

APR 25 2002

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

Michael N. Milby, Clerk of Court

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,

Plaintiff,

v.

BAY, LTD.,

Defendant.

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C - 02 - 175

CIVIL ACTION NO. _____

**COMPLAINT AND
JURY TRIAL DEMAND**

NATURE OF THE ACTION

This is an action under Title VII of the Civil Rights Act of 1964, as amended, and Title I of the Civil Rights Act of 1991, to correct unlawful employment practices on the basis of national origin, Hispanic. This action is also being brought to provide appropriate relief to Gerardo Garza and other similarly situated individuals who were adversely affected by such practices. The Commission alleges that Gerardo Garza, a Hispanic, and other similarly situated individuals, Hispanic, were subjected to a hostile work environment by one of Bay, Ltd.'s supervisors on the basis of their national origin, Hispanic, in violation of Section 703(a) of Title VII. The Commission contends that Defendant Bay's workplace is consumed by remarks and conduct that intimidate, ridicule, and maliciously demean the status of Hispanic workers and adversely affect Hispanics' employment opportunities. More specifically, the Commission alleges that Defendant, through its managerial agent, harasses Hispanic employees by repeatedly calling them crude and derogatory names associated with their national origin. The repeated and accumulated effects of the incidents of humiliation and derogatory comments are severe and pervasive and create an abusive work environment on the basis of national origin, Hispanic.

JURISDICTION AND VENUE

1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 451, 1331, 1337, 1343 and 1345. This action is authorized and instituted pursuant to Sections 706(f)(1) and (3) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e-5(f)(1) and (3) ("Title VII") and Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981.

2. The employment practices alleged to be unlawful were and are now being committed within the jurisdiction of the United States District Court for the Southern District of Texas, Corpus Christi Division.

PARTIES

3. Plaintiff, the Equal Employment Opportunity Commission (the "Commission"), is the agency of the United States of America charged with the administration, interpretation and enforcement of Title VII, and is expressly authorized to bring this action by Sections 706(f)(1) and (3) of Title VII, 42 U.S.C. § 2000e-5(f)(1) and (3).

4. Since at least July 2000, Defendant, Bay, Ltd. ("Bay"), has continuously been a Texas corporation doing business in the State of Texas and the City of Corpus Christi, and has continuously had at least 15 employees.

5. Since at least July 2000, Defendant Bay, Ltd. has continuously been an employer engaged in an industry affecting commerce within the meaning of Sections 701(b), (g) and (h) of Title VII, 42 U.S.C. §§ 2000e(b), (g) and (h).

STATEMENT OF CLAIMS

6. More than thirty days prior to the institution of this lawsuit, Gerardo Garza filed a charge with the Commission alleging violations of Title VII by Defendant Bay, Ltd. All conditions precedent to the institution of this lawsuit have been fulfilled.

7. Since at least July 2000, Defendant Bay, Ltd. has engaged in unlawful employment practices at its Corpus Christi, Texas, facility, in violation of Section 703(a) of Title VII, 42 U.S.C. § 2000e-2(a). These unlawful employment practices include subjecting Gerardo Garza and other similarly situated Hispanic individuals to a discriminatory hostile work environment based on national origin, Hispanic. More specifically, during the course of their employment, Gerardo Garza and other similarly situated Hispanic individuals were subjected to harassment in the form of derogatory slurs by one Defendant Bay's supervisors.

8. The effect of the practices complained of in paragraph seven (7) above has been to deprive Gerardo Garza and other similarly situated Hispanic individuals of equal employment opportunities and otherwise adversely affect their status as employees because of their national origin, Hispanic.

9. The unlawful employment practices complained of in paragraph seven (7) above were intentional.

10. The unlawful employment practices complained of in paragraph seven (7) above were done with malice or with reckless indifference to the federally protected rights of Gerardo Garza and other similarly situated Hispanic individuals.

PRAYER FOR RELIEF

Wherefore, the Commission respectfully requests that this Court:

A. Grant a permanent injunction enjoining Defendant Bay, Ltd., its officers, successors, assigns, and all persons in active concert or participation with it. from engaging in any employment practice which discriminates on the basis of national origin.

B. Order Defendant Bay, Ltd. to institute and carry out policies, practices, and programs

which provide equal employment opportunities for all persons of all national origins, and which eradicate the effects of its past and present unlawful employment practices.

C. Order Defendant Bay, Ltd. to make whole Gerardo Garza and other similarly situated Hispanic individuals, who were adversely affected by the unlawful employment practices described in paragraph seven (7) above, by providing appropriate affirmative relief necessary to eradicate the effects of its unlawful employment practices.

D. Order Defendant Bay, Ltd., to make whole Gerardo Garza and other similarly situated Hispanic individuals, by providing compensation for past and future pecuniary losses resulting from the unlawful employment practices described in paragraph seven (7) above, including, but not limited to, job search expenses, in amounts to be determined at trial.

E. Order Defendant Bay, Ltd., to make whole Gerardo Garza and other similarly situated Hispanic individuals, by providing compensation for past and future non-pecuniary losses resulting from the unlawful practices complained of in paragraph seven (7) above, including, but not limited to, emotional pain, suffering, loss of enjoyment of life, and humiliation, in amounts to be determined at trial.

F. Order Defendant Bay, Ltd., to pay Gerardo Garza and other similarly situated Hispanic individuals punitive damages for its malicious and reckless conduct described in paragraphs seven (7) through ten (10) above, in amounts to be determined at trial.

G. Grant such further relief as the Court deems necessary and proper in the public interest.

H. Award the Commission its costs of this action.

JURY TRIAL DEMAND

G. Grant such further relief as the Court deems necessary and proper in the public interest.

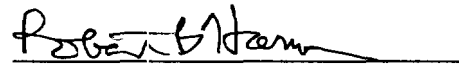
H. Award the Commission its costs of this action.

JURY TRIAL DEMAND

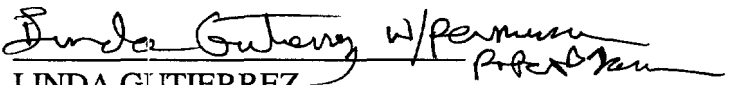
The Commission requests a jury trial on all questions of fact raised by its complaint.

Respectfully Submitted,

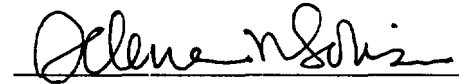
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