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IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

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EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,

Plaintiff,

ANTOINE LEVEQUE, WISLIN DAMAS, MARIE SEMERVIL,
ISLANDE REGIS, ANNE MARIE JOSEPH, GEORGES
JEAN-DENIS, MICHELINE DUBOIS, EUGENIE BELSINCE,
CHARLEUS AGATHE, ERILIA FRANCOIS, EXAMENE
DORVILUS, and ANTONIA BENJAMIN,

Plaintiffs/Intervenors

vs.

SUN RICH OF IMMOKALEE, INC., f/k/a SUN RICH
OF FLORIDA CITY, FLORIDA,

Defendant.

CIVIL ACTION
NO: 00-CIV-264-FTM-21D
Jury Trial Demanded
INJUNCTIVE RELIEF
REQUESTED

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U.S. DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS, FLORIDA

COMPLAINT IN INTERVENTION

I. PRELIMINARY STATEMENT

1. This Complaint in Intervention follows an action filed by the United States Equal Employment Opportunity Commission against Sun Rich of Immokalee, Inc., f/k/a Sun Rich of Florida City, Florida to enforce the provisions of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §2000e, et seq. and 42 U.S.C. §1981. Plaintiffs/Intervenors, Charleus

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Agathe, Eugenie Belsince, Antonia Benjamin, Examene Dorvilus, Micheline Dubois, Erilia Francois, Georges Jean-Denis, Annie Marie Joseph, Antonine Leveque, Islande Regis, Marie A. Semervil, and Wislin Damas, are Black Haitian farmworkers who were employed as tomato packers by Sun Rich of Immokalee, Inc. (hereinafter Sun Rich). Defendant Sun Rich, is a Florida corporation, which packs and ships agricultural commodities for sale in interstate commerce.

2. Plaintiffs/Intervenors were employed by Defendant Sun Rich during the Spring packing season of 1999. On or about the beginning of the packing season, there was a temporary work stoppage due to lack of ripe tomatoes available for harvest. Plaintiffs/Intervenors had a reasonable expectation of being called back to work once the harvest operation resumed. Plaintiffs/Intervenors were not called back to work following the work stoppage. However, Defendant Sun Rich called back Hispanic workers. Despite Plaintiffs/Intervenors numerous and repeated attempts to come back to work, Defendant Sun Rich refused to rehire its Black Haitian workers and chose to replace them with new Hispanic workers.

3. Plaintiffs/Intervenors filed a timely charge of discrimination with the United States Equal Employment Opportunity Commission (EEOC). As a result of its investigation, the EEOC issued a determination finding that there was reasonable cause that the Defendant Sun Rich discriminated against Plaintiffs/Intervenors in violation of their rights under Title VII of the Civil Rights Act based on their race, Black and National Origin, Haitian. The EEOC filed this action to enforce the provisions of Title VII. Plaintiffs/Intervenors have exhausted their

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administrative remedies. As aggrieved parties, Plaintiffs/Intervenors, Charleus Agathe, Eugenie Belsince, Antonia Benjamin, Examene Dorvilus, Micheline Dubois, Erilia Francois, Georges Jean-Denis, Annie Marie Joseph, Antonine Leveque, Islande Regis, Marie A. Semervil, and Wislin Damas, have a statutory right to intervene in this action in order to protect their interests. Defendant Sun Rich's actions violated Plaintiffs/Intervenors' rights under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §2000e, et seq. and 42 U.S.C. §1981.

II. JURISDICTION AND VENUE

4. This cause arises under the laws of the United States, in particular 42 U.S.C. §2000, et seq. and 42 U.S.C. §1981.

5. Jurisdiction of these claims is conferred upon this Court by 42 U.S.C. §2000e-5(f)(3), 28 U.S.C. §1331 and 28 U.S.C. §1345.

6. Venue is proper in this Court under 28 U.S.C. §1391(b) and (c) because the claims arose in this judicial district.

III. PARTIES

7. Plaintiffs/Intervenors Charleus Agathe, Eugenie Belsince, Antonia Benjamin, Examene Dorvilus, Micheline Dubois, Erilia Francois, Georges Jean-Denis, Annie Marie Joseph, Antonine Leveque, Islande Regis, Marie A. Semervil, and Wislin Damas, are Black Haitian farmworkers who were employed by Defendant Sun Rich as tomato packers. Plaintiffs/Intervenors resided in Collier County, Florida at all times relevant to this case.

8. Plaintiffs/Intervenors and Plaintiff the United States Equal Employment Opportunity Commission (hereinafter EEOC) are authorized to bring suit to enforce the provisions of Title

VII of the United States Civil Rights Act of 1964, as amended, 42 U.S.C. §2000e, et seq.

9. Defendant Sun Rich is a Florida corporation which packs and ships agricultural commodities for sale in interstate commerce.

10. Defendant Sun Rich is a person within the meaning of 42 U.S.C. §2000e(a) and an employer within the meaning of 42 U.S.C. 2000e(b).

11. At all times relevant to this action, the Defendant Sun Rich has been an employer engaged in industry affecting commerce within the meaning of §701(b), (g), and (h) of Title VII, 42 U.S.C. §2000e(b), (g), and (h).

IV. STATEMENT OF THE CLAIMS

12. Plaintiffs/Intervenors filed charges with the EEOC alleging violations of Title VII by Defendant Sun Rich on or about December 15, 1999. All conditions precedent to the institution of this lawsuit have been fulfilled.

13. Since at least March, 1999, Defendant Sun Rich has engaged in unlawful employment practices at its Immokalee worksite in violation of §703(h) of Title VII, 42 U.S.C. 2000e-2(a). Defendant failed to hire or rehire Plaintiffs/Intervenors for the positions of tomato packers due to their race, Black and National Origin, Haitian.

14. Defendant Sun Rich rehired Hispanic workers and hired new Hispanic workers for the positions of tomato packers.

15. The effect of the practices complained of in Paragraphs 13 and 14 has been to deprive Plaintiffs/Intervenors of their federally protected rights to be free from discrimination in the work place based on their race, Black and their National Origin, Haitian.

16. The unlawful employment practices described of in Paragraphs 13 and 14 were intentional.

17. The unlawful employment practices described of in Paragraphs 13 and 14 were done with malice or with reckless indifference to the federally protected rights of Plaintiffs/Intervenors.

V. CLAIMS FOR RELIEF

COUNT I

Violation of Title VII of the Civil Rights Act of 1964

42 U.S.C. §2000e et seq.

18. Plaintiffs/Intervenors reallege and incorporate by reference the allegations set forth in paragraph 1 through 17.

19. During Plaintiffs/Intervenors' employment at Defendant Sun Rich of Immokalee, they were discriminated against on the basis of their race and/or national origin.

20. The discrimination affected a term, condition or privilege of the Plaintiffs/Intervenors' employment and was a violation of their rights under Title VII.

21. Defendant Sun Rich of Immokalee's discrimination was with malice or reckless disregard for the Plaintiffs/Intervenors' federally protected rights under Title VII.

22. As a result of the discrimination, the Plaintiffs/Intervenors suffered damages.

COUNT II

Violation of 42 U.S.C. §1981

23. Plaintiffs/Intervenors reallege and incorporate by reference the allegations set forth in paragraphs 1 through 17.

24. Defendant Sun Rich, knowingly and willfully discriminated against Plaintiffs/Intervenors by interfering with Plaintiffs'/Intervenors' employment on the basis of their race, with the intent or effect of depriving Plaintiffs/Intervenors of their right to contract for employment.

25. Defendant Sun Rich violated Plaintiffs'/Intervenors' rights under 42 U.S.C. Sec. 1981.

26. As a result of Defendant Sun Rich's actions, Plaintiffs/Intervenors suffered damages.

VI. PRAYER FOR RELIEF

WHEREFORE, Plaintiffs/Intervenors pray this Court will:

a) issue a declaratory judgment that Defendant Sun Rich's practices toward the Plaintiffs/Intervenors violated their rights under Title VII of the Civil Rights Act, as amended, 42 U.S.C. §2000e, et seq.

b) issue a declaratory judgment that Defendant Sun Rich's failure to hire or rehire the Plaintiffs/Intervenors violated their rights under 42 U.S.C. §1981;

c) enjoin Defendant Sun Rich from continuing or maintaining a policy or practice of discriminating against employees on the basis of their race and/or national origin;

d) enter a judgment for the Plaintiffs/Intervenors and against Defendant Sun Rich for compensatory damages, punitive damages, back pay, front pay, and lost benefits;

e) order Defendant Sun Rich to pay Plaintiffs/Intervenors' costs and Plaintiffs/Intervenors' attorneys fees¹;

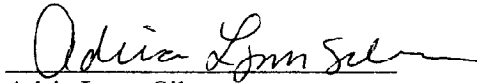
f) grant such other relief as is just; and

¹Attorneys fees sought for the work by attorneys employed by Law Office of Frederick C. Kramer only and not for the work of any attorney employed by Florida Rural Legal Services.

g) retain jurisdiction until the Defendant Sun Rich of Immokalee complies with this order.

Jury Trial Demanded

Respectfully submitted,



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