

For Opinion See 2005 WL 2484668

United States District Court, D. Arizona.
EQUAL EMPLOYMENT OPPORTUNITY COMMISSION, Plaintiff,
v.
HARVEST MEDICAL CLINIC, INC., Defendant.
No. CV04 1821 PHX JAT.
August 31, 2004.

Jury Demanded

Complaint

Mary Jo O'Neill AZ Bar #005924, C. Emanuel Smith Ms Bar #7473, Sally Shanleyaz Bar#012251, Equal Employment Opportunity Commission, Phoenix District Office, 3300 North Central Avenue, Suite 690, Phoenix, Arizona.85012-2504, Telephone: (602) 640-5032, Attorneys for Plaintiff.

NATURE OF THE ACTION

This is an action under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e *et seq.* ("Title VII") and Title I of the Civil Rights Act of 1991, 42 U.S.C. § 1981a, to correct unlawful employment practices on the basis of national origin and to provide appropriate relief to Lupita Carrasco, Jose Avalos, Carmen Marquez, Daniela Sanchez, Susan Villanueva, Connie Moraga, Arlene Hernandez, Sonia Patch and Rene Castell, who were adversely affected by such practices. The EEOC alleges Defendant Harvest Medical Clinic, Inc. (hereinafter referred to as "Harvest Medical") discriminated against Lupita Carrasco, Jose Avalos, Carmen Marquez, Daniela Sanchez, Susan Villanueva, Connie Moraga, Arlene Hernandez Sonia Patch and Rene Castell because of their national origin, Hispanic.

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 Sections 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); §§2000e-6 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 are now being committed within the jurisdiction of the United States District Court for the District of Arizona.

PARTIES

3. Plaintiff, the Equal Employment Opportunity Commission (the "Commission"), is the agency of the United States of America charged with the administration, inter-

pretation and enforcement of Title VII, and is expressly authorized to bring this action by Section 706(f)(1) and (3) of Title VII, 42 U.S.C. § 2000e-5(f)(1) and (3).

4. At all relevant times, Defendant Harvest Medical Clinic, Inc. has continuously been Arizona corporations doing business in the State of Arizona, and the city of Phoenix and have continuously had at least 15 employees.

5. At all relevant times, Defendants have continuously been employers 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, Lupita Carrasco, Jose Avalos, Carmen Marquez, Daniela Sanchez, Susan Villanueva, Connie Moraga, Arlene Hernandez, Sonia Patch and Rene Castell filed charges with the Commission alleging violations of Title VII by Defendant. All administrative conditions precedent to the institution of this lawsuit have been fulfilled.

7. Since at least May, 2001 Defendant has engaged in unlawful employment practices at its Casa Grande, Arizona facility in violation of Section 703(a) of Title VII, 42 U.S.C. § 2000e-2(a) by discriminating against Lupita Carrasco, Jose Avalos, Carmen Marquez, Daniela Sanchez, Susan Villanueva, Connie Moraga, Arlene Hernandez, Sonia Patch and Rene Castell by discharging them on the basis of their national origin, Hispanic.

8. The effect of the practices complained of in paragraph 7 above has been to deprive Lupita Carrasco, Jose Avalos, Carmen Marquez, Daniela Sanchez, Susan Villanueva, Connie Moraga, Arlene Hernandez, Sonia Patch and Rene Castell of equal employment opportunities and otherwise adversely affect their status as employees because of their national origin.

9. The unlawful employment practices complained of in paragraph 7 above were and are intentional.

10. The unlawful employment practices complained of in paragraph 7 above were and are done with malice or with reckless indifference to the federally protected rights of Lupita Carrasco, Jose Avalos, Carmen Marquez, Daniela Sanchez, Susan Villanueva, Connie Moraga, Arlene Hernandez, Sonia Patch and Rene Castell.

PRAYER FOR RELIEF

WHEREFORE, the Commission respectfully requests that this Court:

A. Grant a permanent injunction enjoining Defendant, its officers, successors, assigns, and all persons in active concert or participation with it from engaging in discrimination on the basis of national origin, and retaliating against employees because they oppose practices made unlawful by Title VII or are participating in a

proceeding pursuant to Title VII.

B. Order Defendant to institute and carry out policies, practices, and programs which provide equal employment opportunities for employees regardless of their national origin and for those who oppose unlawful employment discrimination, and which eradicate the effects of its past and present unlawful employment practices.

C. Order Defendant to make whole Lupita Carrasco, Jose Avalos, Carmen Marquez, Daniela Sanchez, Susan Villanueva, Connie Moraga, Arlene Hernandez, Sonia Patch and Rene Castell by providing appropriate backpay 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, rightful place reinstatement.

D. Order Defendant to make whole Lupita Carrasco, Jose Avalos, Carmen Marquez, Daniela Sanchez, Susan Villanueva, Connie Moraga, Arlene Hernandez, Sonia Patch and Rene Castell by providing compensation for past and future pecuniary losses resulting from the unlawful employment practices described above, in amounts to be determined at trial.

E. Order Defendant to make whole Lupita Carrasco, Jose Avalos, Carmen Marquez, Daniela Sanchez, Susan Villanueva, Connie Moraga, Arlene Hernandez, Sonia Patch and Rene Castell by providing compensation for past and future non-pecuniary losses resulting from the unlawful practices described above, including emotional pain, suffering, inconvenience, loss of enjoyment of life and humiliation, in amounts to be determined at trial.

F. Order Defendant to pay punitive damages to Lupita Carrasco, Jose Avalos, Carmen Marquez, Daniela Sanchez, Susan Villanueva, Connie Moraga, Arlene Hernandez, Sonia Patch and Rene Castell for its malicious and/or reckless conduct, described 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 this Complaint.

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EQUAL EMPLOYMENT OPPORTUNITY

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2004 WL 3726769 (D.Ariz.)

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