occurred, but as the days went by, her anxiety, panic, and trauma increased to a breaking point. On April 30, 2018, Biswas went to Andrew Erickson ("Erickson"), the General Manager of the store. Biswas then told Erickson exactly what had transpired on April 20, 2018. To Biswas' shock, Erickson acted completely unfazed and unconcerned by the disturbing information Biswas had just shared—stating nonchalantly that he would "talk" to Phil about it. Feeling that her concerns had not been adequately addressed, Biswas then went to her Assistant Manager, Robin, and began to tell her about the April 20, 2018 incident with Phil. However, in the middle of Biswas' explanation of events, Robin simply walked away.

10. Also on April 30, 2018, Biswas, feeling that her managers were doing nothing to address Phil's sexual harassment, Biswas told her co-worker Aija Sims ("Sims") about the incident on April 20, 2018 where Phil fondled himself in front of her while she was locked in his office.

11. Shortly thereafter, Sims observed Biswas report the incident with Phil to Jefferson in the break room. Jefferson had a furrowed brow and appeared very worried. Upon information and belief, Jefferson and Phil are close friends. Shortly after Biswas reported the incident with Phil to Jefferson, Sims observed Erickson, Jefferson, Robin and Phil have a private meeting in a private room that lasted approximately 10 to 15

minutes. Sims presumed this meeting was about Biswas' report of Phil's sexual harassment.

12. On May 1, 2018, Biswas came to work, and was immediately cornered by Robin. Robin asked Biswas if she had told anyone else about the incident with Phil, because Erickson wanted to know and was giving Robin direction to make sure that Biswas kept it to herself. Later that day, Erickson confronted Biswas while she was working at the self check-out and stated, "Don't tell anyone else about what happened. You misunderstood Phil, he was only folding his clothes." Now Biswas truly knew that her complaint of sexual harassment would be swept under the rug.

13. On May 2, 2018, when Biswas showed up for her shift, Phil glared intensely at her as she walked by. Beginning to panic, Biswas had an anxiety attack, which paralyzed her with fear and dread. One of her co-workers helped her sit, and then went to get Jenna (last name unknown), the Soft Line Department Manager. Jenna proceeded to take Biswas to a private office. Once in the office, Biswas told Jenna what Phil had done on April 20, 2018. Jenna said she had already heard about the incident from Erickson, and that Biswas had simply misunderstood what Phil did. Jenna said "Phil just wanted to help you. You don't understand American culture because you're from a different country. Phil is still your boss, so you need to talk to him directly about what happened. I'll call Phil in here so the two of you can talk." Biswas, at this point in tears, told Jenna that she had been raped in the past, and was fully capable of understanding what appropriate conduct was and what was not. Biswas said she didn't want to speak to Phil. When Biswas left the office, she saw Phil standing right outside the office, and he again glared at her as she walked past. Immediately following this conversation with

Jenna, Biswas told Sims that she was upset that numerous members of management had told her to keep quiet and not tell anyone about what Phil had done. Sims ultimately quit her job at Target because she was unhappy that management had swept Phil's inappropriate behavior under the rug.

14. That night, after her shift, Biswas called the Fridley Police Department and submitted a police report regarding the incident on April 20, 2018. After the police officer left her house, Biswas broke down. She felt intense despair that the United States was no different than Bangladesh and that both Target and law enforcement would do nothing. Biswas suddenly realized that life for women in the United States was still subject to intense male sexual violence, harassment, and misogyny, and began to feel that if she couldn't escape sexual violence in the United States, there was no hope for her anywhere in the world. At this moment, intense hopelessness and suicidal ideation took hold.

15. On May 3, 2018, still feeling hopeless and suicidal, Biswas called Target and informed Jefferson that she would be out sick that day. Not knowing what else to do, Biswas went to see her psychiatrist and reported the hopelessness and suicidal thoughts she was experiencing. Biswas' psychiatrist, realizing the gravity of the situation, had Biswas escorted to the emergency room at Unity Hospital. After evaluating her, the physician determined that Biswas needed to be hospitalized at St. Joseph's Hospital for suicidal ideation and posing a danger to herself. While at St. Joseph's, Biswas' phone was taken away, but her friend called Target's corporate line and informed a Human Resources representative that Biswas would be hospitalized and would not be reporting to work until further notice.

16. Biswas was released from the hospital on May 9, 2018, and called the Fridley store and spoke with Samone Condon ("Condon"). Biswas asked for time off from work due to her medical condition, and Condon approved her requested medical leave. Biswas remains on medical leave from Target, at her medical providers' instructions, due to the extreme emotional distress she has experienced as a result of her supervisor's sexual harassment. As a result of Target's complete failure to address this situation, she has been constructively discharged.

CAUSES OF ACTION

COUNT I

Sex Discrimination in Violation of the Minnesota Human Rights Act, Minn. Stat. § 363A.08

22. By reference hereto, Plaintiff incorporates the foregoing paragraphs.

23. At all times relevant to this lawsuit, Biswas was an "employee" as defined in Minn. Stat. § 363A.03, subd. 15 and Defendant was an "employer" as defined in Minn. Stat. § 363A.03, subd. 16.

24. Minn. Stat. § 363A.08 provides that it is an unlawful employment practice for an employer, because of sex, to discharge an employee; or discriminate against a person with respect to compensation, terms, conditions, or privileges of employment. "[F]or purposes of discrimination based on sex, [discrimination] includes sexual harassment." Minn. Stat. § 363A.03, subd. 13. "'Sexual harassment' includes unwelcome sexual advances, requests for sexual favors, sexually motivated physical contact or other verbal or physical conduct or communication of a sexual nature when: (1) submission to that conduct or communication is made a term or condition, either explicitly or implicitly, of employment; (2) submission to or rejection of that conduct or

communication by an individual is used as a factor in decisions affecting that individual's employment; or (3) that conduct or communication has the purpose or effect of substantially interfering with an individual's employment ... or creating an intimidating, hostile, or offensive employment ... environment. Id. at subd. 43.

26. Defendant's conduct constitutes a violation of Minn. Stat. § 363A.08.

27. As a direct and proximate result of Defendant's conduct, Plaintiff has suffered and continues to suffer loss of income and benefits, emotional distress, and other damages in an amount in excess of \$50,000.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Eva Biswas prays for judgment against Defendant Target, and for the following relief:

- a. For all available compensatory damages including loss of past and future income, emotional distress, loss of reputation and related damages in an amount in excess of \$50,000.00;
- b. For all relief available for Defendant Target's violations of Minn. Stat. § 363A.01, *et seq.*;
- c. For an award of costs and attorneys' fees; and,
- d. For such other and further relief as the Court deems just and equitable.

Dated: September 12, 2018

HALUNEN LAW/s/ Emma R. Denny

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MINN. STAT. § 549.211, SUBD. 2**

The undersigned hereby acknowledges that, pursuant to Minn. Stat. § 549.211, subd. 2, costs, disbursements and reasonable attorney and witness fees may be awarded to the opposing party or parties in this litigation if the Court should find the undersigned acted in bad faith, asserted a claim or defense that is frivolous and that is costly to the other party, asserted an unfounded position solely to delay the ordinary course of the proceedings or to harass, or committed a fraud upon the Court.

Dated: September 12, 2018

HALUNEN LAW/s/ Emma R. Denny

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