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IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

FILED

SEP 11 2002

CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY [Signature]
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EQUAL EMPLOYMENT OPPORTUNITY §
COMMISSION, §

Plaintiff, §

v. §

COX COMMUNICATION, §

Defendant. §

Cause No.A02CA 341SS

CESAR MEJIAS, §

Intervenor- Plaintiff, §

COMPLAINT IN INTERVENTION

PRELIMINARY STATEMENT

This is an action for the deprivation of rights secured by Title VII of the Civil Rights Act of 1964, as amended 42 U.S.C. § 2000e, *et seq.* More specifically, CESAR MEJIAS, as Intervenor-Plaintiff (hereinafter referred to as "Plaintiff Mejias"), alleges that Defendant COX COMMUNICATIONS, INC., a/k/a COX COMMUNICATIONS (hereinafter referred to as "Defendant COX"), engaged in discriminatory employment practices against him on the basis of his national origin and color, and that he was subjected by Defendant COX to disparate treatment and to a hostile work environment in violation of the law, which affected the conditions and terms of his employment to such a degree that they were intolerable and he was forced to resign his position with Defendant COX. Further, Defendant COX engaged

in retaliatory actions against Plaintiff Mejias when he complained of and opposed such discriminatory employment practices, for filing a charge of discrimination, and/or for assisting in the investigation of a discrimination complaint.

JURISDICTION AND VENUE

1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 451, 1331, 1337, 1342 and 1345. Jurisdiction is specifically conferred on the Court by 42 U.S.C. § 2000e-5. Equitable and other relief are also sought under 42 U.S.C. §2000e-5(g).

PARTIES

2. Plaintiff Mejias is of Hispanic/Latin descent, and at all times material to this action was a protected individual under 42 U.S.C. §2000e, *et seq.* Plaintiff Mejias is a resident of the City of Austin, Travis County, Texas. Accordingly, Plaintiff Mejias is a resident of the Western District of Texas, Austin Division.

3. Defendant COX is a Delaware corporation doing business in the State of Texas, with offices in the Western District of Texas. It employs over 200 persons in interstate commerce for Title VII purposes. Defendant COX has generally appeared in these proceedings. A copy of this Complaint in Intervention will be forwarded to Defendant COX's attorney of record, James M. Gary at Akin, Gump, Strauss, Hauer & Feld, L.L.P., via hand delivery.

FACTUAL ALLEGATIONS

4. Since at least June of 1999, Defendant COX has engaged in unlawful employment practices at its Georgetown, Texas facility and surrounding work sites, in violation of 42 U.S.C. §2000e, *et seq.*, by subjecting Plaintiff Mejias to disparate treatment and to a hostile work environment because of his color and national origin.

5. While the Plaintiff was an employee of Defendant COX, Defendant COX maintained a hostile work environment wherein Plaintiff was frequently subjected to harassment from co-workers, including threats, slurs and derogatory insults based on national origin and color. Defendant COX never took effective action to stop the harassment despite repeated complaints to Defendant COX supervisors and/or managers. Instead, Defendant COX retaliated against Plaintiff Mejias in violation of 42 U.S.C. §2000e, *et seq.*, for complaining about and/or opposing the discrimination, for filing a charge of discrimination and/or for assisting in the investigation of a discrimination complaint.

6. More specifically and without limitation, Plaintiff Mejias was subjected to ethnic slurs by a non-Hispanic/Latino co-worker, such as referring to him as a “stupid Puerto Rican,” a “spick,” and a “nigger,” and was told by the co-worker something to the effect of “go back to Puerto Rico or Africa, it’s the same, you all are Blacks.” Plaintiff Mejias also heard this co-worker subject other Hispanic/Latino workers to similar ethnic slurs. For example, this co-worker said to another Hispanic/Latino employee something to the effect that “you’re Mexican; you need to ride in the back of the truck and eat on the floor.”

Plaintiff Mejias reported to his supervisor(s) and/or manager(s) such, but the discriminatory acts continued.

7. When Plaintiff Mejias attempted to report the discriminatory acts to Defendant COX's main office in Atlanta, Georgia, he was threatened by the General Manager of his office with possible termination for such actions. When Plaintiff Mejias did contact Defendant COX's main office, he was made to understand that he should discuss the matter with his General Manager. The General Manager failed to take appropriate corrective measures or actions to end the discrimination and hostile work environment.

8. When individuals from the main office discussed with Plaintiff Mejias the nature and extent of the discriminatory conduct found in the workplace, Plaintiff Mejias was thereafter subjected to retaliation by the General Manager despite the supposedly confidential nature of these conversations.

9. In fact, the workplace became so hostile and the retaliation so bad that, as a result of this illegal and malicious discrimination, Plaintiff Mejias suffered severe emotional distress. This stress forced Plaintiff Mejias out of work on unpaid leave from about August 30, 2001 until about September 2001, then onto short-term disability leave from about September 6, 2001 until about September 21, 2001. Then, upon his return, he encountered further harassment and retaliation from the General Manager. As a result of the illegal and malicious discrimination, hostile work environment and retaliation, Plaintiff Mejias was

forced to leave his position with Defendant COX, which amounted to a constructive discharge.

10. As a result of the illegal and malicious discrimination, Plaintiff Mejias was forced to work on a hostile work environment that caused him severe emotional distress. In addition, because of this environment, Plaintiff Mejias suffered a loss of wages and benefits, and has incurred medical expenses directly related to the illegal conduct of Defendant COX. Plaintiff Mejias suffered unlawful retaliation after notifying Defendant COX of his complaint of discrimination. As a result of this illegal and malicious retaliation, Plaintiff Mejias suffered severe emotional distress, and further, loss of wages and benefits and medical expenses. As a result of the illegal and malicious discrimination, hostile work environment and retaliation, Plaintiff Mejias was constructively discharged, which caused him severe emotional distress and loss of wages and benefits, and medical expenses.

11. Plaintiff Mejias timely filed discrimination charges with the Equal Employment Opportunity Commission.

COUNT I

12. Plaintiff Mejias incorporates in this Count paragraphs 4 through 11, above, as if set forth in this Count at length.

13. Defendant COX's actions are in violation of 42 U.S.C. §2000e, *et seq.*, which prohibits discrimination on the basis of national origin and color. Defendant COX subjected Plaintiff Mejias to systematic and steady discrimination during his employment and to a

hostile work environment due to his national origin and/or color. Defendant COX's action caused injury to Plaintiff Mejias, as described below. The unlawful employment practices described herein engaged in by Defendant COX were done intentionally, willfully and with malice and/or reckless indifference to the federally protected rights of Plaintiff Mejias.

COUNT II

14. Plaintiff Mejias incorporates in this Count paragraphs 4 through 11, above, as if set forth in this Count at length.

15. Defendant COX's actions are in violation of 42 U.S.C. §2000e, *et seq.*, which prohibits retaliation after a complaint of discrimination is made. Defendant COX unlawfully retaliated against Plaintiff Mejias after he filed a complaint of discrimination. Defendant COX's action caused injury to Plaintiff Mejias, as described below. The unlawful employment practices described herein engaged in by Defendant COX were done intentionally, willfully and with malice and/or reckless indifference to the federally protected rights of Plaintiff Mejias.

COUNT III

16. Plaintiff Mejias incorporates in this Count paragraphs 4 through 11, above, as if set forth in this Count at length.

17. Defendant COX's actions are in violation of 42 U.S.C. §2000e, *et seq.*, which prohibits discrimination on the basis of national origin and color, and retaliation. Defendant COX constructively discharged Plaintiff Mejias by subjecting him to discrimination, a

hostile work environment and retaliation, such that a reasonable person would not have been able to continue in his employment under the circumstances. Defendant COX's action caused injury to Plaintiff Mejias, as described below. The unlawful employment practices described herein engaged in by Defendant COX were done intentionally, willfully and with malice and/or reckless indifference to the federally protected rights of Plaintiff Mejias.

DAMAGES

18. As a direct and proximate result of Defendant COX's wrongful conduct, Plaintiff Mejias has suffered damages and continues to suffer damages in excess of the minimum jurisdictional limits of this Court. These damages include, but are not limited to, lost wages and employment fringe benefits, and mental anguish and emotional distress.

19. Furthermore, Plaintiff Mejias is entitled to punitive damages. Defendant COX willfully and maliciously violated Plaintiff Mejias' rights and acted with reckless and wanton disregard for his rights.

ADMINISTRATIVE PREREQUISITES

20. Plaintiff Mejias timely filed a Charge of Employment Discrimination with the United States Equal Employment Opportunity Commission. Plaintiff Mejias is not required to obtain a Notice of Right to Sue in this case, as he is an Intervenor-Plaintiff in the cause of action brought by the Equal Employment Opportunity Commission, and entitled to intervene in this action pursuant to 42 U.S.C. §2000e-5(f)(1).

ATTORNEYS' FEES

21. In order to prosecute these claims, it was necessary for Plaintiff Mejias to retain the services of Raul Steven Pastrana, an attorney licensed to practice law in this Court. Therefore, he seeks attorneys' fees to the extent that he is a prevailing party.

JURY DEMAND

22. Plaintiff Mejias hereby demands trial by jury on any and all contested issues of fact.

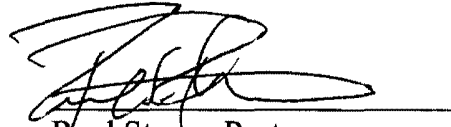
PRAYER

WHEREFORE, PREMISES CONSIDERED, Plaintiff CESAR MEJIAS prays that Defendant COX COMMUNICATIONS, INC. a/k/a COX COMMUNICATIONS be cited to answer and appear herein and that upon final hearing he obtain judgment against Defendant COX for:

- a. Compensatory damages for any and all back pay and fringe benefits;
- b. Compensatory damages for front pay and fringe benefits, as reinstatement is impractical and/or unworkable;
- c. Compensatory damages for mental anguish and emotional distress;
- d. Medical expenses, in the past and future;
- e. Punitive damages;
- f. Prejudgment and post-judgment interest;
- g. Attorneys' fees;
- h. Costs of court; and

- i. Any and all further relief to which he may prove herself to be justly entitled.

Respectfully submitted,



Raul Steven Pastrana
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Attorney for Intervenor-Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on this 21st day of August, 2002, a true and correct copy of the foregoing document, with attachments, if any, was either hand delivered or sent via first-class U.S. mail to:

James M. Gray
Akin, Gump et al
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RAUL STEVEN PASTRANA