

1 Richard R. Trujillo
2 C. Emanuel Smith
3 P. David Lopez
4 Sandra Padegimas #011652
5 **Equal Employment Opportunity Commission**
6 **Phoenix District Office**
7 3300 North Central Avenue, Suite 690
8 Phoenix, Arizona 85012-9688
9 Telephone: (602) 640-5016
10 Fax: (602) 640-5009

11 Attorneys for Plaintiff

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CLERK U.S. DISTRICT COURT DISTRICT OF ARIZONA	
BY _____	DEPUTY

12 IN THE UNITED STATES DISTRICT COURT
13 FOR THE DISTRICT OF ARIZONA

14 Equal Employment
15 Opportunity Commission,

16 Plaintiff,

17 vs.

18 Pinnacle Nissan, Inc.

19 Defendant.

CIV. 00 1872 PHX LOA

COMPLAINT

(JURY TRIAL DEMAND)

20 NATURE OF THE ACTION

21 1. This is an action pursuant to Title VII of the Civil Rights Act of 1964,
22 as amended and the Civil Rights Act of 1991, 42 U.S.C. § 1981a against
23 Pinnacle Nissan, Inc. ("Defendant" or "Pinnacle Nissan") seeking redress for
24 unlawful national origin discrimination, religious discrimination, and retaliation.

25 2. Plaintiff, Equal Employment Opportunity Commission (the
26 "Commission") contends that Pinnacle Nissan has: (1) discriminated against and
27 continues to discriminate against employees of middle-eastern descent because
28 of their national origin in the terms and conditions of employment; (2)
discriminated against Sam Einhorn, an employee of the Jewish faith, because of
his religion and national origin; and (3) engaged in retaliation against employees
for participating in protected activity under Title VII.

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JURISDICTION AND VENUE

3. This Court's jurisdiction 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) and Section 707 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.

4. Pinnacle Nissan's unlawful employment practices were committed in the state of Arizona and, accordingly, venue is proper in this Court.

PARTIES

5. 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 42 U.S.C. § 2000e-5(f)(1) and (3).

6. Pinnacle Nissan operates and manages an automobile dealership in Arizona and has, at all relevant times, employed a sufficient number of employees to subject them to jurisdiction under Title VII.

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

STATEMENT OF CLAIMS

8. More than thirty days prior to institution of this lawsuit, Charging Parties, Sam Einhorn, Sam Darmo, and Amer Darmo, who are all former employees of Pinnacle Nissan, filed charges with the Commission alleging violations of Title VII by Pinnacle Nissan.

FIRST CLAIM

National Origin Discrimination

9. Since at least October, 1996, Pinnacle Nissan has engaged in unlawful employment practices at its Scottsdale, Arizona location in violation of Section 703(a) of Title VII, 42 U.S.C. § 2000e-2(a), including subjecting charging party

1 Sam Einhorn to discrimination based on his national origin and subjecting both
2 Darro charging parties and a class of middle-eastern employees to a hostile
3 work environment due to national origin.

4 10. Since at least August 13, 1997, Pinnacle Nissan has engaged in and
5 is continuing to engage in a pattern or practice of national origin discrimination
6 against employees of middle-eastern descent as described herein, in violation of
7 Section 707 of Title VII, § 2000e-6.

8 11. The unlawful practices in Paragraphs 9 and 10 include, but are not
9 limited to:

- 10 (a) Management officials referring to charging parties
11 as "sand nigger," "terrorist," and "camel jockey";
12 and
13 (b) Management officials ridiculing Assyrian cultural
14 practices and speech.

15 **SECOND CLAIM**

16 **Religious Discrimination**

17 12. Since at least October, 1996, Pinnacle Nissan has
18 engaged in unlawful employment practices at its Arizona locations in
19 violation of Section 703(a) of Title VII, 42 U.S.C. § 2000e-2(a), including
20 subjecting charging party Sam Einhorn to discrimination based on his
21 religion. Such discrimination includes:

- 22 a) Managemetn officials referring to persons of the
23 Jewish faith as "kikes" and to charging party Einhorn
24 as a "fat Jew Bastard"; and
25 b) Presentation to Mr. Einhorn, the son of concentration
26 camp survivors, a pay stub with the designation
27 "HEAVY HITLER."
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THIRD CLAIM

Constructive Discharge

13. The unlawful practices described in Paragraphs 9 through 12, as well as a general atmosphere of racial and national origin hostility, have resulted in the constructive discharge of the charging parties Darmo and Darmo and other individuals of middle-eastern descent and charging party Einhorn.

FOURTH CLAIM OF RELIEF

Retaliation

14. Since at least October, 1996, Pinnacle Nissan has engaged in and is continuing to engage in unlawful employment practices by retaliating against a class of employees, which includes charging parties, for opposing unlawful employment practices and participating in an investigation into the unlawful practices in violation of Section 704 of Title VII, § 2000e-3(a). The retaliatory conduct includes, but is not limited to, threatening current and former employees with legal action because of their involvement in protected activity.

15. The unlawful employment practices outlined above were intentional.

16. Pinnacle Nissan engaged in the unlawful employment practices outlined above in reckless indifference to the federally protected rights of the charging parties and a class of employees of middle-eastern descent.

PRAYER FOR RELIEF

Wherefore, the Commission respectfully requests that this Court:

A. Grant a permanent injunction enjoining Pinnacle Nissan, its officers, successors, assigns, and all persons in active concert or

1 participation with it, from engaging in discrimination on the basis of national
2 origin, religion or retaliation.

3 B. Order Pinnacle Nissan to institute and carry out policies,
4 practices, and programs which provide equal employment opportunities for
5 employees and which eradicate the effects of their past and present
6 unlawful employment practices.

7 C. Order Pinnacle Nissan to make whole charging parties and a
8 class of employees of middle-eastern descent by providing appropriate
9 back pay with prejudgment interest, in amounts to be determined at trial,
10 and other affirmative relief necessary to eradicate the effects of their
11 unlawful employment practices.

12 D. Order Pinnacle Nissan to make whole charging parties and a
13 class of employees of middle-eastern descent by providing compensation
14 for past and future pecuniary losses resulting from the unlawful employment
15 practices described above in amounts to be determined at trial

16 E. Order Pinnacle Nissan to make whole charging parties and a
17 class of employees of middle-eastern descent by providing compensation
18 for past and future non-pecuniary losses resulting from the unlawful
19 practices complained of above including emotional pain, suffering, loss of
20 enjoyment of life, and humiliation in amounts to be determined at trial.

21 F. Order Pinnacle Nissan to pay punitive damages for their
22 malicious and/or reckless disregard to the federally protected rights of
23 charging parties and a class of employees of middle-eastern descent
24 described above, in amounts to be determined at trial.

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

27 H. Award the Commission its costs of this action.

28

JURY DEMAND

The Commission respectfully requests a trial by jury on all appropriate Claims for Relief set forth in this Complaint.

DATED this 24th day of September, 2000.

Respectfully submitted,

C. GREGORY STEWART
General Counsel

GWENDOLYN YOUNG REAMS
Associate General Counsel

EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION
1801 L Street, N.W.
Washington, D.C. 20507

Richard R. Trujillo, et al
RICHARD R. TRUJILLO
Regional Attorney

C. Emanuel Smith
C. EMANUEL SMITH
Supervisory Trial Attorney

P. David Lopez
P. DAVID LOPEZ
Trial Attorney

Sandra J. Padegimas
SANDRA J. PADEGIMAS
Trial Attorney

EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION

Phoenix District Office
3300 N. Central Ave., Suite 690
Phoenix, Arizona 85012
(602) 640-5016
Attorneys for Plaintiff