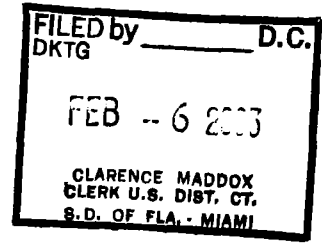


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CIVIL ACTION NO.: 02-22912
CIV—LENARD/SIMONTON



UNITED STATES EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION,

Plaintiff,

XIOMARA GUERRERO, OFELIA
RODRIGUEZ, MARIBEL SUAREZ,
JORGE FIOL, ERNESTO HEDMAN,
HILARIO PINEDA, JUAN CARLOS
SUAREZ, ALEXIS SILVA

Intervenor Plaintiffs,

INTERVENOR COMPLAINT

v.

AIRGUIDE CORPORATION,
PIONEER METALS, INC. and
GOODMAN GLOBAL HOLDINGS, INC.

Defendants.

_____ /

Intervenor Plaintiffs, XIOMARA GUERRERO, OFELIA RODRIGUEZ,
MARIBEL SUAREZ, JORGE FIOL, ERNESTO HEDMAN, HILARIO
PINEDA, JUAN CARLOS SUAREZ, and ALEXIS SILVA, in the above-
styled action, by and through undersigned counsel and pursuant to
Fla.R.Civ.P. 24 and 42 U.S.C. Section 2000e-5(f)1) state their complaint of
intervention as follows:

Exhibit A 30/02

NATURE OF THE ACTION

This is an action pursuant to Florida Statutes Section 760.01-.11, Fla. Stat. Section 448.102 *et seq.* and state common law to correct unlawful employment practices on the basis of sex and retaliation and to provide appropriate relief to XIOMARA GUERRERO, OFELIA RODRIGUEZ, MARIBEL SUAREZ, JORGE FIOL, ERNESTO HEDMAN, HILARIO PINEDA, JUAN CARLOS SUAREZ and ALEXIS SILVA who were adversely affected by such practices. XIOMARA GUERRERO, OFELIA RODRIGUEZ and MARIBEL SUAREZ allege that they were sexually harassed at Defendants' place of business in Miami, Florida, when they were forced to endure unwelcome sexual comments because of their sex, female. The harassment was sufficiently severe and pervasive to create a hostile and intimidating work environment. XIOMARA GUERRERO, OFELIA RODRIGUEZ, MARIBEL SUAREZ, JORGE FIOL, ERNESTO HEDMAN, HILARIO PINEDA, JUAN CARLOS SUAREZ and ALEXIS SILVA allege that they were retaliated against by Defendants for engaging in protected activity. Further, Defendant Employers' retaliatory conduct created serious material changes in the terms and conditions of Plaintiffs' employment rendering their working conditions so intolerable such that MARIBEL SUAREZ was forced to resign. XIOMARA GUERRERO,

HILARIO PINEDA, JORGE FIOL, JUAN CARLOS SUAREZ and ERNESTO HEDMAN were terminated. Plaintiffs were subjected to repeated retaliatory acts when they advised the company of certain supervisory employees' discriminatory practices as against themselves and others, voiced concern and opposition to such discriminatory conduct and ongoing retaliatory practices and/or provided a statement and cooperated with an EEOC investigation in support of complaints of discrimination.

JURISDICTION AND VENUE

1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. Sections 451, 1331, 1337, 1343 and 1345 and supplemental jurisdiction pursuant to 28 U.S.C. Section 1367. This action is authorized and instituted pursuant to Section 706(f)(1) and (3) of Title VII of the Civil Rights Act of 1964, as amended 42 U.S.C. Section 2000e-5(f)(1) and (3) ("Title VII") and Section 102 of the Civil Rights Act of 1991, 42 U.S.C. Section 1981A. Damage and declaratory relief is also sought pursuant to Florida Statutes Section 760.01-.11, Fla. Stat. Section 448.102 and state common law.

2. The employment practices alleged to be unlawful were committed within the jurisdiction of the United States District for the Southern District of Florida, Miami Division.

PARTIES

3. Intervenor Plaintiffs, XIOMARA GUERRERO, MARIBEL SUAREZ and OFELIA RODRIGUEZ are residents of Miami-Dade County, Florida. They were individually subjected to the acts of sexual harassment and retaliation complained of herein because they are female and/or because they complained about sexual harassment and retaliation. They were also subjected to retaliatory action because they participated, assisted and/or served as a witness on behalf of other employees during an investigation conducted by the EEOC.
4. Intervenor Plaintiffs, JORGE FIOL, ERNESTO HEDMAN, HILARIO PINEDA, JUAN CARLOS SUAREZ AND ALEXIS SILVA are residents of Miami-Dade County, Florida. They were individually subjected to the acts complained of herein because they complained about discriminatory employment practices and/or participated, assisted and/or served as a witness on behalf of other employees during an investigation conducted by the EEOC.
5. At all times relevant hereto, Defendant Airguide Corporation ("Airguide"), has continuously been a Florida corporation doing business in the State of Florida and the City of Miami, and has

continuously had at least 15 employees and/or has been an employer within the meaning of Florida Statute Section 448.101(3).

6. At all times, Defendant Pioneer Metals, Inc. ("Pioneer"), has continuously been a Florida corporation doing business in the state of Florida and the City of Miami, and has continuously had at least 15 employees and/or has been an employer within the meaning of Florida Statute Section 448.101(3).
7. At all relevant times, Defendant Goodman Global Holdings, Inc. ("Goodman"), has continuously been a Texas corporation doing business in the State of Florida and the City of Miami, and has continuously had at least 15 employees and/or has been an employer within the meaning of Florida Statute Section 448.101(3).
8. More than thirty days prior to the institution of this lawsuit, intervenor Plaintiffs each filed charges with the EEOC alleging violations of Title VII by Defendant Employers. On information and belief, pursuant to a workshare agreement, said charges were forwarded by EEOC to the Florida Commission on Human Relations ("FCHR") and filed with FCHR. Plaintiffs have exhausted all administrative measures and fully complied with all prerequisites to jurisdiction in this Court under Title VII and Florida Statutes Section 760.01-.11.

COMMON ALLEGATIONS

9. Since on or about April 2000 Defendants Airguide, Pioneer and Goodman (collectively "Employers") have engaged in unlawful employment practices at its Miami, Florida, facility, in violation of Florida Statutes Section 760.10(7) and Florida Statutes Section 448.102.

COUNT I—SEXUAL HARASSMENT

(Fla.Stat.Section 760.10)

10. OFELIA RODRIGUEZ, MARIBEL SUAREZ, and XIOMARA GUERRERO, were regularly subjected to sexual harassment by their supervisor, Mario Arispe, in the form of unwelcome verbal comments and gestures which were sufficiently severe and pervasive to constitute an offensive work environment.
11. The harassment included, but was not limited to, frequent, sexual advances, derogatory sexual slurs and comments and other unwelcome abusive acts and conduct directed at OFELIA RODRIGUEZ, MARIBEL SUAREZ, and XIOMARA GUERRERO because of their sex, and/or for complaining about sexual harassment and/or for asserting their right to work free from sexual discrimination.
12. Defendants knew or should have known that its supervisory employee, Mario Arispe, harassed OFELIA RODRIGUEZ, MARIBEL SUAREZ, and XIOMARA GUERRERO. Even after Defendants were advised of

the ongoing harassment, OFELIA RODRIGUEZ, MARIBEL SUAREZ, and XIOMARA GUERRERO were maintained in a position such that they were under the daily supervision and control of Mario Arispe and further subjected to harassment and retaliatory acts.

13. Defendants failed to take prompt remedial action to remedy the sexual harassment, failed to adequately give notice of federal, state and local laws against sexual harassment and retaliation, failed to adequately promulgate, circulate and implement policies against sexual harassment. Defendants created and/or allowed to be created a condition which encouraged and did not deter Mario Arispe from sexually harassing and/or retaliating against OFELIA RODRIGUEZ, MARIBEL SUAREZ, and XIOMARA GUERRERO or promptly remedy said misconduct.
14. Defendant Employers are liable for the unlawful sexual harassment to which they subjected OFELIA RODRIGUEZ, MARIBEL SUAREZ and XIOMARA GUERRERO.
15. The effect of the Defendants' discriminatory practices have been to deprive XIOMARA GUERRERO, OFELIA RODRIGUEZ and MARIBEL SUAREZ of equal employment opportunities and otherwise adversely affect their status as employees on the basis of sex.

COUNT II—RETALIATION
(Fla. Stat. Section 760.10)

16. Defendant Employers unlawfully retaliated against XIOMARA GUERRERO, OFELIA RODRIGUEZ, MARIBEL SUAREZ, HILARIO PINEDA, JORGE FIOL, JUAN CARLOS SUAREZ, ALEXIS SILVA and ERNESTO HEDMAN for engaging in protected activity.

Specifically, Defendant Employers retaliated against these individuals after they complained to management about what they reasonably believed to be unlawful employment practices; participated in the EEOC's investigation; and/or filed a charge with the Commission.

Defendant's unlawful conduct included the following:

- a. Defendant Employers disciplined, suspended and terminated HILARIO PINEDA.
- b. Defendant Employers terminated JUAN CARLOS SUAREZ.
- c. Defendant Employers disciplined, demoted, suspended and terminated JORGE FIOL.
- d. Defendant Employers disciplined and harassed MARIBEL SUAREZ.
- e. Defendant Employers disciplined, harassed and terminated XIOMARA GUERRERO.

f. Defendant Employers disciplined, demoted and terminated

ERNESTO HEDMAN.

g. Defendant Employers demoted ALEXIS SILVA.

h. Defendant Employers disciplined and harassed OFELIA

RODRIGUEZ.

17. The effect of the Defendants' discriminatory practices have been to deprive XIOMARA GUERRERO, OFELIA RODRIGUEZ, MARIBEL SUAREZ, JUAN CARLOS SUAREZ, HILARIO PINEDA, ERNESTO HEDMAN, ALEXIS SILVA and JORGE FIOL of equal employment opportunity and otherwise adversely affect their status as employees on the basis of retaliation.

18. The unlawful employment practices were intentional and done with malice or with reckless indifference to the protected rights of XIOMARA GUERRERO, OFELIA RODRIGUEZ, MARIBEL SUAREZ, JUAN CARLOS SUAREZ, HILARIO PINEDA, ERNESTO HEDMAN, ALEXIS SILVA and JORGE FIOL.

COUNT III—FLORIDA'S WHISTLE-BLOWER ACT VIOLATION
(Florida Statutes Section 448.102)

19. Intervenor Plaintiffs reallege paragraphs 9 through 18 as if fully set forth herein.

20. Defendant Employers unlawfully took retaliatory personnel action against XIOMARA GUERRERO, OFELIA RODRIGUEZ, MARIBEL SUAREZ, JUAN CARLOS SUAREZ, HILARIO PINEDA, ERNESTO HEDMAN, ALEXIS SILVA and JORGE FIOL for:

a. disclosing to an appropriate governmental agency an activity or practice of the Defendant Employers that is in violation of law,

b. providing information to, or testifying before, an appropriate governmental agency conducting an investigation into an alleged violation of law by the Defendant employers; and/or

c. objecting to an activity, policy or practice of the Defendant Employers which is in violation of law.

21. Specifically, Defendant Employers took retaliatory personnel action against XIOMARA GUERRERO, OFELIA RODRIGUEZ, MARIBEL SUAREZ, JUAN CARLOS SUAREZ, HILARIO PINEDA, ERNESTO HEDMAN, ALEXIS SILVA and JORGE FIOL after they advised Defendants of ongoing discriminatory practices and voiced opposition to what they reasonably believed to be discriminatory practices, participated, assisted and/or served as witnesses on behalf of employees during an investigation conducted by the EEOC. Defendant Employers' retaliatory personnel actions against plaintiffs were:

- a. Defendant Employers disciplined, suspended and terminated HILARIO PINEDA.
- b. Defendant Employers terminated JUAN CARLOS SUAREZ.
- c. Defendant Employers disciplined, demoted, suspended and terminated JORGE FIOL.
- d. Defendant Employers disciplined and harassed MARIBEL SUAREZ.
- e. Defendant Employers disciplined and terminated XIOMARA GUERRERO.
- f. Defendant Employers disciplined, demoted and terminated ERNESTO HEDMAN.
- g. Defendant Employers disciplined and demoted ALEXIS SILVA.
- h. Defendant Employers disciplined harassed OFELIA RODRIGUEZ.

22. The effect of the practices described above in paragraphs ___ and above was to adversely affect plaintiffs' status as employees in violation of Florida Statute Section 448.102.

COUNT IV
(NEGLIGENT TRAINING, RETENTION AND SUPERVISION)

23. Intervenor Plaintiffs reallege paragraphs 3 through 18 as if fully set forth herein.

24. At all times material hereto, Defendants were made aware by Plaintiffs that supervisory personnel had received complaints of discriminatory practices and ignored such complaints. At all times material hereto, Plaintiffs advised Defendants that supervisory personnel within the company were retaliating against those employees who had complained of discrimination. In fact, Defendants were made aware by Juan Plaintiffs that discriminatory practices were ongoing and that supervisory personnel were responsible for perpetrating acts of retaliation. With such knowledge, Defendants nevertheless retained the supervisory personnel and failed to supervise and instruct/train its personnel regarding anti-discrimination and retaliation solely served to perpetuate and encourage the discriminatory acts.

PRAYER FOR RELIEF

WHEREFORE, intervenor plaintiffs respectfully requests that this Court:

- A. Order Defendant Employers to make Plaintiffs whole by providing appropriate back pay with prejudgment interest, in amounts to be determined at trial, and other affirmative relief necessary to eradicate

the effects of their unlawful employment practices, including but not limited to, reinstatement, job search expenses and/or front pay.

- B. Order Defendant Employers to make Plaintiffs whole by providing compensation for past and future pecuniary losses resulting from the unlawful employment practices described above, including but not limited to, medical expenses, in amounts to be determined at trial.
- C. Order Defendant Employers to make plaintiffs whole by providing compensation for past and future nonpecuniary losses resulting from the unlawful practices complained of above, including but not limited to, emotional pain, suffering, inconvenience, loss of enjoyment of life, and humiliation, in amounts to be determined at trial.
- D. Order Defendant Employers to pay Plaintiffs punitive damages for its malicious and reckless conduct described above, in amounts to be determined at trial.
- E. Grant a permanent injunction enjoining Defendant Employers, their officers, successors, assigns, and all persons in active concert or participation with them, from engaging in unlawful retaliation or any other employment practice which discriminates on the basis of retaliation.

- F. Order reinstatement of fringe benefits and seniority rights under Florida Statute Section 448.103.
- G. Order Defendant Employers to institute and carry out policies, practices, and programs which provide equal employment opportunities for all of their employees regardless of having engaged in a protected activity, which eradicate the effects of their past and present unlawful employment practices.
- H. Grant such further relief as the Court deems necessary and proper in the public interest.
- I. Award the plaintiffs is costs and attorney's fees in bringing this lawsuit pursuant to 42 U.S.C. Section 2000(e)-5(k) and/or 42 U.S.C. Section 1998 and/or Florida Statute Section 760 *et seq.* and Florida Statute Section 448.104.
- J. Enter Judgment against Defendants, jointly and severally.

JURY TRIAL DEMAND

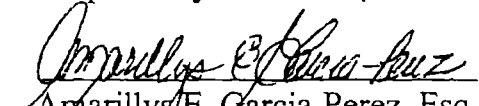
The Plaintiffs requests a jury trial on all questions of fact raised by its Complaint.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing MOTION TO INTERVENE was served, by U.S. Mail this 22 day of January, 2003, to Cheryl Cooper, Esq., United States Equal Opportunity Commission, One Biscayne Tower, Suite 2700, Two South Biscayne Boulevard, Miami, Florida, 33131 and W. Russell Hamilton, III, Esq., Morgan Lewis, & Bockius, LLP, First Union Financial Center, 200 South Biscayne Boulevard, Suite 5300, Miami, FL 33131-2310.

Dated: January 22, 2003

Respectfully Submitted,


Amarillys E. Garcia-Perez, Esq.
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