

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK**

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<b>EQUAL EMPLOYMENT OPPORTUNITY</b>	:	<b>Civil Action No.</b>
<b>COMMISSION,</b>	:	
	:	<b><u>COMPLAINT</u></b>
<b>Plaintiff</b>	:	<b><u>JURY TRIAL DEMAND</u></b>
	:	
<b>v.</b>	:	
	:	
<b>HIGHLAND HOSPITAL OF</b>	:	
<b>ROCHESTER, INC.,</b>	:	
<b>STRONG HEALTH MCO IPA INC.,</b>	:	
<b>STRONG HEALTH MCO, LLC, &amp;</b>	:	
<b>STRONG PARTNERS HEALTH SYSTEM, INC.:</b>	:	
	:	
<b>Defendants.</b>	:	
	:	
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**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 and to provide appropriate relief to Julio Brito, Jorge Cruz, Claudina Chavez, Maria Lugo, Janette Nunez and a class of similarly situated Hispanic employees adversely affected by such practices (collectively, “the Claimants”). As alleged with greater particularity in paragraph eight (8) below, Defendants Highland Hospital of Rochester, Inc. (“Highland Hospital”), Strong Health MCO IPA, Inc., Strong Health MCO, LLC and Strong Partners Health System, Inc. (the “Strong Health Defendants”) (collectively the “Defendants”) engaged in a pattern or practice of discrimination against the Claimants by maintaining an English-only/No-Spanish rule and otherwise discriminating against them in regard to their terms, conditions or privileges of employment, all in violation of Title VII.

### **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) and Section 707 of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §§ 2000e-5(f)(1) and (3) and § 2000e-6 ("Title VII"), and pursuant to Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981a.

2. The unlawful employment practices alleged below were committed within the jurisdiction of the United States District Court for the Western District of New York.

### **PARTIES**

3. Plaintiff, Equal Employment Opportunity Commission (hereinafter "EEOC" or "the Commission"), is an 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) and Section 707 of Title VII, 42 U.S.C. §§ 2000e-5(f)(1) and (3) and § 2000e-6.

4. Defendants have been doing business in the State of New York at all relevant times.

5. Defendant Highland Hospital, at all relevant times, has had at least fifteen employees. The Strong Health Defendants, at all relevant times, have collectively had at least fifteen employees.

6. At all relevant times, Defendants have each 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**

7. More than thirty days prior to the institution of this lawsuit, Julio Brito, Jorge Cruz, Claudina Chavez, Maria Lugo and Janette Nunez filed charges with the Commission alleging violations of Title VII by Defendants. All conditions precedent to the institution of this lawsuit have been fulfilled.

8. Since at least February, 2003, Defendants have engaged in unlawful employment practices in violation of Section 703(a) of Title VII, 42 U.S.C. § 2000e. These practices include, but are not limited to, the following:

- a) Defendants instituted an unlawful English-only/No-Spanish Rule in the Environmental Services Department (“ESD”) of Highland Hospital.
- b) Defendants’ management repeatedly instructed employees, including but not limited to the Claimants, not to speak in Spanish, and to only speak in English, in the ESD. Additionally, Defendants formally disciplined at least five Hispanic employees, in writing, for speaking in Spanish.
- c) Defendants’ enforcement of the English-only/No-Spanish Rule constitutes disparate treatment of Hispanic employees.
- d) Defendants permitted employees in other areas of Highland Hospital to speak in languages other than English and Spanish.
- e) Defendants’ English-only/No-Spanish Rule was not justified by business necessity and had an adverse disparate impact on Hispanic employees.

9. The effect of the practices complained of above has been to deprive the Claimants of equal employment opportunities and otherwise adversely affect their status as employees because of their national origin, Hispanic.

10. The unlawful employment practices complained of above were intentional.

11. At all relevant times, Defendants have acted with malice or reckless indifference to the federally protected rights of the Claimants.

**PRAYER FOR RELIEF**

Wherefore, the Commission respectfully requests that this Court:

A. Grant a permanent injunction enjoining Defendants, their officers, successors, assigns and all persons in active concert or participation with them, from engaging in any employment practices that discriminate on the basis of national origin;

B. Order Defendants to institute and carry out policies, practices and programs that provide equal employment opportunities for all employees, regardless of national origin, and that eradicate the effects of Defendants' past and present unlawful employment practices;

C. Order Defendants to make whole all those individuals affected by the unlawful employment practices described above, by providing compensation for past and future pecuniary losses in amounts to be determined at trial;

D. Order Defendants to make whole all those individuals affected by the unlawful employment practices described above, by providing compensation for non-pecuniary losses, including pain, suffering and humiliation, in amounts to be determined at trial;

E. Order Defendants to provide punitive damages for its malicious and/or reckless conduct, in amounts to be determined at trial;

- F. Grant such further relief as the Court deems necessary and proper;
- G. Award the Commission its costs in this action.

**JURY TRIAL DEMAND**

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

Dated: New York, New York  
July 12, 2005

Respectfully submitted,

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