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6  
7 IN THE UNITED STATES DISTRICT COURT  
8 FOR THE DISTRICT OF OREGON

9 **EQUAL EMPLOYMENT**  
10 **OPPORTUNITY COMMISSION**

Case No. 041361 AS

11 Plaintiff,

12 v.

13 **LITHIA SUBARU OF**  
**OREGON CITY,**

14 Defendant.

15 **MARK HARRIS, HUSSAIN ADEL**

16 Plaintiffs-Intervenors,

**COMPLAINT OF**  
**PLAINTIFFS-INTERVENORS**

17 v.

18 **LITHIA SUBARU OF**  
**OREGON CITY,**

19 Defendant.

JURY TRIAL DEMAND

20 **I. NATURE OF THE ACTION**

21 This action is filed in conjunction with the Complaint filed by the EEOC and in addition  
22 to the discrimination claims alleged by the EEOC, adds state law claims arising out of the same  
23 actions and occurrences.

24 **II. JURISDICTION AND VENUE**

25 1.

26 The Court has jurisdiction of this action under 42 USC Sec. 2000e-5(f)(1) (right to

1 - COMPLAINT OF PLAINTIFFS-INTERVENORS

1 intervene), Title VII of the Civil Rights Act of 1964, as amended, 42 USC 2000 et seq and the  
2 Civil Rights act of 1991 and 42 USC Sec. 1981.

3 2.

4 Plaintiff's state law claims are proper under the doctrine of pendent jurisdiction.

5 3.

6 Defendant committed the unlawful acts in the State of Oregon.

### 7 **III. PARTIES**

8 4.

9 Plaintiffs were employed of defendant and resided in the State of Oregon, at all times  
10 material.

11 5.

12 At all times material herein, Defendant is a business corporation duly organized and  
13 existing under the laws of the State of Oregon, and maintains an office and place of business in  
14 the County of Multnomah, State of Oregon. Said Defendant has continuously and does now  
15 employ more than 15 persons.

### 16 **IV. ADMINISTRATIVE PROCEDURES**

17 6.

18 Plaintiffs filed Civil Rights complaints with the EEOC. After investigation, the EEOC  
19 issued a Determination that there was reasonable cause to believe that each plaintiff had been  
20 discriminated against. After a conciliation process did not resolve the claims, the EEOC filed  
21 suit on September 24, 2004.

### 22 **V. STATEMENT OF CLAIMS**

#### 23 **FIRST CLAIM FOR RELIEF**

#### 24 **(WRONGFUL DISCHARGE - MARK HARRIS)**

25 7.

26 Plaintiff realleges paragraphs 2-5, above.

1 8.

2 Mr. Harris was employed as a Salesperson and as a Floor Manager, by Lithia Subaru of  
3 Oregon City from April 12, 2002 until November 25, 2002. During his employment, he  
4 complained to Managers about how minority employees were being treated, especially Hussain  
5 Adel, who was referred to as a "camel jockey," "sand nigger" and "terrorist."

6 9.

7 On or about October 19, 2002, Mr. Harris again complained of a discriminatory and  
8 unsafe working environment to his manager. The manager became very angry. Mr. Harris had  
9 to take medical leave kept his Managers informed of his condition and treatment. On October  
10 21, 2002, Mr. Harris wrote a letter to Sid DeBoer, Chair and CEO of Lithia Auto Groups,  
11 describing the same complaints.

12 10.

13 On November 21, 2002, Mr. Harris returned to work and was told to come to a meeting  
14 with the Area Manager. Mr. Harris expected he would be told the results of any investigation  
15 into his complaints. Instead, he was given a reprimand containing false statements and was told  
16 that he was being written up for misconduct because of what management learned investigating  
17 his complaints. Plaintiff stated he had to go home and get more medication for his stress  
18 condition. The Area Manager got angry and accused Mr. Harris of not being careful enough to  
19 bring enough medication. Mr. Harris was so upset, he ran his car into a pole and had to return to  
20 work to ask someone to help him get home. He told the area Manager about what happened and  
21 the Area Manager laughed. Hussain Adel helped him get home.

22 11.

23 On or about Monday, November 25, 2002, Mr. Harris, although he was unable to work,  
24 he was told he was fired.

25 12.

26 A substantial factor in the decision to terminate Mr. Harris was his protected conduct of

### 3 - COMPLAINT OF PLAINTIFFS-INTERVENORS

1 complaining of discrimination against minorities in defendant's workplace and/or because he  
2 associated with Hussain Adel, a co-worker who was of Mid-Eastern origin.

3 13.

4 As a further result of Defendant's above-stated actions, Plaintiff Harris has been and is  
5 now being deprived of income in the form of wages and of prospective retirement benefits along  
6 with other fringe benefits due him, in a final amount to be proved at trial.

7 14.

8 As a proximate result of Defendant's discriminatory and wrongful acts as set forth herein,  
9 Plaintiff has suffered emotional distress, humiliation, embarrassment and mental anguish and is  
10 entitled to damages in an amount to be determined at trial.

11 15.

12 Defendant has acted with malice towards Plaintiff and with conscious or reckless  
13 disregard of Plaintiff's rights, and plaintiff is entitled to punitive damages.

14  
15 **SECOND CLAIM FOR RELIEF**

16 **(WRONGFUL DISCHARGE - HUSSAIN ADEL)**

17 16.

18 Plaintiff Adel realleges paragraphs 2-5, 8-10, 12, above.

19 17.

20 Mr. Adel was employed as a Salesperson by Lithia Subaru of Oregon City from February  
21 11, 2002 until January 3, 2003.

22 18.

23 Beginning in April 2002 and continuing to the date of his termination, plaintiff Adel was  
24 subjected to racial and religious slurs such as "camel jockey," "sand nigger" and "terrorist," by  
25 management and other employees.

26 ///

4 - COMPLAINT OF PLAINTIFFS-INTERVENORS

19.

Beginning in the Summer of 2002 and until he left employment in January, 2003, he complained of the remarks to his managers and also complained about unsafe working conditions caused by management allowing dangerous pranks to take place between managers and other employees.

20.

In October, 2002, Mr. Adel was seriously injured because another employee tripped him with a mop handle, causing injuries serious enough to cause him to lose work. He complained to management about what happened and no corrective action was taken.

21.

In October 2002, Mr. Adel was aware that Mark Harris wrote letters to local and National Lithia Motors management, reporting to them that he had been called racial slurs and Mr. Harris also complained about the unsafe working conditions. He was shown one of Mr. Harris' letters by a manager and Mr. Adel told the manager that what Mr. Harris complained of was true and that he still had the same complaints.

22.

On November 21, 2002, Mr. Adel was present, when Mr. Harris had just left a meeting in which Mr. Harris had been falsely accused of misconduct. Mr. Adel helped Mr. Harris after he had an accident and took him home.

23.

In early December and again on December 23, 2002, Mr. Adel was written up by management, after being falsely accused of misconduct.

24.

On January 2, 2003, Mr. Adel was no longer able to work, because he was afraid of continued retaliation, including other physical acts against him and continued discrimination, so he was forced to resign.

## 5 - COMPLAINT OF PLAINTIFFS-INTERVENORS

1 25.

2 Defendant's managers intentionally, recklessly or negligently acted to create hostile  
3 working conditions for Mr. Adel, thereby causing his constructive discharge.

4 26.

5 A substantial factor in the decisions to maintain hostile and unsafe working conditions  
6 and retaliate against Mr. Adel, was Mr. Adel's national origin and/or his religion and/or because  
7 he spoke out about the offensive and unsafe conduct in the workplace and/or associated with  
8 Mark Harris, who had also objected to the same conduct.

9 27.

10 As a further result of Defendant's above-stated actions, Plaintiff has been and is now  
11 being deprived of income in the form of lost wages and of prospective retirement benefits along  
12 with other fringe benefits due him, in a final amount to be proved at trial.

13 28.

14 As a proximate result of Defendant's discriminatory and wrongful acts as set forth herein,  
15 Plaintiff has suffered emotional distress, humiliation, embarrassment and mental anguish, loss of  
16 enjoyment of life and is entitled to damages in an amount to be determined at trial.

17 29.

18 Defendant has acted with malice towards Plaintiff and with conscious or reckless  
19 disregard of Plaintiff's rights, and plaintiff is entitled to punitive damages.

20  
21 **THIRD CLAIM FOR RELIEF**

22 **(INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS - BOTH PLAINTIFFS)**

23 30.

24 Plaintiffs reallege paragraphs 1-29, above.

25 31.

26 Defendant had a special relationship to each plaintiff, with a duty to refrain from

1 | inflicting emotional distress on the plaintiffs.

2 | 32.

3 | The conduct toward each plaintiff, was beyond the boundaries of socially tolerable  
4 | conduct, intentional or reckless and defendant knew that severe emotional distress had occurred  
5 | or was substantially likely to occur.

6 | 33.

7 | Each plaintiff did suffer severe emotional distress.

8 |  
9 | **FOURTH CLAIM FOR RELIEF**  
10 | **(STATUTORY DISCRIMINATION, 42 USC 2000(E))**

11 | 34.

12 | Plaintiffs reallege paragraphs 1-6, 8-15, 17-29, above

13 | 35.

14 | From at least April 2002 to January 2003, defendant engaged in unlawful employment  
15 | practices at its Oregon City, Oregon facility in violation of Sections 703(a) and 704(a) of Title  
16 | VII, 42 USC Sections 2000e-2(a) and 2000e-3(a). Defendant affected the terms and conditions  
17 | of employment of Mr. Adel and Mr. Harris by subjecting Mr. Adel to harassment based on his  
18 | race and/or religion, which led to his discharge. Also, defendant terminated Mr. Harris in  
19 | retaliation for his engaging in activity protected under Title VII.

20 | 36.

21 | The effect of the practices complained of in paragraph 35 has been to deprive Mr. Adel  
22 | and Mr Harris of equal employment opportunities and otherwise adversely affect their status as  
23 | employees of Lithia Subaru of Oregon City because of race, religion and in retaliation for  
24 | opposing discrimination.

25 | 37.

26 | The unlawful practices complained of in paragraph 35 above were intentional and done

7 - COMPLAINT OF PLAINTIFFS-INTERVENORS

1 with malice or with reckless indifference to the federally protected rights of the plaintiffs.

2  
3 **WHEREFORE**, Plaintiff respectfully prays this Court to:

4 1. Grant a permanent injunction enjoining defendant, its officers, successors, agents,  
5 assigns and all persons in active concert or participation with it, from engaging in any other  
6 employment practice which discriminates on the basis of race, religion and in retaliation for  
7 opposing discrimination;

8 2. Order defendant to carry out policies, practices and programs which provide equal  
9 employment opportunities for all employees and which eradicate the effects of its past and  
10 present unlawful employment practices;

11 3. As a further result of Defendants' above-stated actions, Plaintiff has been and is now  
12 being deprived of income in the form of lost wages and of prospective retirement benefits along  
13 with other fringe benefits due him, in a final amount to be proved at trial;

14 4. Non-economic damages in an amount to be determined at trial;

15 5. Economic damages in an amount to be determined at trial;

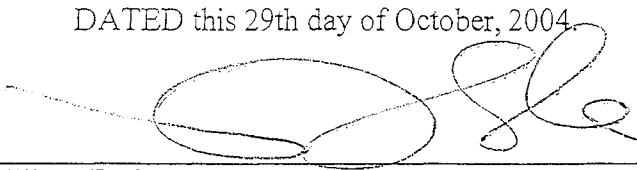
16 6. Punitive damages in an amount to be determined at trial;

17 7. Attorney fees in an amount to be determined at trial;

18 8. Plaintiffs' reasonable costs and disbursement and;

19 9. Any other relief the court deems necessary and proper.  
20

21 DATED this 29th day of October, 2004.

22   
23 \_\_\_\_\_  
24 William D. Stark, OSB No. 89365  
25 Attorney for Plaintiffs Mark Harris and Hussain Adel  
26



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Plaintiffs-Intervenors,

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**LITHIA SUBARU OF**

**OREGON CITY,**

Defendant.

Case No. 041361 AS

**CERTIFICATE OF SERVICE**

I hereby certify that I served a true copy, certified as such, of **PLAINTIFFS-**

**INTERVENOR'S COMPLAINT** delivery of a true, full and exact copy thereof, by US Mail

delivery on the date below, to the following:

CARTER MANN, ATTORNEY AT LAW

FOSTER, PEPPER, TOOZE

601 SW 2<sup>ND</sup> AVE, STE 1800

PORTLAND, OREGON 97204

DATED this 6 day of December 2004.



William D. Stark, OSB No. 89365

Attorney for Plaintiffs-Intervenors