



impairment. The Commission further alleges that, because he complained about the unlawful conduct, Micron retaliated against him by failing to accommodate Mr. Artalejo's disability and discharging him.

### **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"), Section 107(a) of the Americans with Disabilities Act of 1990 ("ADA"), 42 U.S.C. § 12117(a), which incorporates by reference Sections 706(f)(1) and (3) of Title VII, and Section 102 of the Civil Rights Act of 1991, 42 U.S.C. §1981a.

2. The employment practices alleged to be unlawful were, and are now, being committed within the jurisdiction of the United States District Court for the District of Utah.

### **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 Title I the ADA, and is expressly authorized to bring this action by Section 706(f)(1) and (3) of Title VII, 42 U.S.C. §§ 2000e-5(f)(1) and (3), Section 707 of Title VII, 42 U.S.C. § 2000e-6, and Section 107(a) of the ADA, 42 U.S.C. § 12117(a), which incorporates by reference Sections 706(f)(1) of Title VII, 42 U.S.C. § 2000e-5(f)(1).

4. At all relevant times, Defendant Micron Technology, Inc., has

continuously been a Delaware corporation doing business in the State of Utah and has continuously had at least 15 employees.

5. At all relevant times, Defendant 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, Jose Artalejo filed a charge of discrimination with the Commission alleging violations of Title VII and the ADA by Defendant. All conditions precedent to the institution of this lawsuit have been fulfilled.

7. Throughout Mr. Artalejo's employment tenure at Micron, Defendant has engaged in unlawful employment practices at its Lehi, Utah facility, in violation of Section 703(a) of Title VII, 42 U.S.C. § 2000e-2(a), by subjecting Mr. Artalejo to harassment because of his national origin, Mexican American.

8. Throughout Mr. Artalejo's employment tenure at Micron, Defendant has engaged in unlawful employment practices at its Lehi, Utah facility, in violation of Section 102 of the ADA, 42 U.S.C. § 12112(a), by subjecting him to harassment because of his disability, hearing impairment

9. Defendant has engaged in unlawful employment practices in violation of Section 102(5)(A), 42 U.S.C. § 12112(a), by not making reasonable accommodations to Mr. Artalejo's known physical impairment. The reasonable accommodations Defendant failed to make include, but are not limited to, excusing Mr. Artalejo from note taking duties after he lost his hearing aid and

having instructors use an amplification system, which was already in place, in a training that Mr. Artalejo attended. Neither requested accommodation would have caused Defendant an undue hardship.

10. Defendant has engaged in unlawful employment practices in violation of Section 704(a) of Title VII, 42 U.S.C. §2000e-3, by discharging Mr. Artalejo because he opposed practices made an unlawful employment practice by Title VII.

11. Defendant has engaged in unlawful employment practices in violation of Section 503(a) of the ADA, 42 U.S.C. §12203(a) by failing to accommodate Mr. Artalejo's disability and discharging him because he opposed acts and practices made unlawful by the ADA.

12. The unlawful employment practices include, but are not limited, to the following:

(a) Mr. Artalejo worked for Micron from October 2000 until October 22, 2002. During Mr. Artalejo's tenure, the national origin harassment was comprised in part, of national origin based epithets and taunting by coworkers, which was overheard by Defendant managers, and also made by his management team, including, but not limited to, "short Mexican," "little Mexican," and after September 11, 2001, suggesting that Mr. Artalejo could be taken for a Muslim terrorist.

(b) During Mr. Artalejo's tenure, the harassment because of his disability (hearing impairment) was comprised, in part, by comments and/or actions by coworkers and his management team, including, but not limited to, "[w]hy don't you clean out your ears little man," "dumb," "deaf," "dumb deaf guy," "turn up your ears," pretending to "sign," and using "deaf speak." These comments were made

by coworkers and managers

(c) In the Spring of 2002, Mr. Artalejo complained about the national origin and disability harassment to Defendant management officials. Defendant failed to take appropriate remedial action to prevent or correct the unlawful conduct.

(d) When Defendant management officials failed to take appropriate remedial action to prevent or correct the unlawful conduct, Jose Artalejo complained to Defendant's Human Resources Department about the harassment on or about August 5, 2002. After Mr. Artalejo complained to the Human Resources Department, a Defendant management official warned Mr. Artalejo "[y]ou are jeopardizing your career" and told Artalejo "[y]ou need to learn how to deal with it."

(e) After he complained about the harassment to Micron's Human Resource Department, a Defendant management official asked Mr. Artalejo how things were going on the floor. In response, Artalejo said that people were still ridiculing him; the management official told Artalejo that he was not "here to babysit" and told Mr. Artalejo to "take care of it" himself.

(f) After he complained about the harassment to Micron's Human Resource Department, Mr. Artalejo asked to be excused from note taking duties for his Unit's meeting because he had lost his hearing aids. Defendant denied Mr. Artalejo the requested accommodation and required him to take notes although he was unable to hear his coworkers' conversations.

(g) After he complained about the harassment to Micron's Human

Resource Department, Mr. Artalejo requested, and denied, a requested accommodation of having instructors use an amplification system during training that Mr. Artalejo was required to attend.

(i) On or about October 22, 2002, Defendant fired Jose Artalejo.

(j) The acting supervisor involved in the incident that led to Mr. Artalejo's discharge was one of the individuals who made some of the comments referenced in Paragraph 12 (a) and (b), above and also denied Mr. Artalejo the reasonable accommodation of being excused from note taking duties.

(k) After Mr. Artalejo's termination, the acting supervisor told a Micron management official that it was nice to have a break without having to listen to "Joe's loud talking" and he was "glad to have gotten rid of that deaf guy" and bragged he was proud to have succeeded in having Artalejo terminated.

13. The effect of the practices complained of in Paragraphs 7-12 above has been to deprive Mr. Artalejo of equal employment opportunities and otherwise adversely affect his status as an employee, because of his national origin, disability, and retaliation.

14. The unlawful employment practices complained of in Paragraphs 7-12 were and are intentional.

15. The unlawful employment practices complained of in Paragraphs 7-12 above were done with malice or with reckless indifference to the federally protected rights of Mr. Artalejo

**PRAYER FOR RELIEF**

WHEREFORE, the Commission respectfully requests that this Court:

A. Grant a permanent injunction enjoining Defendant Micron, its officers, successors, assigns, and all persons in active concert or participation with them from (1) engaging in national origin harassment and any other employment practice that discriminates on the basis of national origin, (2) engaging in disability harassment and any other employment practice that discriminates on the basis of disability, (3) failing to reasonably accommodate an employee's disability, and (4) retaliating against an employee because the individual has opposed any practice made unlawful by Title VII or the ADA or because the individual has made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under Title VII or the ADA.

B. Order Defendant Micron to institute and carry out policies, practices, and programs, which provide equal employment opportunities for Mexican Americans, and which eradicate the effects of its past and present unlawful employment practices.

C. Order Defendant Micron to institute and carry out policies, practices, and programs which provide equal employment opportunities, which provide equal employment opportunities for qualified individuals with disabilities, and which eradicate the effects of its past and present unlawful employment practices.

D. Order Defendant Micron to make whole Mr. Artalejo by providing compensation for past and future non-pecuniary losses resulting from the

unlawful practices complained of in Paragraphs 7-12 above, including emotional pain, suffering, inconvenience, loss of enjoyment of life and humiliation, in amounts to be determined at trial.

E. Order Defendant to pay Mr. Artaljo pecuniary compensatory damages for expenses he incurred because of the discrimination, including but not limited to, job search expenses.

E. Order Defendant to pay Mr. Artalejo punitive damages for its malicious and/or reckless conduct, described in Paragraphs 7 -12 above, in amounts to be determined at trial.

F. Grant such further relief as the Court deems necessary and proper in the public interest.

G. Award the Commission its costs of this action.

**JURY TRIAL DEMAND**

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

RESPECTFULLY SUBMITTED this 30th day of June, 2005.

Eric S. Dreiband  
General Counsel

James L. Lee  
Deputy General Counsel

Gwendolyn Young Reams  
Associate General Counsel

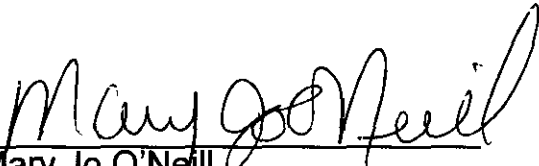
EQUAL EMPLOYMENT  
OPPORTUNITY COMMISSION  
1801 L Street, N.W.  
Washington, D.C. 20507

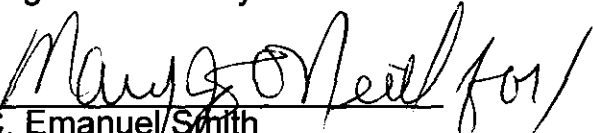


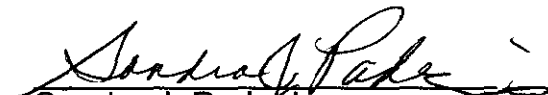
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JS 44 (Rev. 11/04)

**CIVIL COVER SHEET**

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

FILED  
U.S. DISTRICT COURT  
2005 JUN 30 P 3:56  
UTAH  
DISTRICT OF UTAH  
BY: DEPUTY CLERK

**I. (a) PLAINTIFFS**  
Equal Employment Opportunity Commission

**(b) County of Residence of First Listed Plaintiff** \_\_\_\_\_  
(EXCEPT IN U.S. PLAINTIFF CASES)

**(c) Attorney's (Firm Name, Address, and Telephone Number)**  
Mary Jo O'Neill, C. Emanuel Smith, Sandra J. Padegimas (602)640-5061  
US EEOC, 3300 N. Central Ave, Ste 690; Phoenix, Arizona 85012

**DEFENDANTS**  
Micron Technology, Inc., a Delaware Corporation

**County of Residence of First Listed Defendant** \_\_\_\_\_  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

**Attorneys (If Known)**

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

1 U.S. Government Plaintiff  
 2 U.S. Government Defendant

3 Federal Question (U.S. Government Not a Party)  
 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

	PTF	DEF		PTF	DEF
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input checked="" type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	<b>PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence <b>Habeas Corpus:</b> <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act		

**V. ORIGIN** (Place an "X" in One Box Only)

1 Original Proceeding  
 2 Removed from State Court  
 3 Remanded from Appellate Court  
 4 Reinstated or Reopened  
 5 Transferred from another district (specify) \_\_\_\_\_  
 6 Multidistrict Litigation  
 7 Appeal to District Judge from Magistrate Judgment

**VI. CAUSE OF ACTION**  
 Cite the U.S. Civil Statute under which you are filing. (Do not cite jurisdictional statutes unless diversity.)  
 Title I of Americans with Disabilities Act, Title VII of the Civil Rights Act of 1964, and 42 USC Sec 1981a  
 Brief description of cause:  
 To correct unlawful employment practices of the bases of national origin, disability, and retaliation

**VII. REQUESTED IN COMPLAINT:**  
 CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23  
**DEMAND \$** \_\_\_\_\_  
 CHECK YES only if demanded in complaint:  
**JURY DEMAND:**  Yes  No

**VIII. RELATED CASE(S) IF ANY** (See instructions): JUDGE \_\_\_\_\_ DOCKET NUMBER \_\_\_\_\_

DATE: 6/29/05  
 SIGNATURE OF ATTORNEY OF RECORD: Mary Jo O'Neill

FOR OFFICE USE ONLY  
 RECEIPT # \_\_\_\_\_ AMOUNT \_\_\_\_\_ APPLYING IFP \_\_\_\_\_

Judge Ted Stewart  
 DECK TYPE: Civil  
 DATE STAMP: 06/30/2005 @ 15:50:54  
 CASE NUMBER: 2:05CV00546 TS