

ORIGINAL

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CLERK US DISTRICT COURT	
DISTRICT OF NEVADA	
BY: _____	DEPUTY _____

6 **UNITED STATES DISTRICT COURT**

7 **DISTRICT OF NEVADA**

8
9 U.S. EQUAL EMPLOYMENT
10 OPPORTUNITY COMMISSION

Defendants.

CASE NO.: CV-S-04-0907-LDG-(PAL)

11 Plaintiffs,

12 v.

13 WESTERN CASEWORK CORPORATION,

14 Defendant.

15 MANUEL BELLO-MONJARAS; JUAN
CARLOS BELLO; MIGUEL BAZAN;
16 OSCAR PEREYRA; OCTAVIO MENDOZA;
JULIO CASTILLO; CLAUDIO MARCHI;
17 JORGE CAMPOS,

18 Plaintiffs/Intervenors

19 v.

20 WESTERN CASEWORK CORPORATION;
RYAN RYMBERT, in his individual capacity
as an employee/agent of WESTERN
21 CASEWORK CORPORATION; CHRIS
DAY, in his individual capacity as an
22 employee/agent of WESTERN CASEWORK
CORPORATION; MICHAEL WATTERS, in
23 his individual capacity as an employee/agent
of WESTERN CASEWORK
24 CORPORATION; BRIAN GUSKI, in his
individual capacity as an employee/agent of
25 WESTERN CASEWORK CORPORATION;
WESLEY WHYBOURNE, in his individual
26 capacity as an employee/agent of WESTERN
CASEWORK CORPORATION; and DOES I
27 through X, inclusive; and ROE
CORPORATIONS I through X, inclusive,

**PLAINTIFFS' FIRST AMENDED
COMPLAINT IN INTERVENTION**
CIVIL RIGHTS ACTION BASED ON
EMPLOYMENT DISCRIMINATION
(42 U.S.C. § 2000e, *et seq.*)

AND

JURY DEMAND

1 Plaintiffs/Intervenors, Manuel Bello-Monjaras, Juan Carlos Bello, Miguel Bazan,
2 Oscar Pereyra, Octavio Mendoza, Julio Castillo, and Claudio R. Marchi, and Jorge Campos
3 (collectively "Plaintiffs/Intervenors") by and through their attorneys, MATTHEW Q.
4 CALLISTER, ESQ., and WILLIAM H. BROWN ESQ., of CALLISTER & REYNOLDS,
5 hereby allege:

6
7 **NATURE OF THE ACTION**

- 8 1. The Plaintiffs/Intervenors are former employees of the Defendant; this is their
9 action to recover personal damages resulting from the Defendant's unlawful
10 discriminatory employment policies and conduct, which were designed to, and
11 did, relegate the Plaintiffs/Intervenors and other Hispanic employees to a
12 subclass whose members were subjected on a daily basis to a barrage of racist
13 insults, fear, intimidation, threats, coercion, and physical violence because of
14 their race.
- 15 2. Plaintiff, the Equal Opportunity Employment Commission (EEOC) has alleged
16 that the Defendant discriminated against the Plaintiffs/Intervenors and other
17 similarly situated employees on the basis of their national origin (Hispanic) by,
18 among other things, creating a hostile work environment characterized by
19 physical and emotional abuse, humiliation, and a near constant stream of
20 offensive, derogatory, racial comments directed at Hispanics by superiors and
21 co-workers.
- 22 3. The Defendant took no remedial action and in fact, exacerbated the situation by
23 implicitly condoning such behavior and even encouraging this conduct by
24 openly participating in same.
- 25 4. As a result, the Defendant deprived the Plaintiffs/Intervenors of equal
26 employment opportunities and personally damaged them by engaging in
27 conduct that is unlawful under Title VII and NRS Chapter 613, §§ 613.310 –
28 .435.

- 1 5. Also, the Defendant engaged in a myriad of tortious conduct towards the
2 Plaintiffs/Intervenors and other similarly situated employees and is liable for
3 the resulting damages.

4
5 **JURISDICTION AND VENUE**

- 6 6. Jurisdiction is invoked pursuant to 28 U.S.C. §§ 451, 1331, 1337,
7 1343, and 1345, as well as Federal Rule of Civil Procedure 18(a) and 28 U.S.C.
8 § 1367 (vesting this Court with jurisdiction to adjudicate state claims under
9 NRS Chapter 13, §§ 613.310 – .435).
- 10 7. This Court has jurisdiction of this action under Title VII, Section 706(f)(1) and
11 (3) of Title VII of the Civil Rights Act of 1964, as amended, and 42 U.S.C. §
12 2000e-5(f)(1) and (3) (“Title VII”) and Section 102 of the Civil Rights Act of
13 1991, 42 U.S.C. § 1981a. of 42 U.S.C. § 2000e-5(f), Plaintiffs/Intervenors
14 intervene as of right in this action to assert appropriate individual claims as
15 aggrieved parties.
- 16 8. Plaintiffs/Intervenors intervene as of right pursuant to Section 706(f) of Title
17 VII, 42 U.S.C. § 2000e-5(f).
- 18 9. Venue is proper in this Court because the allegedly unlawful employment
19 practices occurred within the jurisdiction of the United States District Court for
20 the District of Nevada.

21
22 **PARTIES**

- 23 10. The EEOC is a United States government agency charged with the
24 administration, interpretation, and enforcement of Title VII and is expressly
25 authorized to bring this action under Section 706(f)(1) and (3) of Title VII, 42
26 U.S.C. § 2000e-5(f)(1) and (3).
- 27 11. Plaintiffs/Intervenors, Manuel Bello-Monjaras, Juan Carlos Bello, Miguel
28 Bazan, Oscar Pereyra ,Octavio Mendoza, Julio Castillo, Claudio R. Marchi,

1 and Jorge Campos (Plaintiffs/Intervenors) were at all relevant times employees
2 of Western Casework.

3 12. Defendant, Western Casework Corporation (Western Casework), is a Nevada
4 corporation doing business in Las Vegas, Nevada, employing at least fifteen
5 (15) employees while engaged in an industry affecting commerce as defined in
6 Sections 701(b), (g), and (h) of Title VII, 42 U.S.C. § 2000e-(b), (g), and (h).

7 13. Western Casework maintains its principal place of business in Las Vegas,
8 Nevada.

9 14. Western Casework employs at least fifteen (15) employees while engaged in an
10 industry affecting commerce as defined in Sections 701(b), (g), and (h) of Title
11 VII, 42 U.S.C. § 2000e-(b), (g), and (h).

12 15. Plaintiffs/Intervenors are residents of Clark County, Nevada.

13 16. Defendant, Ryan Rimbart, is a resident of Clark County, Nevada.

14 17. At all relevant times, Rimbart was an agent of Western Casework.

15 18. Defendant, Chris Day, is a resident of Clark County, Nevada.

16 19. At all relevant times, Day was an agent of Western Casework.

17 20. Defendant, Michael Watters, is a resident of Clark County, Nevada.

18 21. At all relevant times, Watters was an agent of Western Casework.

19 22. Defendant, Brian Guski, is a resident of Clark County, Nevada.

20 23. At all relevant times, Guski was an agent of Western Casework.

21 24. Defendant, Wesley Whybourne, is a resident of Clark County, Nevada.

22 25. At all relevant times, Whybourne was an agent of Western Casework.

23 26. The true names and capacities, whether individual, agency, corporate, associate
24 or otherwise, of Defendants, DOES I through X inclusive ("DOES"), and ROE
25 CORPORATIONS I through X inclusive ("ROE CORPORATIONS") are
26 unknown to Plaintiffs/Intervenors.

27 27. Plaintiffs/Intervenors will seek leave of this Court to amend this Complaint to
28 show the true names and capacities of these Defendants when they become

known to Plaintiffs/Intervenors.

28. Plaintiffs/Intervenors believes each Defendant named as a DOE or ROE CORPORATION was responsible in some manner for the events and happenings stated and referred to herein.

29. Plaintiffs/Intervenors reserve the right to amend and supplement this Complaint as to claims and the true names, official capacities, and/or degree of involvement of said Defendant, including but not limited to certification as a class under Federal Rule of Civil Procedure 23(a).

30. At all relevant times, each of the Defendants was the agent, alter ego, servant, or employee of the remaining Defendant(s).

31. At all relevant times, each was acting within the course and scope of such agency/employment relationship and with knowledge and consent of the remaining Defendant(s).

32. All Defendants are jointly and severally liable for the Plaintiffs/Intervenors' damages.

33. Additionally, each Defendant is liable for the acts and/or omissions of every other Defendant jointly and severally as tortfeasors and under the doctrine of contribution.

GENERAL ALLEGATIONS

34. More than thirty (30) days before filing this lawsuit, and more than one hundred and eighty days (180) days before filing this Complaint in Intervention, the Plaintiffs/Intervenors filed a charge with the Nevada Equal Rights Commission (NERC) and the EEOC alleging violations of Title VII and NRS §§ 613.310 – .435 by Western Casework.

35. The EEOC has issued a Letter of Determination finding the Plaintiffs/Intervenors and other similarly situated employees were subjected to unlawful employment practices in violation of Title VII and NRS §§ 613.310 –

1 .435, thereby fulfilling all conditions precedent to filing this lawsuit.

2 36. As early as September, 1995 and continuing until as late as April, 2000, when
3 Western Casework terminated the Plaintiffs/Intervenors, Western Casework
4 engaged in unlawful employment practices in violation of Section 704(a) of
5 Title VII, 42 U.S.C. § 2000e-3(a), *et al.*

6 37. During that time Western Casework subjected the Plaintiffs/Intervenors to
7 pervasive, systematic discriminatory conduct based on their national origin
8 (Hispanic) that permeated and seethed throughout every level of the workplace
9 and to every jobsite.

10 38. Western Casework openly and continuously made Hispanics the subject of
11 public ethnic slurs, xenophobic statements, and derogatory comments as well
12 as openly physically and emotionally injuring, harassing, and humiliating the
13 Plaintiffs/Intervenors and other similarly situated employees.

14 39. For example, before releasing Plaintiff/Intervenor Jorge Campos' paycheck
15 Western Casework agents forced him to strip naked below the waist and be
16 spanked in front of a large group of co-workers purposely called to witness this
17 humiliating event.

18 40. In another event, Western Casework agents told Plaintiff Julio Castillo that if
19 they let them spank him with a baseboard he could have the weekend off.

20 41. Another time, Western Casework agents took nail guns loaded with two and
21 one-half (2 ½) inch nails and began shooting them at Hispanic employees.

22 42. The Hispanic employees were forced to duck, take cover, and hide behind
23 cabinets to avoid being struck and seriously injured or killed.

24 43. Another incident occurred in which a Western Casework agent told
25 Plaintiff/Intervenor Osar Pereyra "get out of here you stupid Mexican" then
26 violently threw him to the ground while non-Hispanic employees looked on
27 and laughed.

28 44. Western Casework agents routinely handed non-Hispanic employees their

1 paychecks but threw Hispanic employees' paychecks on the ground.

2 45. Western Casework agents subjected Hispanic employees to hyper scrutiny and
3 clearly different standards from their non-Hispanic counterparts with respect to
4 pay, job placement, overtime, and breaks.

5 46. By way of illustration, Western Casework agents paid Hispanic employees,
6 including the Plaintiffs/Intervenors, less than their counterparts, regularly
7 assigned them to the least desirable jobsites, expected them to work overtime,
8 and forced them to work while their counterparts took breaks, in one incident
9 forcing them to work for 23 hours straight.

10 47. Western Casework agents publicly called Hispanic workers "beaners", "taco
11 vendors", and "Mexican wetbacks", and made "splashing" sounds when
12 slapping Hispanic workers on the back.

13 48. A Western Casework agent told Plaintiff/Intervenor Oscar Pereyra "I wish I
14 had been at the border with a shot gun when you came across; I would have
15 shot you and your whole family."

16 49. Western Casework agents continually threatened and coerced
17 Plaintiffs/Intervenors and other similarly situated employees by threatening to
18 fire them, transfer them to a less desirable worksite, demote them, or call the
19 Immigration and Naturalization Service (INS) to have them deported.

20 50. Western Casework agents refused to pay Plaintiffs/Intervenors and other
21 similarly situated employees the prevailing wage as required on government
22 jobs because "Mexicans don't deserve it."

23 51. Western Casework agents reprimanded Hispanic employees for speaking
24 Spanish to other native Spanish speaking employees.

25 52. Whenever a Hispanic employee attempted to protest Western Casework's
26 discriminatory policies and practices Western Casework agents would threaten
27 to either fire him or to call INS, which incidentally illustrates Western
28 Casework employed Hispanic individuals knowing they were not properly

1 documented.

2 53. In fact, Western Casework's policy and practice was, and is, to knowingly hire
3 undocumented Hispanic workers for the purpose of exploiting their lack of
4 sophistication and the inherent power imbalance.

5 54. In turn, this allowed Western Casework to treat Hispanic workers as a subclass
6 of disposable employees, to discriminate against them, and to fire them for
7 even questioning Western Casework's racist policies towards Hispanic
8 workers.

9 55. This is not an exhaustive recitation of Western Casework's actionable conduct
10 but merely a representative sampling of how its discriminatory policies and
11 practices towards Hispanic workers manifested themselves.

12
13 **FEDERAL CLAIMS**

14
15 **Violation of Title VII – Discrimination**

16 56. Plaintiffs/Intervenors adopt and incorporate paragraphs 1 through 55.

17 57. Western Casework violated 42 U.S.C. § 2000e- 2(a)(1) by discriminating
18 against the Plaintiffs/Intervenors and other similarly situated employees by
19 generally paying them less than their non-Hispanic counterparts because of
20 their race.

21 58. Between approximately June 29, 1998 and July 27, 2001, Western Casework
22 engaged in unlawful employment practices that violated 42 U.S.C. § 2000e-
23 2(a)(1) by discriminating against Plaintiff/Intervenor Octavio Mendoza with
24 respect to his compensation and in the terms, conditions, or privileges of
25 employment because of his national origin.

26 59. Western Casework paid Mendoza a lower wage than non-Hispanic employees
27 of the same classification for performing the same or similar work, and
28 deprived him of the benefits and opportunities for advancement enjoyed by his

1 non-Hispanic counterparts.

2 60. This deprived Mendoza of equal employment opportunities and otherwise
3 adversely affected his status as an employee as a result of his national origin.

4 61. Western Casework's unlawful conduct damaged the Plaintiffs/Intervenors in
5 the form of lost wages and income, lost economic opportunity, and pecuniary
6 and non-pecuniary losses including without limitation severe emotional pain
7 and suffering.

8 62. As a direct and proximate result of Western Casework's acts, the
9 Plaintiffs/Intervenors suffered damages in the form of lost wages and income,
10 lost economic opportunity, severe emotional distress and suffering, and
11 additional damages greater than Seventy-Five Thousand Dollars (\$75,000).

12 63. Western Casework acted intentionally, maliciously, and with an intent to injure
13 and thus Plaintiffs/Intervenors are entitled to punitive damages in an amount
14 determined by the trier of fact.

15 64. As a result of Western Casework's acts, the Plaintiffs/Intervenors have been
16 forced to retain counsel and are entitled to reimbursement for reasonable
17 attorney fees and costs.

18
19 **Civil Conspiracy – 42 U.S.C. § 1985(3)**

20 65. Plaintiffs/Intervenors adopt and incorporate paragraphs 1 through 64.

21 66. Western Casework agents conspired with each other and/or with others.

22 67. The purpose of this conspiracy was to directly and indirectly deprive
23 Plaintiffs/Intervenors and other similarly situated employees of equal
24 protection, or equal privileges and immunities, under the laws.

25 68. One or more of the conspirators did, or caused to be done, an act in furtherance
26 of the object of the conspiracy, by, for example, assaulting, battering, falsely
27 imprisoning, and intentionally inflicting emotional distress upon the
28 Plaintiffs/Intervenors and other similarly situated employees as describe above.

1 69. This was motivated by racial and/or otherwise invidiously discriminatory
2 animus.

3 70. As a result of these conspiratorial acts, the Plaintiffs/Intervenors and other
4 similarly situated employees were injured in their persons and property.

5 71. As a result of these conspiratorial acts, the Plaintiffs/Intervenors and other
6 similarly situated employees were deprived of having and exercising the rights
7 and privileges of United States citizens, including the federally-established
8 rights to freedom of speech, movement, association, and assembly; the right to
9 petition the government for redress of grievances; their right to be secure in
10 their person; their right not to be enslaved nor deprived of life, liberty, or
11 property other than by due process of law; and their rights to travel public roads
12 without restraint in the same terms as their non-Hispanic counterparts.

13 72. Western Casework acted intentionally, maliciously, and with an intent to injure
14 and thus Plaintiffs/Intervenors are entitled to punitive damages in an amount
15 determined by the trier of fact.

16 73. As a direct and proximate result of Western Casework's acts, the
17 Plaintiffs/Intervenors suffered damages in the form of lost wages and income,
18 lost economic opportunity, severe emotional distress and suffering, and
19 additional damages greater than Seventy-Five Thousand Dollars (\$75,000).

20 74. As a result of Western Casework's acts, the Plaintiffs/Intervenors have been
21 forced to retain counsel and are entitled to reimbursement for reasonable
22 attorney fees and costs.

23
24 **STATE CLAIMS**

25
26 **Violation of NRS 613.340**

27 75. Plaintiffs/Intervenors adopt and incorporate paragraphs 1 through 74.

28 76. Western Casework violated NRS 613.340 by discriminating against the

1 Plaintiffs/Intervenors and other similarly situated employees on the basis of
2 their Hispanic origin because they opposed Western Casework's discriminatory
3 employment practices that violated NRS 613.330 through 613.435.

4 77. In addition and alternatively, Western Casework violated NRS 613.340 by
5 discriminating against the Plaintiffs/Intervenors and other similarly situated
6 employees on the basis of their Hispanic origin because they made charges,
7 and/or testified, and/or participated in an investigation, and/or proceeding,
8 and/or hearing under NRS 613.330 through 613.435 regarding Western
9 Casework's unlawful, discriminatory policies and conduct.

10 78. As a direct and proximate result of Western Casework's acts, the
11 Plaintiffs/Intervenors suffered damages in the form of lost wages and income,
12 lost economic opportunity, severe emotional distress and suffering, and
13 additional damages greater than Seventy-Five Thousand Dollars (\$75,000).

14 79. As a result of Western Casework's acts, the Plaintiffs/Intervenors have been
15 forced to retain counsel and are entitled to reimbursement for reasonable
16 attorney fees and costs.

17
18 **Violation of NRS 613.330**

19 80. Plaintiffs/Intervenors adopt and incorporate paragraphs 1 through 79.

20 81. Western Casework violated NRS 613.330 by discriminating against the
21 Plaintiffs/Intervenors and other similarly situated employees with respect to
22 their compensation, and/or the terms, conditions, and/or privileges of
23 employment based on their Hispanic national origin.

24 82. In addition and alternatively, Western Casework violated NRS 613.330 by
25 limiting and/or segregating, and/or classifying the Plaintiffs/Intervenors and
26 other similarly situated employees in a way that deprived them and/or tended to
27 deprive them of employment opportunities, and/or otherwise adversely affected
28 their status as employees because of their Hispanic national origin.

- 1 83. As a direct and proximate result of Western Casework's acts, the
2 Plaintiffs/Intervenors suffered damages in the form of lost wages and income,
3 lost economic opportunity, severe emotional distress and suffering, and
4 additional damages greater than Seventy-Five Thousand Dollars (\$75,000).
5 84. As a result of Western Casework's acts, the Plaintiffs/Intervenors have been
6 forced to retain counsel and are entitled to reimbursement for reasonable
7 attorney fees and costs.
8

9 **Intentional Infliction of Emotional Distress**

- 10 85. Plaintiffs/Intervenors adopt and incorporate paragraphs 1 through 84.
11 86. In engaging in the conduct described herein, Western Casework acted
12 extremely and outrageously intending to, and in fact causing,
13 Plaintiffs/Intervenors severe emotional distress.
14 87. Western Casework acted intentionally, maliciously, and with an intent to injure
15 and thus Plaintiffs/Intervenors are entitled to punitive damages in an amount
16 determined by the trier of fact.
17 88. As a direct and proximate result of Western Casework's acts, the
18 Plaintiffs/Intervenors suffered damages in the form of lost wages and income,
19 lost economic opportunity, severe emotional distress and suffering, and
20 additional damages greater than Seventy-Five Thousand Dollars (\$75,000).
21 89. As a result of Western Casework's acts, the Plaintiffs/Intervenors have been
22 forced to retain counsel and are entitled to reimbursement for reasonable
23 attorney fees and costs.
24

25 **Negligent Infliction of Emotional Distress**

- 26 90. Plaintiffs/Intervenors adopt and incorporate paragraphs 1 through 89.
27 91. Western Casework had a duty to avoid causing its employees distress.
28 92. Western Casework agents breached this duty by, among other things, shooting

1 a nail gun at Intervenor/Plaintiff Pereyra and two other Hispanic workers,
 2 which created a foreseeable risk of physical injury from the nail gun through
 3 impact or the threat of impact.

4 93. This actually and proximately injured Pereyra, and the resulting injuries
 5 physically manifested themselves.

6 94. Additionally, as a direct and proximate result of Western Casework's acts, the
 7 Plaintiffs/Intervenors suffered damages in the form of lost wages and income,
 8 lost economic opportunity, severe emotional distress and suffering, and
 9 additional damages greater than Seventy-Five Thousand Dollars (\$75,000).

10 95. As a result of Western Casework's acts, the Plaintiffs/Intervenors have been
 11 forced to retain counsel and are entitled to reimbursement for reasonable
 12 attorney fees and costs.

13 14 **Negligent Hiring, Training, and Supervision**

15 96. Plaintiffs/Intervenors adopt and incorporate paragraphs 1 through 95.

16 97. Western Casework owed a duty to its employees to exercise due care in hiring,
 17 training, and supervising its employees.

18 98. Western Casework breached this duty by negligently hiring, and/or training,
 19 and/or supervising its employees, thereby allowing, and/or encouraging them to
 20 create a work environment that was overtly hostile to, and discriminatory
 21 towards, Hispanic employees including Plaintiffs/Intervenors.

22 99. As an actual and proximate result of Western Casework's negligent acts and/or
 23 omissions, the Plaintiffs/Intervenors suffered damages in the form of lost
 24 wages and income, lost economic opportunity, severe emotional distress and
 25 suffering, and additional damages greater than Seventy-Five Thousand Dollars
 26 (\$75,000).

27 100. As a result of Western Casework's acts, the Plaintiffs/Intervenors have been
 28 forced to retain counsel and are entitled to reimbursement for reasonable

attorney fees and costs.

False Imprisonment

101. Plaintiffs/Intervenors adopt and incorporate paragraphs 1 through 100.

102. Western Casework agent(s) Ryan Rimpert and Wesley Whybourne intentionally confined Intervenor/Plaintiff Pereyra within fixed boundaries by shooting a nail gun at him, thereby forcing him to hide behind construction materials and confining him there.

103. Western Casework agent(s) intentionally confined the Intervenor/Plaintiffs and other similarly situated employees within fixed boundaries by threatening to reduce their wages if they left the Anthem/Del Webb jobsite, thereby intentionally confining them to the jobsite for 23 hours straight.

104. Western Casework acted intentionally, maliciously, and with an intent to injure and thus Plaintiffs/Intervenors are entitled to punitive damages in an amount determined by the trier of fact.

105. As a direct and proximate result of Western Casework's acts, the Plaintiffs/Intervenors suffered damages in the form of lost wages and income, lost economic opportunity, severe emotional distress and suffering, and additional damages greater than Seventy-Five Thousand Dollars (\$75,000).

106. As a result of Western Casework's acts, the Plaintiffs/Intervenors have been forced to retain counsel and are entitled to reimbursement for reasonable attorney fees and costs.

Assault

107. Plaintiffs/Intervenors adopt and incorporate paragraphs 1 through 106.

108. On numerous occasions, Western Casework agents intentionally caused the Plaintiffs/Intervenors to reasonably apprehend an imminent harmful or offensive touching by, among other things, shooting a nail gun at

1 Plaintiff/Intervenor Pereyra and two other Hispanic employees, and by slapping
2 Hispanic employees backs and making a "splashing" sound.

3 109. Western Casework agents intentionally caused the Plaintiffs/Intervenors to
4 reasonably apprehend an imminent harmful or offensive touching by, among
5 other things, publicly spanking Plaintiff/Intervenor Jorge Campos on his naked
6 buttocks.

7 110. Western Casework acted intentionally, maliciously, and with an intent to injure
8 and thus Plaintiffs/Intervenors are entitled to punitive damages in an amount
9 determined by the trier of fact.

10 111. As a direct and proximate result of Western Casework's acts, the
11 Plaintiffs/Intervenors suffered damages in the form of lost wages and income,
12 lost economic opportunity, severe emotional distress and suffering, and
13 additional damages greater than Seventy-Five Thousand Dollars (\$75,000).

14 112. As a result of Western Casework's acts, the Plaintiffs/Intervenors have been
15 forced to retain counsel and are entitled to reimbursement for reasonable
16 attorney fees and costs.

17
18 **Battery**

19 113. Plaintiffs/Intervenors adopt and incorporate paragraphs 1 through 111.

20 114. Western Casework agents intentionally touched the Plaintiffs/Intervenors in a
21 harmful or offensive manner without consent by, among other things, publicly
22 spanking Plaintiff/Intervenor Jorge Campos before letting him have his
23 paycheck, violently throwing Plaintiff/Intervenor Oscar Pereyra to the ground,
24 and making splashing sounds when slapping Hispanic workers on the back.

25 115. Western Casework acted intentionally, maliciously, and with an intent to injure
26 and thus Plaintiffs/Intervenors are entitled to punitive damages in an amount
27 determined by the trier of fact.

28 116. As a direct and proximate result of Western Casework's acts, the

1 Plaintiffs/Intervenors suffered damages in the form of lost wages and income,
2 lost economic opportunity, severe emotional distress and suffering, and
3 additional damages greater than Seventy-Five Thousand Dollars (\$75,000).

4 117. As a result of Western Casework's acts, the Plaintiffs/Intervenors have been
5 forced to retain counsel and are entitled to reimbursement for reasonable
6 attorney fees and costs.

7
8 **Defamation/Defamation Per Se**

9 118. Plaintiffs/Intervenors adopt and incorporate paragraphs 1 through 116.

10 119. Western Casework terminated Plaintiff/Intervenor Julio Castillo in April, 2004.

11 120. Western Casework represented to Castillo that he was terminated because his
12 superiors were dissatisfied with his performance.

13 121. However, Western Casework represented to the state unemployment division
14 that he was terminated because he failed a drug test.

15 122. Western Casework did not receive the results of the drug test until two (2) days
16 *after* discharging Castillo.

17 123. Stating Castillo was fired because he failed a drug test is defamatory, as using
18 drugs lowers esteem for the subject in the community and adversely affects his
19 reputation.

20 124. Stating Castillo was fired because he failed a drug test is defamatory *per se*, as
21 it implies criminal activity and ineptitude in his chosen profession.

22 125. Western Casework published these defamatory remarks to, *inter alia*, the state
23 unemployment division.

24 126. As a result, Castillo was damaged by being denied unemployment benefits
25 because of Western Casework's defamatory statements.

26 127. Western Casework acted intentionally, maliciously, and with an intent to injure
27 and thus Plaintiffs/Intervenors are entitled to punitive damages in an amount
28 determined by the trier of fact.

- 1 128. As a direct and proximate result of Western Casework's acts, the
 2 Plaintiffs/Intervenors suffered damages in the form of lost wages and income,
 3 lost economic opportunity, severe emotional distress and suffering, and
 4 additional damages greater than Seventy-Five Thousand Dollars (\$75,000).
 5 129. As a result of Western Casework's acts, the Plaintiffs/Intervenors have been
 6 forced to retain counsel and are entitled to reimbursement for reasonable
 7 attorney fees and costs.
 8

9 **Civil Conspiracy – NRS Chapter 613**

- 10 130. Plaintiffs/Intervenors adopt and incorporate paragraphs 1 through 128.
 11 131. Western Casework agents conspired with each other and/or with others and
 12 acted in concert to violate state laws, including NRS Chapter 613, §§ 613.310 –
 13 .435, prohibiting employment discrimination on the basis of national origin.
 14 132. This successful conspiracy resulted in unlawful employment practices that
 15 actually and proximately damaged the Plaintiffs/Intervenors.
 16 133. Western Casework acted intentionally, maliciously, and with an intent to injure
 17 and thus Plaintiffs/Intervenors are entitled to punitive damages in an amount
 18 determined by the trier of fact.
 19 134. As a direct and proximate result of Western Casework's acts, the
 20 Plaintiffs/Intervenors suffered damages in the form of lost wages and income,
 21 lost economic opportunity, severe emotional distress and suffering, and
 22 additional damages greater than Seventy-Five Thousand Dollars (\$75,000).
 23 135. As a result of Western Casework's acts, the Plaintiffs/Intervenors have been
 24 forced to retain counsel and are entitled to reimbursement for reasonable
 25 attorney fees and costs.

26 ...

27 ...

28 ...

PRAYER FOR RELIEF

136. Incorporating and adopting the preceding paragraphs, the Plaintiffs/Intervenors seek judgment against Western Casework as follows:
- a. Permanently enjoining Western Casework, its officers, successors, assigns, and all persons in active concert or participation with it from engaging in discriminatory and retaliatory behavior, and any other employment practice that discriminates on the basis of national origin.
 - b. Ordering Western Casework to institute and carry out policies, practices, and programs that provide equal employment opportunities for people of Mexican and or other Hispanic origin and that eradicate the effects of its past and present unlawful employment practices.
 - c. Ordering Western Casework to make the Plaintiffs/Intervenors whole by providing appropriate compensation for the losses resulting from the unlawful employment practices described herein, including without limitation back pay, subsequent loss of income from potential employers, loss of attendant economic opportunity, past and future pecuniary losses, including without limitation all costs and expenses associated with the unlawful employment practices described herein, with prejudgment interest, in an amount greater than \$75,000 per Plaintiff/Intervenor as determined by the trier of fact, and such other affirmative relief as will eradicate the effects of its past and present unlawful employment practices.
 - d. Ordering Western Casework to make the Plaintiffs/Intervenors whole by providing appropriate compensation for past and future nonpecuniary losses resulting from the unlawful employment practices described herein, including without limitation emotional pain, suffering, and humiliation in an amount greater than \$75,000 as determined by the trier

1 of fact.

- 2 e. Awarding Plaintiffs/Intervenors appropriate punitive damages based on
3 Western Casework's malicious, intentionally injurious conduct in an
4 amount greater than \$75,000 as determined by the trier of fact.
5 f. Ordering Western Casework to provide such further relief as this Court
6 deems necessary and proper for the public's interest and that of
7 Plaintiffs/Intervenors and all other similarly situated employees.
8 g. Awarding Plaintiffs/Intervenors reasonable attorney fees and costs
9 associated with this action.

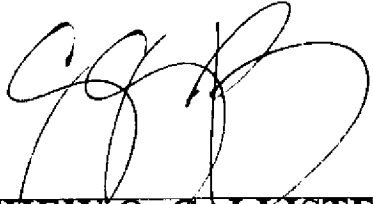
10
11 **JURY TRIAL DEMAND**
12

13 137. Incorporating and adopting the preceding paragraphs, Plaintiffs/Intervenors
14 request a jury trial on all issues and facts arising from this Complaint that may
15 be tried to a jury.

16
17 DATED 9-24-, 2004
18

19 Respectfully submitted,

20 **CALLISTER & REYNOLDS**

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22 
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