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JUN 15 2004

AT SEATTLE
CLERK U.S. DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON DEPUTY

HONORABLE MARSHA PECHMAN

BY

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8 UNITED STATES DISTRICT COURT
9 FOR THE WESTERN DISTRICT OF WASHINGTON AT SEATTLE

10 EQUAL EMPLOYMENT OPPORTUNITY)
11 COMMISSION,)

11 Plaintiff,)

12 v.)

CASE NO. CV03-2768P

13 ELDORADO STONE, LLC, and ELDORADO)
14 STONE OPERATIONS, LLC,)

14 Defendant,)

FIRST AMENDED COMPLAINT
JURY TRIAL DEMAND

15 and)
16)

17 MARIA CHAVEZ; KAREN HUNT; ANDREA)
18 WEBER; EVA CORTEZ; GREG JOHNSON;)
and BRADY PROUTY,)

19 Plaintiff-Intervenors,)

20 v.)

03-CV-02768-ORD

21 ELDORADO STONE, LLC; ELDORADO)
22 STONE OPERATIONS, LLC; TIMOTHY)
23 O'DELL; and ELMER RODRIGUEZ,)

23 Defendants.)
24)
25)

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1 NATURE OF THE ACTION

2 This is an action under Title VII of the Civil Rights Act of 1964 and Title I of the Civil
3 Rights Act of 1991 to correct unlawful employment practices and to provide appropriate relief to
4 Abigay Fulgencio Belmonte (a.k.a. Maria C. Chavez), Eva Cortez, Andrea Weber, Greg Johnson,
5 Brady Prouty and Karen Hunt ("Plaintiff-Intervenors"). The Equal Employment Opportunity
6 Commission alleges that defendant sexually harassed Ms. Chavez and Ms. Hunt, and retaliated
7 against Ms. Cortez, Ms. Weber, Mr. Johnson and Mr. Prouty when they opposed discrimination
8 against Ms. Chavez and Ms. Hunt. Defendant also failed to take prompt corrective action to
9 remedy the harassment, thus forcing Ms. Hunt to constructively discharge from her job. Plaintiff
10 seeks monetary relief including pecuniary and nonpecuniary compensatory and punitive damages
11 and injunctive relief on behalf of these Plaintiff-Intervenors who are or were employed by
12 defendant and who experienced sexual harassment, retaliation and/or constructive discharge.

13 JURISDICTION AND VENUE

14 1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 451, 1331, 1337,
15 1343 and 1345. This action is authorized and instituted pursuant to Sections 706(f)(1) and (3) of
16 Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e *et seq.* ("Title VII") and
17 Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981a.

18 2. The employment practices alleged to be unlawful were committed within the
19 jurisdiction of the United States District Court for the Western District of Washington.

20 PARTIES

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

25 4. At all relevant times, defendant, Eldorado Stone, LLC and Eldorado Stone

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1 Operations, LLC, have constituted a "single employer" for purposes of liability for unlawful
2 employment practices under Title VII 42 U.S.C. §§ *et. seq.* At all relevant times, defendants
3 Eldorado Stone, LLC and Eldorado Stone Operations, LLC, have had an integrated economic
4 relationship, and have exercised common control over employment practices. The defendants
5 shall hereafter be jointly referred to as "defendant Eldorado Stone." Defendant Eldorado Stone
6 has continuously been a corporation doing business in the State of Washington and has
7 continuously had at least 15 employees.

8 5. At all relevant times, defendant Eldorado Stone has continuously been an
9 employer engaged in an industry affecting commerce within the meaning of Sections 701(b), (g)
10 and (h) of Title VII, 42 U.S.C. §§ 2000e-(b), (g) and (h).

11 STATEMENT OF CLAIMS

12 6. More than thirty days prior to the institution of this lawsuit, Ms. Chavez, Ms.
13 Hunt, Ms. Weber, Ms. Cortez, Mr. Johnson and Mr. Prouty each filed a charge of discrimination
14 with the Equal Employment Opportunity Commission alleging violations of Title VII by
15 Eldorado Stone. All conditions precedent to the institution of this lawsuit have been fulfilled.

16 7. Since at least January 14, 2002, defendant Eldorado Stone engaged in unlawful
17 employment practices at its Carnation, Washington facility in violation of Sections 703(a) and
18 704(a) of Title VII, 42 U.S.C. § 2000e-2(a) and 3(a). Defendant Eldorado Stone subjected Ms.
19 Chavez and Ms. Hunt to sexual harassment, constructively discharged Ms. Hunt, and subjected
20 Ms. Weber, Ms. Cortez, Mr. Johnson and Mr. Prouty to retaliation for opposing Ms. Chavez's
21 and Ms. Hunt's discrimination.

22 8. The effect of the unlawful employment practices complained of in paragraph 7
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24

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1 above has been to deprive Ms. Chavez, Ms. Hunt, Ms. Weber, Ms. Cortez, Mr. Johnson and Mr.
2 Prouty of equal employment opportunities and otherwise adversely affect their status as
3 employees, and adversely affect their terms and conditions of employment.

4 9. The unlawful employment practices complained of in paragraph 7 above were
5 intentional.

6 10. The unlawful employment practices complained of in paragraph 7 above, were
7 done with malice or with reckless indifference to the federally protected rights of Ms. Chavez,
8 Ms. Hunt, Ms. Weber, Ms. Cortez, Mr. Johnson and Mr. Prouty.

9 PRAYER FOR RELIEF

10 Wherefore, the Commission respectfully requests that this Court:

11 A. Grant a permanent injunction enjoining defendant Eldorado Stone and its officers,
12 agents, successors, assigns, and all persons in active concert or participation with them, from
13 engaging in sex discrimination and retaliation against employees who oppose discrimination.

14 B. Order defendant Eldorado Stone to institute and carry out policies, practices, and
15 programs which prevent its employees from being subjected to sexual harassment and retaliation
16 for opposing practices that they believe are unlawful under federal anti-discrimination laws and
17 which eradicate the effects of its past and present unlawful employment practices.

18 C. Order defendant Eldorado Stone to make whole Ms. Chavez, Ms. Hunt, Ms.
19 Weber, Ms. Cortez, Mr. Johnson and Mr. Prouty by providing appropriate back pay with
20 prejudgment interest, and front pay in amounts to be determined at trial, and other affirmative
21 relief necessary to eradicate the effects of its unlawful employment practices described above,
22 including but not limited to, reinstatement.

1 D. Order defendant Eldorado Stone to make whole Ms. Chavez, Ms. Hunt, Ms.
2 Weber, Ms. Cortez, Mr. Johnson and Mr. Prouty by providing compensation for past and future
3 pecuniary losses resulting from the unlawful employment practices described in paragraph 7
4 above, including without limitation medical expenses, job search expenses and other past and
5 future out-of-pocket expenses, in amounts to be determined at trial.

6 E. Order defendant Eldorado Stone to make whole Ms. Chavez, Ms. Hunt, Ms.
7 Weber, Ms. Cortez, Mr. Johnson and Mr. Prouty by providing compensation for past and future
8 nonpecuniary losses resulting from the unlawful practices complained of in paragraph 7 above,
9 including without limitation emotional pain, suffering, and loss of enjoyment of life, in amounts
10 to determined at trial.

11 F. Order defendant Eldorado Stone to pay Ms. Chavez, Ms. Hunt, Ms. Weber, Ms.
12 Cortez, Mr. Johnson and Mr. Pouty punitive damages for its malicious and reckless conduct
13 described in paragraph 7 above, in amounts to be determined at trial.

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

16 H. Award the Commission its costs of this action.
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JURY TRIAL DEMAND

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

DATED this 10th day of June, 2004.

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BY: /s/ A. Luis Lucero, Jr.

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FIRST AMENDED COMPLAINT -- PAGE 7

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