

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

03-4990-1

-----X  
EQUAL EMPLOYMENT OPPORTUNITY  
COMMISSION,

Plaintiff,

v.

FIRST WIRELESS GROUP, INC.,

Defendant.  
-----X

Civil Action No.

COMPLAINT

JURY TRIAL DEMAND

2003 SEP 30 P 11:41  
FILED  
U.S. DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

FILED

SEYBERT, J.  
LINDSAY, M.J.

NATURE OF THE ACTION

This is an action under Title VII of the Civil Rights Act of 1964 and Title I of the Civil Rights Act of 1991 to correct unlawful employment practices on the basis of race and/or national origin and to provide appropriate relief to Rosa Garcia, Dilber Jimenez, Adriana Torres, Zorayda Salcedo, Wervin Julian Garcia, Nora Lucia-Sosa, Estela del Carmen Barahona, Sonia Borrero, Luz Adela Torres, Jhon Sanchez, Milton Misnaza, Olga Morales, Oscar Morales, Natalia Naranjo, Rocio Rodriguez, Erika Romero, Luz Trejo, Sonia Uribe, Jorge Valencia, Ruth Vidal, Maria Zamora and a class of similarly situated Hispanic employees adversely affected by such practices. Plaintiff, the U.S. Equal Employment Opportunity Commission ("Commission"), contends that Defendant, First Wireless Group, Inc.. ("First Wireless"), has engaged in a pattern or practice of discrimination against the above named individuals, all Hispanic, and other similarly situated Hispanics who were or are employed at First Wireless, by compensating them at lower wages and subjecting them to unequal terms, conditions and privileges of employment than similarly situated Asian employees performing the same or substantially similar work, all in continuing violation of Title VII. The Commission further contends that Defendant First Wireless retaliated against and terminated or

constructively discharged the above listed individuals and a class of similarly situated Hispanic employees for complaining about the wage disparity, a protected activity under 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 et seq. ("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 and are now being committed within, but not limited to, the jurisdiction of the United States District Court for the Eastern District of New York.

**PARTIES**

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

4. At all relevant times, First Wireless has continuously been doing business in the State of New York and the county of Suffolk, and has continuously had at least fifteen employees.

5. At all relevant times, First Wireless 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, Rosa Garcia, Dilber Jimenez, Adriana Torres, Zorayda Salcedo, Wervin Julian Garcia, Nora Lucia-Sosa, Estela del

Carmen Barahona, Sonia Borrero, Luz Adela Torres, Jhon Sanchez, Milton Misnaza, Olga Morales, Oscar Morales, Natalia Naranjo, Rocio Rodriguez, Erika Romero, Luz Trejo, Sonia Uribe, Jorge Valencia, Ruth Vidal, and Maria Zamora filed charges with the Commission alleging violations of Title VII by First Wireless. All conditions precedent to the institution of this lawsuit have been fulfilled.

7. Since at least 2000, First Wireless has engaged in a pattern or practice of unlawful employment practices at its Ronkonkoma, New York facility in violation of Sections 703, 704 and 707 of Title VII, 42 U.S.C. §§2000e-2(a), 3(a) and 6. These practices include:

- a) engaging in a pattern or practice of intentional discrimination against Rosa Garcia, Dilber Jimenez, Adriana Torres, Zorayda Salcedo, Wervin Julian Garcia, Nora Lucia-Sosa, Estela del Carmen Barahona, Sonia Borrero, Luz Adela Torres, Jhon Sanchez, Milton Misnaza, Olga Morales, Oscar Morales, Natalia Naranjo, Rocio Rodriguez, Erika Romero, Luz Trejo, Sonia Uribe, Jorge Valencia, Ruth Vidal, Maria Zamora and a class of similarly situated Hispanic employees by compensating them less than similarly situated Asian employees performing the same or substantially similar work,
- b) engaging in a pattern or practice of intentional discrimination against Rosa Garcia, Dilber Jimenez, Adriana Torres, Zorayda Salcedo, Wervin Julian Garcia, Nora Lucia-Sosa, Estela del Carmen Barahona, Sonia Borrero, Luz Adela Torres, Jhon Sanchez, Milton Misnaza, Olga Morales, Oscar Morales, Natalia Naranjo, Rocio Rodriguez, Erika Romero, Luz Trejo, Sonia Uribe, Jorge Valencia, Ruth Vidal, Maria Zamora and a class of similarly situated Hispanic employees by treating them unequally in regard to terms, conditions or privileges of employment than similarly situated Asian

employees performing the same or substantially similar work, including giving Asian workers easier work to perform and allowing them special privileges; and

- c) by engaging in a pattern or practice of retaliation, including but not limited to:
- (1) terminating shift manager Dilber Jimenez in April 2001 for complaining to Defendant about the wage disparity;
  - (2) terminating Rosa Garcia and Adrianna Torres in April 2001 for circulating a petition among Hispanic workers which protested the wage disparity;
  - (3) pressuring employees to recant their signature on the above referenced petition, intimidation, removal of privileges previously enjoyed, banning the speaking of Spanish and terminating or constructively discharging Zorayda Salcedo, Wervin Julian Garcia, Nora Lucia-Sosa, Estela del Carmen Barahona, Sonia Borrero, Luz Adela Torres, Jhon Sanchez, Milton Misnaza, Olga Morales, Oscar Morales, Natalia Naranjo, Rocio Rodriguez, Erika Romero, Luz Trejo, Sonia Uribe, Jorge Valencia, Ruth Vidal, Maria Zamora and a class of similarly situated Hispanic employees in February 2002 for engaging in the protected activity of protesting a discriminatory wage disparity,

all in continuing violation of Sections 703(a) and 704(a) of Title VII, 42 U.S.C. §§ 2000e-2(a) and 3(a).

8. The effect of the practices complained of in Paragraph 7 above has been to deprive Rosa Garcia, Dilber Jimenez, Adriana Torres, Zorayda Salcedo, Wervin Julian Garcia, Nora Lucia-Sosa, Estela del Carmen Barahona, Sonia Borrero, Luz Adela Torres, Jhon Sanchez, Milton Misnaza, Olga Morales, Oscar Morales, Natalia Naranjo, Rocio Rodriguez, Erika Romero, Luz Trejo, Sonia Uribe, Jorge Valencia, Ruth Vidal, Maria Zamora and a class of similarly situated

Hispanic individuals of equal employment opportunities and otherwise adversely affecting their status as employees on the basis of race and/or national origin and retaliation.

9. The unlawful employment practices complained of in Paragraphs 7 and 8 above were and are intentional.

10. The unlawful employment practices complained of above were and are done with malice and/or reckless indifference to the federally protected rights of Rosa Garcia, Dilber Jimenez, Adriana Torres, Zorayda Salcedo, Wervin Julian Garcia, Nora Lucia-Sosa, Estela del Carmen Barahona, Sonia Borrero, Luz Adela Torres, Jhon Sanchez, Milton Misnaza, Olga Morales, Oscar Morales, Natalia Naranjo, Rocio Rodriguez, Erika Romero, Luz Trejo, Sonia Uribe, Jorge Valencia, Ruth Vidal, Maria Zamora and a class of similarly situated Hispanic employees.

**PRAYER FOR RELIEF**

Wherefore, the Commission respectfully requests that this Court:

A. Grant a permanent injunction enjoining Defendant, First Wireless, its officers, successors, assigns and all persons in active concert or participation with it, from engaging in any employment practices, which discriminate on the basis of race and/or national origin and retaliation;

B. Order Defendant, First Wireless, to institute and carry out policies, practices and programs which eradicate the effects of its past and present unlawful employment practices;

C. Order Defendant, First Wireless, to make whole all those individuals affected by the unlawful employment practices described above, by providing appropriate backpay with prejudgment interest and frontpay, in amounts to be determined at trial, and other affirmative relief necessary to eradicate the effects of Defendant's unlawful employment practices, including, but not limited to reinstatement;

D. Order Defendant, First Wireless, 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;

E. Order Defendant, First Wireless, to make whole all those individuals adversely affected by the unlawful employment practices described above by providing compensation for non-pecuniary losses, including emotional pain, suffering, loss of enjoyment of life and humiliation in amounts to be determined at trial;

F. Order Defendant, First Wireless, to pay all those individuals adversely affected by the unlawful employment practices described above punitive damages for its malicious and/or reckless conduct in amounts to be determined at trial;

G. Grant such further relief as the Court deems necessary and proper; and

H. 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  
September 30, 2003

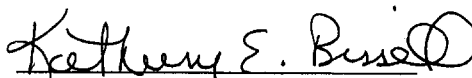
Respectfully submitted,

Eric S. Dreiband  
General Counsel

James L. Lee  
Deputy General Counsel

Gwendolyn Y. Reams  
Associate General Counsel

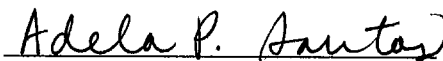
EQUAL EMPLOYMENT OPPORTUNITY  
COMMISSION  
1801 "L" Street, N.W.  
Washington, D.C. 20507



Katherine Bissell (KB-1831)  
Regional Attorney



Elizabeth Grossman (EG-2478)  
Supervisory Trial Attorney



Adela P. Santos (AS-4429)  
Senior Trial Attorney

Michelle A. Caiola (MC-2110)  
Senior Trial Attorney

New York District Office  
33 Whitehall Street, 5<sup>th</sup> Floor  
New York, NY 10004-2112  
(212) 336-3702