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FILED
U.S. DISTRICT COURT
2005 OCT 28 P 12: 22
DISTRICT OF UTAH
BY: DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

**EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION,**

Plaintiff,

vs.

**MICRON TECHNOLOGY, INC. a
Delaware Corporation,**

Defendant.

JOSE ARTALEJO,
Plaintiff in Intervention

vs.

**MICRON TECHNOLOGY, INC. a
Delaware Corporation,**

Defendant

**COMPLAINT IN INTERVENTION
(Jury Trial Requested)**

Case No. 2:05 CV00546 TS
Judge Ted Stewart

Plaintiff in Intervention Jose Artalejo ("Mr. Artalejo") complains and alleges against Defendant Micron Technology, Inc. ("Micron") as follows:

NATURE OF CASE

1. This is an action for damages and redress for deprivation of rights secured by the Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, *et. seq.* (“Title VII”) and the Americans With Disabilities Act (“ADA”) of 1990, 42 U.S.C. § 11201, *et. seq.* Mr. Artalejo seeks damages pursuant to Title VII, the ADA and 42 U.S.C. § 1981a; and for equitable relief.

PARTIES, JURISDICTION AND VENUE

2. Mr. Artalejo is an individual residing in Utah County, Utah.

3. Micron is a corporation doing business in the state of Utah and was Mr. Artalejo’s employer in the state of Utah. Micron is an employer as defined by Title VII and the ADA.

4. The unlawful employment practices alleged herein were committed by Micron within the state of Utah.

5. This court has jurisdiction over the actions asserted herein pursuant to 28 U.S.C. § 1331 and 42 U.S.C. § 12117. Venue is proper in this district pursuant to 28 U.S.C. § 1391 (b) and (c), as adopted by the terms of 42 U.S.C. § 12117 (a).

ADMINISTRATIVE PROCEEDINGS

6. Within the time permitted by law, Mr. Artalejo filed a Charge of Discrimination with the Utah Antidiscrimination and Labor Division (“UALD”), which was forwarded to the U.S. Equal Employment Opportunity Commission (“EEOC”) at the Phoenix District Office. The charge of Discrimination is attached as Exhibit “A.” Mr. Artalejo amended his Charge of Discrimination on May 22, 2003 to include a claim that Micron had retaliated against him for engaging in protected activity. A copy of the Amended Charge is attached as Exhibit “B.”

7. On July 20, 2004, the EEOC determined that Micron discriminated against Mr. Artalejo on the basis of his national origin and his disability. The EEOC further found that Micron had retaliated against Mr. Artalejo for engaging in protected activity. A copy of the Letter of Determination is attached as Exhibit "C." Subsequently, on September 13, 2004, the EEOC issued an Amended Letter of Determination. The Amended Letter of Determination is attached as Exhibit "D." The EEOC issued a Second Amended Determination on January 25, 2005. A copy of the Second Amended Letter of Determination is attached as Exhibit "E."

8. On June 30, 2005, the EEOC filed a Complaint alleging that Micron violated Title VII and the ADA.

9. All administrative prerequisites for the filing of this Complaint in Intervention have been satisfied.

GENERAL ALLEGATIONS

10. Mr. Artalejo is a Mexican American.

11. Since birth, Mr. Artalejo has had an impairment which substantially impairs his ability to hear.

12. Micron recruited Mr. Artalejo to begin work as an Equipment Maintenance Technician at its Lehi, Utah plant. During the recruiting process, Mr. Artalejo informed Micron's recruiter that he was hearing impaired. He even showed the recruiter that he wore hearing aids. Micron's recruiter acknowledged that Mr. Artalejo had a hearing impairment and made notes concerning his impairment.

13. Mr. Artalejo began his employment with Micron on or about October 23, 2000.

14. During his employment Micron had no problems with Mr. Artalejo's ability to maintain its equipment.

15. Despite Mr. Artalejo's technical abilities, he began to experience repeated and severe harassment based upon his national origin and disability.

16. The following comments and actions are illustrative of the harassment Micron subjected Mr. Artalejo to during his employment:

- a. calling him a "short Mexican";
- b. calling him a "little Mexican";
- c. after September 11, 2001, telling him that he could be confused for a terrorist but that would be better than being a "fucking Mexican";
- d. asking him about the "border";
- e. making up Spanish words to belittle his Mexican heritage;
- f. calling him "dumb";
- g. calling him "deaf";
- h. calling him a "dumb deaf guy";
- i. asking him to "clean out" his ears;
- j. telling him to "turn up" his ears;
- k. pretending to use sign language to speak with him;
- l. mocking the way deaf people speak;

- m. laughing at him because he could not hear what was being said;
- n. requiring him to take minutes at meetings, knowing that he could not hear what was being said;
- o. mocking the notes he took at the meeting while knowing that he could not hear what was said; and,
- p. requiring him to attend training knowing that he could not hear what was being said.

17. Mr. Artalejo complained to his managers about the harassment he was suffering. Perhaps because they were also engaging in some of the harassing conduct, Mr. Artalejo's managers failed to take any action to stop the harassment.

18. Because his complaints had no affect on the harassment he was suffering, Mr. Artalejo went to Micron's Human Resources Department. Shortly after he went to the Human Resources Department, Mr. Artalejo's manager told him that he was jeopardizing his career at Micron and suggested that Mr. Artalejo learn how to deal with the harassment he was suffering. After complaining about his treatment, Mr. Artalejo also requested that he be excused from the note taking outlined above. His manager refused this accommodation, grinned at Mr. Artalejo, said it was not his problem and that Mr. Artalejo was required to take the notes. Mr. Artalejo was also denied a requested accommodation which would have allowed him to understand training Micron required him to attend.

19. Mr. Artalejo was terminated by the same supervisor who denied Mr. Artalejo the requested accommodations and who had been the subject of Mr. Artalejo's complaint to Micron's Human Resource Department. Micron did not have any legitimate basis to terminate Mr. Artalejo.

20. After terminating Mr. Artalejo, his supervisor made numerous comments that he was glad he had fired Mr. Artalejo because he would not have to listen to Mr. Artalejo's "loud talking" and he was glad he had terminated the "deaf guy."

FIRST CAUSE OF ACTION
(Discrimination in Violation of Title VII)

21. Mr. Artalejo incorporates the allegations contained in paragraphs 1 through 20 as it fully set forth herein.

22. Mr. Artalejo is Mexican American, and is therefore a member of a protected class under Title VII.

23. As outlined above, and incorporated herein, Micron purposefully and intentionally discriminated against Mr. Artalejo based upon his national origin, in violation of Title VII, when he was subjected to severe and pervasive harassment by his supervisor and coworkers.

24. Mr. Artalejo is entitled to recover damages for all future pecuniary losses, emotional pain, suffering, inconvenience, mental anguish, loss of enjoyment of life, and all other non-pecuniary losses caused by Micron's unlawful discrimination.

25. Micron's actions described above were done with malice or a reckless indifference to Mr. Artalejo's federally protected right to work in an environment free from offensive conduct based upon an individual's national origin. Due to the willful and malicious nature of the

discrimination against Mr. Artalejo and the fact that one of the perpetrators of the harassment was a management official, Mr. Artalejo is entitled to an award of punitive damages in an amount sufficient to deter Micron from engaging in discriminatory conduct in the future.

26. Mr. Artalejo is entitled to recover all attorneys' fees and costs expended in prosecuting this action.

27. Mr. Artalejo is entitled to other such relief as this Court deems appropriate.

SECOND CLAIM FOR RELIEF
(Retaliation in Violation of Title VII)

28. Mr. Artalejo incorporates the allegations contained in paragraphs 1 through 27 as it fully set forth herein.

29. Mr. Artalejo opposed the unlawful harassment by complaining to his supervisor and by reporting the harassment to Micron's Human Resources Department.

30. Because of his opposition to the harassing behavior and because he reported the harassment to Micron's Human Resources Department, Mr. Artalejo's supervisor and Micron took adverse employment actions against him, including terminating his employment.

31. Mr. Artalejo is entitled to recover damages for all future pecuniary losses, emotional pain, suffering, inconvenience, mental anguish, loss of enjoyment of life, and all other non-pecuniary losses caused by Micron's unlawful retaliation.

32. Micron's actions described above were done with malice or a reckless indifference to Mr. Artalejo's federally protected right to complain about national origin harassment. Due to the

willful and malicious nature of the retaliation against Mr. Artalejo, Mr. Artalejo is entitled to an award of punitive damages in an amount sufficient to deter Micron from engaging in retaliatory conduct in the future.

33. Mr. Artalejo is entitled to recover all attorneys' fees and costs expended in prosecuting this action.

34. Mr. Artalejo is entitled to other such relief as this Court deems appropriate.

THIRD CLAIM FOR RELIEF
(Discrimination in Violation of the ADA)

35. Mr. Artalejo incorporates the allegations contained in paragraphs 1 through 34 as it fully set forth herein.

36. During his employment by Micron, Mr. Artalejo was disabled within the meaning of the ADA.

37. Mr. Artalejo was, and is, a qualified individual with a disability, who was able to perform the essential functions of his position at Micron with or without reasonable accommodation.

38. Micron knew of Mr. Artalejo's disability, and/or regarded him as being disabled, and/or knew he had a record of a disability.

39. Micron's actions outlined above violated the ADA by: a) harassing Mr. Artalejo on the basis of his disability; b) failing to accommodate Mr. Artalejo's disability; c) failing to engage in the interactive process required by the ADA to determine if a reasonable accommodation is possible; and d) terminating Mr. Artalejo because of his disability.

40. Mr. Artalejo is entitled to recover damages for all future pecuniary losses, emotional pain, suffering, inconvenience, mental anguish, loss of enjoyment of life, and all other non-pecuniary losses caused by Micron's unlawful discrimination.

41. Micron's actions described above were done with malice or a reckless indifference to Mr. Artalejo's federally protected rights to work in an environment from discrimination on the basis of disability. Due to the willful and malicious nature of the discrimination against Mr. Artalejo, Mr. Artalejo is entitled to an award of punitive damages in an amount sufficient to deter Micron from engaging in discriminatory conduct in the future.

42. Mr. Artalejo is entitled to recover all attorneys' fees and costs expended in prosecuting this action.

43. Mr. Artalejo is entitled to other such relief as this Court deems appropriate.

FOURTH CLAIM FOR RELIEF
(Retaliation in Violation of the ADA)

44. Mr. Artalejo incorporates the allegations contained in paragraphs 1 through 43 as it fully set forth herein.

45. As outlined above, Micron threatened Mr. Artalejo after he complained about the discrimination he was experiencing. Micron eventually carried out its threat and terminated Mr. Artalejo because of his complaints.

46. Because of his opposition to the harassing behavior and because he reported the harassment to Micron's Human Resources Department, Mr. Artalejo's supervisor and Micron took adverse employment actions against him, including terminating his employment.

47. Mr. Artalejo is entitled to recover damages for all future pecuniary losses, emotional pain, suffering, inconvenience, mental anguish, loss of enjoyment of life, and all other non-pecuniary losses caused by Micron's unlawful retaliation.

48. Micron's actions described above were done with malice or a reckless indifference to Mr. Artalejo's federally protected right to complain about national origin harassment. Due to the willful and malicious nature of the retaliation against Mr. Artalejo, Mr. Artalejo is entitled to an award of punitive damages in an amount sufficient to deter Micron from engaging in retaliatory conduct in the future.

49. Mr. Artalejo is entitled to recover all attorneys' fees and costs expended in prosecuting this action.

50. Mr. Artalejo is entitled to other such relief as this Court deems appropriate.

JURY DEMAND

51. Mr. Artalejo hereby requests that his claims be tried to a jury of his peers

PRAYER FOR RELIEF

WHEREFORE, Mr. Artalejo prays for judgment against Micron as follows:

1. For a finding that the acts, policies, practices, and procedures of Micron complained of herein were unlawful employment practices that violated Ms. Solomon's rights secured by Title VII and the ADA.
2. For an order and judgment against Micron for appropriate back pay, front pay, and reimbursement for Mr. Artalejo's pecuniary and non-pecuniary losses, including lost

wages, other fringe benefits, and consequential damages for his suffering, loss of enjoyment of life, and other non-pecuniary losses in amounts to be established at trial;

3. For compensatory damages to compensate Mr. Artalejo for emotional distress and other losses;
4. For punitive damages in an amount to deter Micron from engaging in such conduct in the future; and
5. For such further and other relief the court deems appropriate.

DATED this 28th day of October, 2005.

STRINDBERG SCHOLNICK & CHAMNESS, LLC



Ralph E. Chamness
Erik Strindberg
Attorneys for Plaintiff in Intervention

Plaintiff's Address:
236 North 850 East
Orem, Utah 84097

U:\current clients\Artalejo_Joe\Complaint.wpd

EXHIBIT A

CHARGE OF DISCRIMINATION

Utah Anti-Discrimination & Labor Division and E

RECEIVED

UALD No: A3-0527
EEOC No: 35C-A3-0527

NAME (Indicate Mr., Ms., Mrs.)

Jose M Artalejo

MAR 27 2003

HOME TELEPHONE (Include Area Code)

(801) 229-7970

STREET ADDRESS CITY, STATE AND ZIP CODE

236 N 850 E, Orem UT 84097

ANTIDISCRIMINATION
AND LABOR COMMISSION

DATE OF BIRTH

Jul 29, 1959

NAMED IS THE EMPLOYER, LABOR ORGANIZATION, EMPLOYMENT AGENCY, APPRENTICESHIP COMMITTEE,

STATE OR LOCAL GOVERNMENT AGENCY WHO DISCRIMINATED AGAINST ME

(If more than one list below.)

NAME

Micron Technology Inc

TELEPHONE (Include Area Code)

(801) 767-4000

STREET ADDRESS

1550 E 3400 N, Lehi UT 84043

COUNTY

49

NAME

Micron Technology Inc

STREET ADDRESS

8000 S Federal Way, Nc, Boise ID 83707

CAUSE OF DISCRIMINATION BASED ON

RACE COLOR SEX RELIGION NATIONAL ORIGIN

DATE DISCRIMINATION TOOK PLACE

EARLIEST LATEST

10/22/2002

RETALIATION AGE DISABILITY OTHER (Specify)

CONTINUING ACTION

THE PARTICULARS ARE (If additional space is needed, attach extra sheets(s)):

At the time I was hired, I let the employer know that I had a disability. It was only a short time after my hire that I began experiencing problems with my Lead. I was subjected to ongoing harassment and rude comments about my disability and national origin. I was yelled at by others and I finally went to Human Resources to report it. I was assigned the duty of taking minutes for our meeting even though my disability made it impossible for me to do so. In October 2002 I was sent home by the Acting Supervisor because I had disagreed with him earlier and I was accused of yelling at him. The next day I was notified I was being terminated. Negative comments continued about my disability even after my termination.

I believe I have been discriminated against because of my Disability and National Origin/Hispanic in violation of the Americans with Disabilities Act of 1990, as amended, Title VII of the Civil Rights Act of 1964, as amended, and the Utah Antidiscrimination Act of 1965, as amended.

I understand this charge will be filed with both the EEOC and the State or local Agency, if any, unless jurisdictional issues dictate otherwise. I will advise the agencies if I change my address or telephone number and cooperate fully with them in the processing of my charge in accordance with their procedures.

NOTARY

State of Utah)

County of Utah)

ss.

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief

SIGNATURE OF CHARGING PARTY

Jose M Artalejo

SUBSCRIBED AND SWORN/AFFIRMED TO ME ON THIS 20 DAY OF March, 2003, by Jose M. Artalejo (Charging Party)

Lorraine Hawkins

Notary Public

Sept. 30, 2004

My Commission Expires

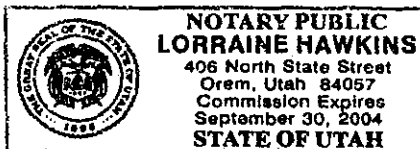


EXHIBIT B

AMEND. CHARGE OF DISCRIMINATION

RECEIVED

Labor Commission of Utah Anti-Discrimination Division and EEOC

UALD No: A3-0527
EEOC No: 35C-A3-0527

NAME (Indicate Mr., Ms., Mrs.)

MAY 22 2003

HOME TELEPHONE (Include Area Code)
(801) 229-7970

Jose M Artalejo

STREET ADDRESS CITY, STATE AND ZIP CODE

ANTIDISCRIMINATION
AND LABOR COMMISSION

DATE OF BIRTH

36 N 850 E, Orem UT 84097

Jul 29, 1959

NAME OF THE EMPLOYER, LABOR ORGANIZATION, EMPLOYMENT AGENCY, APPRENTICESHIP COMMITTEE,
STATE OR LOCAL GOVERNMENT AGENCY WHO DISCRIMINATED AGAINST ME

(If more than one list below.)

NAME
Micron Technology Inc

TELEPHONE (Include Area Code)
(801) 767-4000

STREET ADDRESS
350 E 3400 N, Lehi UT 84043

COUNTY
49

NAME
Micron Technology Inc

STREET ADDRESS
8000 S Federal Way, Boise ID 83707

USE OF DISCRIMINATION BASED ON

DATE DISCRIMINATION TOOK PLACE
EARLIEST LATEST

RACE COLOR SEX RELIGION NATIONAL ORIGIN

10/22/2002

RETALIATION AGE DISABILITY OTHER (Specify)

CONTINUING ACTION

THE PARTICULARS ARE (If additional space is needed, attach extra sheets(s)):

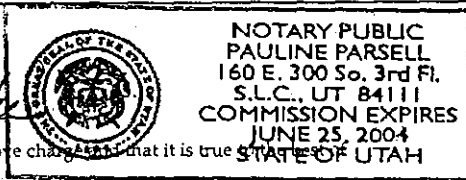
At the time I was hired, I let the employer know that I had a disability. It was only a short time after my hire that I began experiencing problems with my Lead. I was subjected to ongoing harassment and rude comments about my disability and national origin. I was assigned the duty of taking minutes for our meeting even though my disability made it impossible for me to do so. In October 2002 I was sent home by the Acting Supervisor because I had disagreed with him earlier and I was accused of yelling at him. Finally, I went to Human Resources and reported the problems. As a result of my report I was yelled at, threatened, disciplined and the next day I was notified I was being terminated. Negative comments continued about my disability even after my termination.

I believe I have been discriminated against because of my Disability, National Origin/Hispanic and Retaliation for reporting the problems to Human Resources in violation of the Americans with Disabilities Act of 1990, as amended, Title I of the Civil Rights Act of 1964, as amended, and the Utah Antidiscrimination Act of 1965, as amended.

I understand this charge will be filed with both the EEOC and the State or local Agency, if any, unless jurisdictional issues dictate otherwise. I will advise the agencies if I change my address or telephone number and cooperate fully with them in the processing of my charge in accordance with their procedures.

NOTARY

State of Utah
County of Salt Lake



I swear or affirm that I have read the above charge and that it is true to my knowledge, information and belief.

SIGNATURE OF CHARGING PARTY

Jose M. Artalejo

SUBSCRIBED AND SWORN/AFFIRMED TO ME ON THIS 22nd DAY OF May 2003, by JOSE M. ARTALEJO (Charging Party)

Pauline Parsell
Notary Public

6/25/2004
My Commission Expires

EXHIBIT C



U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Phoenix District Office

3300 N. Central Avenue, Suite 690
Phoenix, AZ 85012-2504
(602) 640-5000
TTY (602) 640-5072
FAX (602) 640-5071

Charge No. 35C-A3-0527

Jose M. Artalejo
236 N 850 E
Orem, Utah 84097

Charging Party

Micron Technology, Inc.
1550 E 3400 N
Lehi, Utah 84043

Respondent

Micron Technology, Inc.
8000 S Federal Way
Boise, Idaho 83707

Respondent

DETERMINATION

I issue the following determination on the merits of this charge.

Respondent is an employer within the meaning of Title VII of the Civil Rights Act of 1964, as amended ("Title VII"), 42 U.S.C. § 2000e, et seq.; the Americans with Disabilities Act of 1990 ("ADA"), 42 U.S.C. § 12101e, et seq. Timeliness and all other requirements for coverage have been met.

Charging Party alleged he was discriminated against due to his national origin (Mexican) in violation of Title VII of the Civil Rights Act of 1964, as amended, his disability (hearing impairment) in violation of the Americans with Disabilities Act of 1990 and retaliated against for reporting the matter to Human Resources.

Specifically, Charging Party says he notified his employer of his disability when he was hired. A short time after his hire, he began experiencing problems with his Lead. He alleged that he was subjected to ongoing harassment and rude comments about his disability and his national origin. He also alleges that he was yelled at by co-workers and reported this to Human Resources. Charging Party states he was assigned the duties of taking minutes for a meeting even though his disability made it impossible for him to do so. He alleges that he was yelled at, threatened, disciplined and terminated because of his complaints. He also alleged that following his termination the negative comments continued about his disability.

Respondent denied the allegations.

The evidence demonstrates that Charging Party is a qualified individual with a disability and that the Respondent was aware of the disability. The record indicates Charging Party complained about harassment due to his national origin and his disability to Human Resources. Following his complaint, he was issued a corrective action from his manager, who was responsible for investigating his complaint filed with Human Resources. This adverse action combined with the reasons offered for the termination of Charging Party were not supported by the evidence. Thus it is reasonable to infer that Respondent's stated reasons were a pretext for its retaliatory motive. Additionally, the investigation revealed that Charging Party was subjected to derogatory comments about his national origin and his disability. In addition, the record of evidence showed that Charging Party was denied a reasonable accommodation for his disability.

Therefore, I find reasonable cause to believe that Respondent discriminated against Charging Party in violation of Title VII and the ADA by subjecting him to harassment due to his national origin and his disability. In addition, I find that Respondent denied Charging Party a reasonable accommodation in violation of the ADA. Further, I find reasonable cause that Charging Party was disciplined and discharged in retaliation for opposing practices made unlawful under Title VII and the ADA.

Upon finding that there is reason to believe that violations have occurred, the Commission attempts to eliminate the alleged unlawful practices by informal methods of conciliation. Therefore, the Commission now invites the parties to join with it in reaching a just resolution of this matter. The confidentiality provisions of Title VII, the ADA and Commission Regulations apply to information obtained during conciliation.

If Respondent declines to discuss settlement or when, for any other reason, a settlement acceptable to the office Director is not obtained, the Director will inform the parties and advise them of the court enforcement alternatives available to aggrieved persons and the Commission. A Commission representative will contact each party in the near future to begin conciliation.

On Behalf of the Commission:



Susan L. Grace
Acting District Director

JUL 20 2004

Date

EXHIBIT D



**U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Phoenix District Office**

3300 N. Central Avenue, Suite 690
Phoenix, AZ 85012-2504
(602) 640-5000
TTY (602) 640-5072
FAX (602) 640-5071

Charge No. 35C-A3-0521

Jose M. Artalejo
236 N 850 E
Orem, Utah 84097

Charging Party

Micron Technology, Inc.
1550 E 3400 N
Lehi, Utah 84043

Respondent

Micron Technology, Inc.
8000 S Federal Way
Boise, Idaho 83707

Respondent

**D E T E R M I N A T I O N
A M E N D E D**

I issue the following determination on the merits of this charge.

Respondent is an employer within the meaning of Title VII of the Civil Rights Act of 1964, as amended ("Title VII"), 42 U.S.C. § 2000e, et seq.; the Americans with Disabilities Act of 1990 ("ADA"), 42 U.S.C. § 12101e, et seq. Timeliness and all other requirements for coverage have been met.

Charging Party alleged he was discriminated against due to his national origin (Mexican) in violation of Title VII of the Civil Rights Act of 1964, as amended, his disability (hearing impairment) in violation of the Americans with Disabilities Act of 1990 and retaliated against for reporting the matter to Human Resources.

Specifically, Charging Party says he notified his employer of his disability when he was hired. A short time after his hire, he began experiencing problems with his Lead. He alleged that he was subjected to ongoing harassment and rude comments about his disability and his national origin. He also alleges that he was yelled at by co-workers and reported this to Human Resources. Charging Party states he was assigned the duties of taking minutes for a meeting even though his disability made it impossible for him to do so. He alleges that he was yelled at, threatened, disciplined and terminated because of his complaints. He also alleged that following his termination the negative comments continued about his disability.

Respondent denied the allegations.

The evidence demonstrates that Charging Party is a qualified individual with a disability and that the Respondent was aware of the disability. The record indicates Charging Party complained about harassment due to his national origin and his disability to Human Resources. Following his complaint, he was issued a corrective action from his manager, who was responsible for investigating his complaint filed with Human Resources. This adverse action combined with the reasons offered for the termination of Charging Party were not supported by the evidence. Thus it is reasonable to infer that Respondent's stated reasons were a pretext for its retaliatory motive. Additionally, the investigation revealed that Charging Party was subjected to derogatory comments about his national origin and his disability. In addition, the record of evidence showed that Charging Party was denied a reasonable accommodation for his disability.

Therefore, I find reasonable cause to believe that Respondent discriminated against Charging Party in violation of Title VII and the ADA by subjecting him to harassment due to his national origin and his disability. In addition, I find that Respondent denied Charging Party a reasonable accommodation in violation of the ADA. Further, I find reasonable cause that Charging Party was disciplined and discharged in retaliation for opposing practices made unlawful under Title VII and the ADA.

Upon finding that there is reason to believe that violations have occurred, the Commission attempts to eliminate the alleged unlawful practices by informal methods of conciliation. Therefore, the Commission now invites the parties to join with it in reaching a just resolution of this matter. The confidentiality provisions of Title VII, the ADA and Commission Regulations apply to information obtained during conciliation.

If Respondent declines to discuss settlement or when, for any other reason, a settlement acceptable to the office Director is not obtained, the Director will inform the parties and advise them of the court enforcement alternatives available to aggrieved persons and the Commission. A Commission representative will contact each party in the near future to begin conciliation.

On Behalf of the Commission:

SEP 13 2004

Date


Susan L. Grace
Acting District Director

EXHIBIT E



U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Phoenix District Office

3300 N. Central Avenue, Suite 690
Phoenix, AZ 85012-2504
(602) 640-5000
TTY (602) 640-5072
FAX (602) 640-5071

Charge No. 35C-A3-0521

Jose M. Artalejo
236 N 850 E
Orem, Utah 84097

Charging Party

Micron Technology, Inc.
1550 E 3400 N
Lehi, Utah 84043

Respondent

Micron Technology, Inc.
8000 S Federal Way
Boise, Idaho 83707

Respondent

SECOND AMENDED DETERMINATION

I issue the following determination on the merits of this charge.

Respondent is an employer within the meaning of Title VII of the Civil Rights Act of 1964, as amended ("Title VII"), 42 U.S.C. § 2000e, et seq.; the Americans with Disabilities Act of 1990 ("ADA"), 42 U.S.C. § 12101e, et seq. Timeliness and all other requirements for coverage have been met.

Charging Party alleged he was discriminated against because of his national origin (Mexican) in violation of Title VII of the Civil Rights Act of 1964, as amended, his disability (hearing impairment) in violation of the Americans with Disabilities Act of 1990, and retaliated against because he reported the unlawful conduct to Human Resources.

Specifically, Charging Party alleged that, when hired, he notified his employer of his disability. He further alleged that, a short time after his hire, he began experiencing problems with his Lead and that he was subjected to ongoing harassment and rude comments about his disability and national origin. Charging Party alleged that he complained to Human Resources department about his mistreatment. After his formal complaint, Charging Party alleged he was yelled at, threatened, and disciplined. Charging Party contended that he was sent home by the Acting Supervisor (his Lead) and was terminated. Finally, Charging Party contended that the negative comments about his disability continued even after his termination.

Respondent denied the allegations.

The evidence demonstrates that Charging Party is a qualified individual with a disability and that the Respondent was aware of the disability. Witnesses confirm that members of Charging Party's management team and his co-workers subjected him to repeated and offensive negative comments about his national origin and disability. The record indicates Charging Party complained about harassment to his managers, who failed to take appropriate remedial action. The evidence also reflects that Charging Party complained about the unlawful conduct to his Human Resources Department. In response to his complaint to the HR department, Charging Party's supervisor told him he was "jeopardizing his career" and warned "you need to learn how to deal with it."

The evidence reflects that, after the Charging Party complained to Human Resources, he was disciplined and discharged. In addition, the evidence reflects that, after Charging Party complained to Human Resources, two requests for reasonable accommodations for his disability were denied although the requested accommodation would not have caused Respondent an undue hardship.

Therefore, I find reasonable cause to believe that Respondent discriminated against Charging Party in violation of Title VII by subjecting him to a hostile work environment because of his national origin and retaliating against him because he complained about the unlawful conduct by disciplining and discharging him.

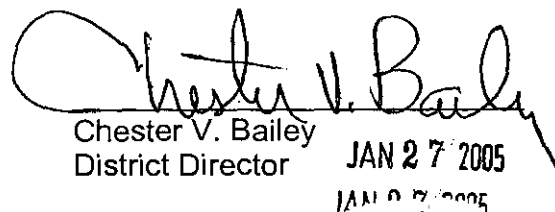
I also find reasonable cause to believe that Respondent discriminated against Charging Party in violation of the ADA by failing to accommodate his disability and subjecting him to a hostile work environment because of his disability. Finally, I find reasonable cause to believe Respondent violated the ADA when it retaliated against Charging Party because he opposed conduct made unlawful by the Act when it failed to accommodate his disability, disciplined, and discharged him.

Upon finding that there is reason to believe that violations have occurred, the Commission attempts to eliminate the alleged unlawful practices by informal methods of conciliation. Therefore, the Commission now invites the parties to join with it in reaching a just resolution of this matter. The confidentiality provisions of Title VII, the ADA and Commission Regulations apply to information obtained during conciliation.

If Respondent declines to discuss settlement or when, for any other reason, a settlement acceptable to the office Director is not obtained, the Director will inform the parties and advise them of the court enforcement alternatives available to aggrieved persons and the Commission. A Commission representative will contact each party in the near future to begin conciliation.

On Behalf of the Commission:

01/25/05
Date


Chester V. Bailey
District Director
JAN 27 2005
JAN 27 2005