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12 UNITED STATES DISTRICT COURT  
13 CENTRAL DISTRICT OF CALIFORNIA

14 U.S. EQUAL EMPLOYMENT  
15 OPPORTUNITY COMMISSION,

16 Plaintiff,

17 v.

18 CLOUGHERTY PACKING CO.,  
19 d/b/a FARMER JOHN and DOES 1  
20 to 10, Inclusive,

21 Defendants.

Case No. **CV04-8051**  
**COMPLAINT - CIVIL RIGHTS  
EMPLOYMENT  
DISCRIMINATION**  
(42 U.S.C. Section 2000e, *et seq.*; 42  
U.S.C. Section 1981a)

**DEMAND FOR TRIAL BY JURY**

**PLA**

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CENTRAL DIST. OF CALIF.  
LOS ANGELES

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22 NATURE OF THE CASE

23 This is an action under Title VII of the 1964 Civil Rights Act and Title I of the  
24 Civil Rights Act of 1991 to correct intentional and unlawful employment practices  
25 on the basis of race, and to make whole Donnie L. Gaunt and similarly situated Black  
26 applicants who applied for employment with Clougherty Packing Co., d/b/a Farmer  
27 John ("Farmer John"), as full-time entry-level production/warehouse workers, who  
28 were adversely affected by such practices. The Plaintiff U.S. Equal Employment  
Opportunity Commission ("Commission" or "EEOC") alleges that Farmer John  
discriminated against Donnie L. Gaunt and similarly situated Black applicants by  
failing to hire them because of their race.

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1 The Commission alleges that Defendant has engaged in and continues to  
2 engage in recruitment practices which discriminate against potential Black applicants  
3 for employment. As a result of these practices, Blacks have been denied equal  
4 employment opportunities. The Commission further alleges that Defendant failed to  
5 maintain and preserve employment records and failed to provide reports to the  
6 Commission as required by federal law.

#### 7 JURISDICTION AND VENUE

8 1. Jurisdiction of the Court is invoked pursuant to 28 U.S.C. Section 451,  
9 1331, 1337, 1343 and 1345. This action is authorized and instituted pursuant to  
10 Section 706(f)(1) and (3) and 707 of Title VII of the Civil Rights Act of 1964, as  
11 amended, 42 U.S.C. Sections 2000e-5(f)(1) and (3) and 2000e-6 ("Title VII"), and  
12 Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981a.

13 2. The unlawful employment practices alleged herein were committed within  
14 the jurisdiction of the United States District Court for the Central District of  
15 California.

#### 16 PARTIES

17 3. The EEOC is an agency of the United States of America charged with the  
18 administration, interpretation and enforcement of Title VII and is expressly  
19 authorized to bring this action by Sections 706(f)(1) and (3) and 707(e) of Title VII,  
20 42 U.S.C. Sections 2000e-5(f)(1) and (3) and 2000e-6(e).

21 4. At all relevant times, Clougherty Packing Co., d/b/a Farmer John, was  
22 and is a California corporation continuously doing business in the Central District of  
23 California, and continuously had fifteen or more employees.

24 5. At all relevant times, Farmer John continuously was an employer engaged  
25 in an industry affecting commerce within the meaning of Section 701(b), (g) and (h)  
26 of Title VII, 42 U.S.C. Sections 2000e(b), (g) and (h).

27 ///

28 ///

CONDITIONS PRECEDENT

1  
2       6. More than thirty (30) days prior to the institution of this lawsuit, Donnie  
3 L. Gaunt filed a charge with the Commission alleging that Farmer John violated Title  
4 VII.

5       7. Prior to institution of this lawsuit, all conditions precedent were satisfied.  
6 The Commission's representatives attempted to eliminate the unlawful employment  
7 practices hereinafter alleged and to affect voluntary compliance with the Act through  
8 informal methods of conciliation.

STATEMENT OF CLAIMS

9  
10       8. Since at least November 2002, Farmer John has engaged in unlawful  
11 employment practices in violation of Sections 703(a)(1) and 707 of Title VII, 42  
12 U.S.C. Sections 2000e-3 and 2000e-6. These violations include failing to hire  
13 Donnie L. Gaunt and similarly situated Black applicants not hired by Farmer John  
14 because of their race, Black. Farmer John also engaged in recruitment practices that  
15 violate Title VII by discriminating against Blacks.

16       9. The effect of the practices complained of above has been to deprive  
17 Donnie L. Gaunt and other similarly situated Black applicants for full-time entry-  
18 level production/warehouse workers of equal employment opportunities and to  
19 otherwise adversely affect their employment status because of their race {Black}.

20       10. As a direct and proximate result of the aforesaid acts of Farmer John,  
21 Donnie L. Gaunt and similarly situated Black applicants have suffered emotional  
22 distress, embarrassment, humiliation and related damages in an amount according to  
23 proof.

24       11. As a direct and proximate result of the aforesaid acts of Farmer John,  
25 Donnie L. Gaunt and similarly situated Black applicants have suffered a loss of  
26 earnings in an amount according to proof.

27       12. The unlawful employment practices complained of above were and are  
28 intentional within the meaning of the 1991 Civil Rights Act.

1 13. Farmer John has acted with malice or reckless indifference to federally  
2 protected rights of Donnie L. Gaunt and similarly situated Black applicants.

3 14. Farmer John has violated 29 C.F.R. § 1602.14, by failing to make and  
4 preserve employment records required by the Commission necessary to the  
5 Commission's administration of Title VII. More specifically, Farmer John  
6 failed to maintain and preserve for a period of one year job applications, or resumes,  
7 and failed to maintain and preserve relevant job applications or resumes in violation  
8 of 29 C.F.R. § 1602.14.

9 15. Defendant has violated 29 C.F.R. § 1602.7 by failing to comply with  
10 reporting requirements as required under federal law. Specifically, Defendant failed  
11 to file EEO-1 reports as required.

12 PRAYER FOR RELIEF

13 Wherefore, the Commission respectfully requests that this Court:

14 A. Grant declaratory relief that Farmer John has violated Title VII by  
15 discriminating in hiring because of race;

16 B. Grant a permanent injunction enjoining Farmer John, its officers,  
17 successors, assigns and all persons in active concert or participation with it, from  
18 engaging in any employment practices which discriminate on the basis of race or  
19 retaliate against employees for engaging in activity protected under Title VII;

20 C. Order Farmer John to institute and carry out policies, practices and  
21 programs which provide equal employment opportunities for Blacks and which  
22 eradicate the effects of past and present unlawful employment practices;

23 D. Grant a judgment requiring Farmer John to make Donnie L. Gaunt and  
24 similarly situated Black applicants whole by paying to them appropriate back pay,  
25 interest, lost benefits, rightful place employment, compensatory damages, and  
26 punitive damages in an amount to be proven at trial;

27 E. Order Farmer John to institute non discriminatory recruitment practices  
28 that discriminate against African Americans;

- 1 F. Order Farmer John to maintain records as required under Title VII;  
2 G. Order Farmer John to file reports, specifically EEO-1 reports as required  
3 under federal law;  
4 H. Grant such further relief as the Court deems necessary and proper in the  
5 public interest;  
6 I. Award the Commission its costs in this action.  
7

8 JURY TRIAL DEMAND

9 The Commission requests a jury trial on all questions of fact raised by  
10 Complaint.  
11

12 Dated: September 27, 2004

Respectfully Submitted,

13 ERIC S. DREIBAND  
General Counsel

14 JAMES LEE  
Deputy General Counsel

15 GWENDOLYN YOUNG REAMS  
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