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CLERK'S DISTRICT COURT DISTRICT OF ARIZONA	
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9 IN THE UNITED STATES DISTRICT COURT
 10 DISTRICT OF ARIZONA

11 JOSE PARRA and GONZALO ESTRADA,

CIV '02 0591 PIX RCB
 Case No.

12 Plaintiffs,

COMPLAINT

13 v.

[CLASS ACTION]

14 BASHAS', INC.

DEMAND FOR JURY TRIAL

15 Defendant.

THIS DOCUMENT IS NOT IN PROPER FORM ACCORDING
 TO FEDERAL AND/OR LOCAL RULES AND PRACTICES
 AND IS SUBJECT TO REJECTION BY THE COURT.

16 REFERENCE: CR 1.9(a)(3)
 (Rule Number/Section)

17 **INTRODUCTION**

18 1. Bashas' Inc. operates several types of grocery stores throughout the State of
 19 Arizona. The stores operated under the names of A.J.'s Fine Foods and Bashas' employ
 20 predominantly Caucasian, American-born employees. The stores operated under the
 21 name Food City employ predominantly Latino employees, who are paid less by Bashas'
 22 than the Caucasian employees at A.J.'s Fine Foods and Bashas' for performing the same
 23 work. In addition, these Latino employees at Food City are required to work under
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 25
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1 conditions that are typically less safe and less hygienic than the conditions found at A.J.'s
2 Fine Foods and Bashas'. This disparate treatment is the result of purposeful
3 discrimination.

4 2. This class action is accordingly brought by present and former Latino
5 Bashas' employees on behalf of themselves and all other similarly situated Latino
6 employees who have been subjected to Bashas' continuing policies and practices of race
7 and national origin discrimination. Plaintiffs, and the class that they represent, charge
8 that Bashas' discriminates against its Latino employees by paying Caucasian employees
9 more and denying Latino employees equal job assignments, promotions, training and
10 compensation and by requiring its Latino employees to work in conditions which are
11 physically less desirable and more dangerous.

12 3. This action seeks an end to Bashas' discriminatory practices, make whole
13 relief for the class, and punitive damages.

14

15

JURISDICTION AND VENUE

16 4. Plaintiffs' claims arise under Title VII of the Civil Rights Act of 1964, 42
17 U.S.C. §§2000e, et seq. and under the Civil Rights Act of 1866, as amended, 42 U.S.C. §
18 1981. This Court has jurisdiction over this matter pursuant to 42 U.S.C. § 1981 and
19 §2000e5(f), 28 U.S.C. §§1331 and 1343(a)(4).

20 5. Venue is proper in this district pursuant to 42 U.S.C. §2000e5(f) and 28
21 U.S.C. §1391(b) and (c). Plaintiffs' claims arose in the District of Arizona. Members of
22 the Plaintiffs' class reside in the State of Arizona. Defendant is an Arizona corporation.
23 The acts complained of herein occurred in this District and gave rise to the claims alleged.

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1 **PARTIES**

2 6. Plaintiff Jose Parra is a Latino, born in the United States. He is employed
3 by Defendant Bashas' at a Food City store.

4 7. Plaintiff Gonzalo Estrada is a Latino, born in Mexico. He is employed by
5 defendant Bashas' at a Food City store.

6 8. Defendant Bashas', Inc. is an Arizona corporation with stores throughout
7 the State of Arizona as well as in the states of New Mexico and California. Its corporate
8 headquarters is located in Chandler, Arizona. It operates stores under the names Bashas',
9 AJ's Fine Foods, Food City, Bashas' Mercado and Eddies Country Store.

10
11 **CLASS ALLEGATIONS**

12 9. Plaintiffs bring this action pursuant to Rule 23 of the Federal Rules of Civil
13 Procedure on behalf of a class of all past, present and future Latino employees of Bashas',
14 Inc. in the State of Arizona. Plaintiffs are members of the class they seek to represent.

15 10. The members of the class are sufficiently numerous that joinder of all
16 members is impracticable.

17 11. There are questions of law and fact common to the class, and these
18 questions predominate over individual questions. Such questions include, without
19 limitation, whether defendant's common operating practices and procedures discriminate
20 against its Latino employees; whether defendant's policies have an adverse impact upon
21 the class and, if so, whether said impact can be justified by business necessity; whether
22 defendant has a policy and practice of retaliating against class members who object to or
23 oppose unlawful employment practices; and whether injunctive and other equitable
24 remedies and punitive damage relief for the class is warranted.

25 12. The claims alleged by the Plaintiffs are typical of the claims of the class.

26 ///

1 13. The named Plaintiffs will fairly and adequately represent and protect the
2 interests of the class.

3 14. This action is properly maintainable under both Federal Rules of Civil
4 Procedure Rule 23(b)(2) and (3) because Defendant has acted or refused to act on grounds
5 generally applicable to the class, thereby making appropriate final injunctive relief or
6 corresponding declarative relief with respect to the class as a whole; and because
7 questions of law and fact common to the class predominate over any questions affecting
8 only individual members, and a class action is superior to other available methods for the
9 fair and efficient adjudication of this case. This action is also properly maintainable
10 under Rule 23(c)(4)(A) for all class issues alleged herein.

11
12 **FIRST CLAIM FOR RELIEF (TITLE VII)**

13 15. Defendant Bashas', Inc. operates approximately 100 retail grocery stores in
14 the State of Arizona. Those stores are operated under the names Bashas', Food City, AJ's.
15 Fine Foods, Bashas' Mercado and Eddies' Country Store. All of its employment and
16 personnel policies are established by Defendant Bashas', Inc.'s headquarters in Chandler,
17 Arizona.

18 16. The job duties performed by Plaintiffs and members of their class at
19 Defendant's Food City stores are substantially similar to the job duties performed by
20 Defendant's employees at its Bashas' stores. However, Plaintiffs and the class they
21 represent are paid less on an hourly basis than the similarly situated employees at the
22 Bashas' stores. Plaintiffs are informed and believe that most of the employees at the
23 Bashas' stores are American born and Caucasian while most of the employees, including
24 Plaintiffs, employed at the Food City stores are of non-American national origin and/or of
25 the Latino race. Plaintiffs are informed and believe that they and the class they represent

26 ///

1 are paid less than similarly situated employees at Bashas' stores because of their national
2 origin and race.

3 17. Other terms and conditions of employment, including hygiene and the
4 quality of tools and materials provided to employees at the Food City stores, are inferior
5 to the terms and conditions of employment of the similarly situated employees of Bashas'
6 stores. Plaintiffs are informed and believe that these differences of terms and conditions
7 of employment are due to their national origin and race.

8 18. On or about September 26, 2001, Plaintiff Jose Parra filed a Charge of
9 Discrimination with the United States Equal Employment Opportunity Commission. On
10 or about November 12, 2001 Plaintiff Gonzalo Estrada filed a Charge of Discrimination
11 with the United States Equal Employment Opportunity Commission.

12 19. On or about February 27, 2002, Plaintiffs and each of them were sent a
13 Notice of Right to Sue from the United States Equal Employment Opportunity
14 Commission.

15 20. The conduct described above violates Title VII of the Civil Rights Act of
16 1964, 42 U.S.C. §§2000(e), *et. seq.*

17 21. Defendant Bashas', Inc. has intentionally discriminated against the class and
18 its members and maintained a system for assigning work in its various retail stores that
19 discriminates against employees of non-American national origin and Latino race by
20 paying them less than similarly situated American-born Caucasian employees and
21 requiring them to work under terms and conditions which are inferior to the terms and
22 conditions of similarly situated American-born Caucasian employees of said Defendant.

23 22. Defendant Bashas', Inc. discriminatory practices described above have
24 deprived Plaintiffs and all other persons similarly situated of compensation to which they
25 are entitled, resulting in loss of past and future wages and other job benefits.

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1 1. That this case be certified as a class action on behalf of the proposed class
2 of plaintiffs and that Plaintiffs be designated as representatives of the class and their
3 counsel designated counsel for the class;

4 2. That Plaintiffs and the class they represent recover from Defendant all
5 damages received or suffered as a result of Defendant's conduct, including back pay, front
6 pay, general and special damages for lost compensation and job benefits they would have
7 received but for the discriminatory practices of Defendant;

8 3. That Plaintiffs and the class they represent recover from Defendant
9 exemplary and punitive damages in an amount commensurate with Defendant's ability to
10 pay and to deter future conduct;

11 4. That a preliminary and permanent injunction be issued from the Court
12 against Defendant and its directors, officers, owners, agents, successors and employees,
13 representatives and any and all persons acting in concert with them from engaging in each
14 of the unlawful practices, policies, customs and uses set forth hereinbefore;

15 5. That the Court issue a declaratory judgment that the practices complained
16 of in this Complaint are unlawful and violate Title 42 U.S.C. § 1981 and §2000(e) *et.*
17 *seq.*;

18 6. That the Court order an adjustment of the wage rates and benefits for
19 Plaintiffs and the class that they represent to rates and benefits to which they would be
20 entitled but for Defendant's discriminatory practices.

21 7. That Defendant be enjoined from maintaining less favorable working
22 conditions and terms and conditions of employment for Plaintiffs and the members of the
23 class they represent;

24 8. That Plaintiffs recover from Defendant their costs of suit herein, including
25 reasonable attorneys fees, to the extent allowable by law;

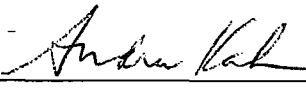
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1 9. That Plaintiffs recover from Defendant pre-judgment interest and post-
2 judgment interest as provided by law; and

3 10. That Plaintiffs recover from Defendant such other and further legal and
4 equitable relief as the Court deems necessary, just and proper under the circumstances.

5 Dated: April 2, 2002

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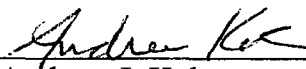
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7 By 
8 Andrew J. Kahn
9 Elizabeth A. Lawrence
Attorneys for Plaintiffs

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11 **DEMAND FOR JURY TRIAL**

12 Plaintiffs demand trial by jury of their claim for relief herein.

13
14 Dated: April 2, 2002

DAVIS, COWELL & BOWE, LLP

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16 By 
17 Andrew J. Kahn
18 Elizabeth A. Lawrence
19 Attorneys for Plaintiffs

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