

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

FILED IN CLERK'S OFFICE
U.S.D.C.-Atlanta

MAR 28 2006

LUTHER D. THOMAS, Clerk
By: *[Signature]*
Deputy Clerk

**EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,**

Plaintiff,

v.

OGLETHORPE UNIVERSITY, INC.

Defendants.

Civil Action No.:

COMPLAINT

JURY TRIAL

DEMAND

**06 CV 0711
-ODE**

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 national origin, and to provide appropriate relief to Alba Hernandez, Eva Rodriguez and Santa Lopez and a class of other similarly situated employees affected by such unlawful practices. The Equal Employment Opportunity Commission (hereinafter referred to as the "Commission") charges that Defendant Oglethorpe University, Inc. (hereinafter referred to as the "University") engaged in national origin discrimination by instituting and enforcing a broad "English-only" rule, against a class of Hispanic employees and other similarly situated employees who were otherwise satisfactorily performing their jobs, requiring them to only speak English while at work. The Commission also alleges that Ms. Alba

Hernandez was discharged in retaliation for opposing this discriminatory “English-only” rule 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 §§ 706(f)(1) and (3) and 707 of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e-5(f)(1)(3) and §2000e-6 (“Title VII”) and § 102 of the Civil Rights Act of 1991, 42 U.S.C. §1981a.

2. The alleged unlawful employment practices were and are now being committed within the jurisdiction of the United States District Court for the Northern District of Georgia, Atlanta 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 §§ 706(f)(1) and (3) and 707 of Title VII, 42 U.S.C. § 2000e-5(f)(1) and (3) and 2000e-6 .

4. At all relevant times, Oglethorpe University Inc. has continuously been a domestic non-profit corporation doing business in the State of Georgia,

Dekalb county and has continuously had at least 15 employees.

5. At all relevant times, Oglethorpe University, Inc. 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, Alba Hernandez, Santa Lopez and Eva Rodriguez filed charges with the Commission alleging violations of Title VII by the University. All conditions precedent to the institution of this lawsuit have been fulfilled.

7. Since approximately August 2003, the University has engaged in unlawful employment practices in violation of §§ 703, 704, and 707 of Title VII, 42 U.S.C. §§ 2000e-2 and e-3 and 6. These practices have included, but are not limited to, the following:

a. The University has unlawfully discriminated against a class of Hispanic employees and other similarly situated employees by establishing and enforcing an “English-only” rule requiring all Hispanic housekeeping employees, who did not speak English and who had a limited English vocabulary and others in the class who were not fully or at all proficient in the English language, to receive all communications and instructions from their managers in only English and to

only speak to each other in English at all times during their shift at the University. More specifically, after August 2003, Manuel (Manny) Bonilla, the University's supervisor for the housekeeping staff and a multilingual individual who is also fluent in Spanish, would only communicate to the housekeeping staff in English, threatened to terminate any Hispanic employee or others in the class who did not speak or learn to speak and write in English within sixty days; and constantly reprimanded Alba Hernandez, Eve Rodriguez and Santa Lopez for speaking to him in Spanish.

b. The University also retaliated against Alba Hernandez for opposing the enforcement of its discriminatory "English-only" rule. More specifically, after Ms. Hernandez openly opposed the enforcement of the University's English-only rule, her work performance was unjustly criticized and she was excessively reprimanded until the University discharged her.

8. The effect of the practices complained of above has been to deprive Alba Hernandez, Eva Rodriguez, Santa Lopez and a class of other similarly situated employees of equal employment opportunities and otherwise adversely affect their status as employees because of their national origin.

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

10. The unlawful employment practices complained of above in paragraphs 7 were and are done with malice or with reckless indifference to the federally protected rights of Alba Hernandez, Eva Rodriguez, Santa Lopez and a class of other similarly situated employees.

PRAYER FOR RELIEF

Wherefore, the Commission respectfully requests that this Court:

A. Grant a permanent injunction enjoining the University, its officers, successors, assigns, and all persons in active concert or participation with them, from engaging in employment practices which discriminate on the basis of national origin and unlawful retaliation.

B. Order the University to institute and carry out policies, practices, and programs which provide equal employment opportunities and which eradicate the effects of the University's past and present unlawful employment practices.

C. Order the University to make whole Alba Hernandez, Eva Rodriguez, Santa Lopez and other similarly situated employees by providing appropriate back-pay with prejudgment interest, in amounts to be determined at trial, and other affirmative relief necessary to eradicate the effects of their unlawful employment practices, including, but not limited to, front pay and reinstatement.

D. Order the University to make whole Alba Hernandez, Eva Rodriguez,

Santa Lopez and other similarly situated employees by providing compensation for past and future pecuniary losses resulting from the unlawful employment practices described above in paragraph 7, in amounts to be determined at trial.

E. Order the University to make whole Alba Hernandez, Eva Rodriguez, Santa Lopez and other similarly situated employees by providing compensation for past and future non-pecuniary losses resulting from the unlawful practices complained of above in paragraph 7, including emotional pain and suffering, inconvenience, and humiliation, in amounts to be determined at trial.

F. Order the University to pay Alba Hernandez, Eva Rodriguez, Santa Lopez and other similarly situated employees punitive damages for its malicious and reckless conduct described 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 in this action.

JURY TRIAL DEMAND

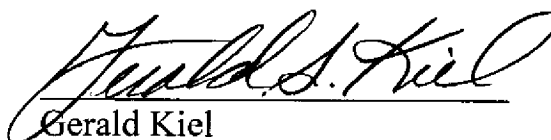
The Commission requests a jury trial on all questions of fact raised by its complaint.

Respectfully submitted,

James L. Lee
Deputy General Counsel

Gwendolyn Y. Reams
Associate General Counsel

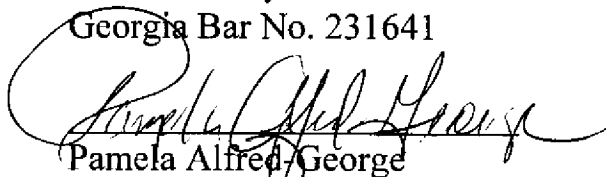
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