

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

FILED

FEB 13 2003

CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY Mxc
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EQUAL EMPLOYMENT OPPORTUNITY §
COMMISSION, §
§
Plaintiff, §
§
and §
§
CESAR MEJIAS, §
§
Plaintiff-Intervenor, §
§
v. §
§
COX COMMUNICATIONS, §
§
Defendant. §
§

Civil Action No. A-02-CA-341-SS

JURY TRIAL DEMAND

PLAINTIFF'S FIRST AMENDED COMPLAINT

This is an action under Title VII of the Civil Rights Act of 1964, as amended and Title I of the Civil Rights Act of 1991, to correct unlawful employment practices on the basis of national origin, Hispanic, color, and retaliation, and to provide appropriate relief to Charging Party, Cesar Mejias, and other similarly situated Hispanic employees who were adversely affected by such practices. The Commission alleges that Defendant Cox Communications, Inc. and/or Cox Communications d/b/a Williamson County Cablevision Company engaged in discriminatory employment practices by subjecting Cesar Mejias and other similarly situated Hispanic employees to disparate treatment and to a hostile work environment because of their national origin and color. As a result of the discriminatory employment practices, the conditions and terms of employment for

Cesar Mejias and other similarly situated Hispanic employees were made so intolerable that they were forced to resign their positions, and some similarly situated Hispanic employees were disparately discharged based on their national origin and/or color. The Commission also alleges that Defendant Cox Communications, Inc. and/or Cox Communications d/b/a Williamson County Cablevision Company retaliated against Cesar Mejias and similarly situated Hispanic employees, in violation of Section 704(a) of Title VII, 42 § U.S.C. 2000 e-3(a), for complaining about or opposing the discrimination, 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, 1343 and 1345. 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. § 2000e-5(f)(1) and (3) (“Title VII”) and Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981a.

2. The employment practices alleged to be unlawful were and now are being committed within the jurisdiction of the United States District Court for the Western District of Texas, Austin Division.

PARTIES

3. Plaintiff, the Equal Employment Opportunity Commission (the “Commission”), is the agency of the United States of America charged with the administration, interpretation and enforcement of Title VII, and is expressly authorized to bring this action by Sections 706(f)(1) and (3) of Title VII, 42 U.S.C. § 2000e-5(f)(1) and (3).

4. At all relevant times, Defendant Cox Communications, Inc. and/or Cox

Communications d/b/a Williamson County Cablevision Company ("Cox"), has continuously been a Texas corporation doing business in the State of Texas and the City of Georgetown, and has continuously had at least 15 employees.

5. At all relevant times, Defendant Cox has continuously been an employer engaged in an industry affecting commerce within the meaning of Sections 701(b), (g) and (h) of Title VII, 42 U.S.C. §§ 2000e(b), (g) and (h).

STATEMENT OF CLAIMS

6. More than thirty days prior to the institution of this lawsuit, Cesar Mejias ("Mejias") filed a charge with the Commission alleging violations of Title VII by Defendant Cox. All conditions precedent to the institution of this lawsuit have been fulfilled.

7. Since at least June 1999, Defendant Cox has engaged in unlawful employment practices at its Georgetown, Texas, facility and surrounding works sites, in violation of Section 703(a) of Title VII, 42 U.S.C. § 2000e- (a), by subjecting Mejias and other similarly situated Hispanic employees to disparate treatment and to a hostile work environment because of their color and national origin, Hispanic.

Defendant Cox maintained a hostile work environment wherein Mejias and other similarly situated Hispanic employees were frequently subjected to harassment 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 Cox supervisors and/or managers. Instead, Defendant Cox retaliated against Mejias and other similarly situated Hispanic employees, in violation of Section 704(a) of Title VII, 42 U.S.C. §2000e-3(a), 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. Defendant Cox also subjected some similarly situated Hispanic employees to disparate treatment in the terms and conditions of their employment, including being discharged or severely and disproportionately disciplined for alleged work infractions, whereas similarly situated White, Anglo employees, who were actually guilty of comparable or worse misconduct or infractions, were not disciplined at all or not seriously disciplined, much less targeted for termination. The hostile work environment, the disparate treatment in the terms and conditions of employment, and the retaliation all had the effect of forcing Mejias and other similarly situated Hispanic employees to resign.

8. The effect of the practices complained of in paragraph seven above has been to deprive Mejias and other similarly situated Hispanic employees of equal employment opportunities and otherwise adversely affect their status as employees because of their color, national origin, Latino, and because of retaliation.

9. The unlawful employment practices complained of in paragraph seven above were and are intentional.

10. The unlawful employment practices complained of in paragraph seven above were and are done with malice or with reckless indifference to the federally protected rights of Mejias and other similarly situated Hispanic employees.

PRAYER FOR RELIEF

Wherefore, the Commission respectfully requests that this Court:

A. Grant a permanent injunction enjoining Defendant Cox, its officers, successors, assigns, and all persons in active concert or participation with it, from maintaining a hostile work environment based on national origin, Hispanic, and color; from retaliating against employees who

oppose or complain about such practices; and from any other employment practice which discriminates on the bases of color or national origin, Hispanic, or which facilitates, condones, or encourages color or national origin-based harassment and/or retaliation against employees who oppose or complain about such harassment.

B. Order Defendant Cox to institute and carry out policies, practices, and programs which provide equal employment opportunities and a non hostile work environment for Hispanics, for people of all colors, and for employees who oppose or complain about discrimination, and which eradicate the effects of Cox's past and present unlawful employment practices.

C. Order Defendant Cox to make whole Mejias, and other similarly situated Hispanic employees, 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 its unlawful employment practices, including but not limited to reinstatement, or front pay in lieu thereof, of Mejias and other similarly situated Hispanic employees.

D. Order Defendant Cox to make whole Mejias, and other similarly situated Hispanic employees, by providing compensation for past and future pecuniary losses resulting from the unlawful employment practices described in paragraph seven above, including but not limited to relocation expenses, job search expenses, and medical expenses, in amounts to be determined at trial.

E. Order Defendant Cox to make whole Mejias, and other similarly situated Hispanic employees, by providing compensation for past and future non-pecuniary losses resulting from the unlawful practices complained of in paragraph seven above, including but not limited to emotional pain, suffering, inconvenience, loss of enjoyment of life, embarrassment, emotional distress, anxiety and humiliation, in amounts to be determined at trial.

F. Order Defendant Cox to pay Mejias and other similarly situated Hispanic employees punitive damages for its malicious and reckless conduct described in paragraph seven above, in amounts to be determined at trial.

G. Grant such further relief as the Court deems necessary and proper in the public interest.

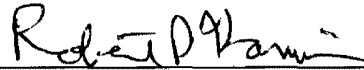
H. Award the Commission its costs of this action.

JURY TRIAL DEMAND

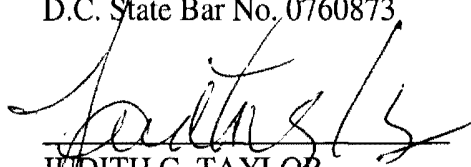
The Commission requests a jury trial on all questions of fact raised by its complaint.

Respectfully submitted,

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