

1 **WILLIAM R. TAMAYO, SBN 084965**  
2 **DAVID F. OFFEN-BROWN, SBN 063321**  
3 **LINDA S. ORDONIO-DIXON, SBN 172830**  
4 **U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION**  
5 **San Francisco District Office**  
6 **350 The Embarcadero, Suite 500**  
7 **San Francisco, CA 94105-1260**  
8 **Telephone No. (415) 625-5658**  
9 **Fax No. (415) 625-5657**

10 **Attorneys for Plaintiff**

11 **UNITED STATES DISTRICT COURT**  
12 **EASTERN DISTRICT OF CALIFORNIA - FRESNO**

13 **EQUAL EMPLOYMENT**  
14 **OPPORTUNITY COMMISSION,**

15 **Plaintiff,**  
16 **v.**

17 **GRIMMWAY ENTERPRISES, INC.**  
18 **d/b/a GRIMMWAY FARMS;**  
19 **ESPARZA ENTERPRISES, INC.**

20 **Defendant.**

21 **CIVIL ACTION NO.**

22 **COMPLAINT- CIVIL RIGHTS**  
23 **EMPLOYMENT DISCRIMINATION**  
24 **(42 U.S.C. §§ 2000e, et seq.)**

25 **JURY TRIAL DEMAND**

26 **NATURE OF THE ACTION**

27 This is an action under Title VII of the Civil Rights Act of 1964 (Title VII) and Title I of the  
28 Civil Rights Act of 1991 to correct unlawful employment practices on the basis of sex, female, and  
to provide appropriate relief to Charging Party Ana-Berta Rubio and other similarly situated female  
employees who were adversely affected by such practices. As alleged below, defendants  
GRIMMWAY ENTERPRISES, INC. d/b/a GRIMMWAY FARMS (Grimmway) and ESPARZA  
ENTERPRISES, INC. (Esparza) subjected Ms. Rubio and similarly situated female employees to an  
unlawful hostile work environment based on their sex. In addition, defendants Grimmway and  
Esparza unlawfully retaliated against Ms. Rubio by terminating her employment for engaging in  
protected activity.

COMPLAINT

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2 **JURISDICTION AND VENUE**

3 1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§451, 1331, 1337, 1343, and  
4 1345. This action is authorized and instituted pursuant to §706(f)(1) and (3) of Title VII of the Civil  
5 Rights Act of 1964, as amended, 42 U.S.C. §2000e-5(f)(1) and (3), and §102 of the Civil Rights Act  
6 of 1991, 42 U.S.C. §1981a.

7 2. The employment practices alleged to be unlawful were and are now being committed within  
8 the state of California, County of Kern, which is within the jurisdiction of this court.

9 **PARTIES**

10 3. Plaintiff, the Equal Employment Opportunity Commission (EEOC), is the agency of the  
11 United States of America charged with the administration, interpretation, and enforcement of Title  
12 VII and is expressly authorized to bring this action by §706(f)(1) and (3) of Title VII, 42 U.S.C.  
13 §2000e-5(f)(1) and (3).

14 4. At all relevant times, defendant Grimmway has been a California corporation, doing business  
15 in the State of California, in the County of Kern, and has continuously had at least fifteen employees.

16 5. At all relevant times, defendant Esparza has been a California corporation, doing business in  
17 the State of California, in the County of Kern, and has continuously had at least fifteen employees.

18 6. At all relevant times, defendant Grimmway has continuously been an employer engaged in  
19 an industry affecting commerce within the meaning of §701(b), (g), and (h) of Title VII, 42 U.S.C.  
20 §2000e-(b), (g), and (h).

21 7. At all relevant times, defendant Esparza has continuously been an employer engaged in an  
22 industry affecting commerce within the meaning of §701(b), (g), and (h) of Title VII, 42 U.S.C.  
23 §2000e-(b), (g), and (h).

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**STATEMENT OF CLAIMS**

**Sexual Harassment**

8. More than thirty days prior to the institution of this lawsuit, Charging Party Ana-Berta Rubio filed a charge of discrimination with the EEOC alleging violations of Title VII by Defendants. All conditions precedent to the institution of this lawsuit have been fulfilled.

9. Since at least July 2003, defendants Grimmway and Esparza have engaged in unlawful employment practices at its California facilities in violation of §703(a)(1) of Title VII, 42 U.S.C. §2000e-2(a). These practices include subjecting Ms. Rubio and similarly situated female employees to a sexually hostile, abusive, intimidating, and offensive work environment.

10. The effect of the practices complained of in paragraph 9 above has been to deprive Ms. Rubio and similarly situated female employees of equal employment opportunities and otherwise to adversely affect their status as employees because of their gender, female.

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

12. The unlawful employment practices complained of in paragraph 9 above were and are done with malice and/or reckless indifference to the federally protected rights of Ms. Rubio and similarly situated female employees.

**Retaliation**

13. On or about September 24, 2003, defendants Grimmway and Esparza engaged in the unlawful employment practice of retaliation at their California facilities, in violation of §704(a) of Title VII, 42 U.S.C. §2000e-3(a), by terminating Ms. Rubio for engaging in protected activity.

14. The effect of the practice complained of in paragraph 13 above has been to deprive Ms. Rubio of equal employment opportunities and otherwise to adversely affect her status as an employee because of her protected activity.

15. The unlawful employment practice complained of in paragraph 13 above was intentional.

16. The unlawful employment practice complained of in paragraph 13 was done with malice

1 and/or reckless indifference to the federally protected rights of Ms. Rubio.  
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3 **PRAYER FOR RELIEF**

4 WHEREFORE, the EEOC respectfully requests that this Court:

5 A. Grant a permanent injunction enjoining defendants Grimmway and Esparza, their  
6 officers, successors, assigns, and all persons in active concert or participation with them, from  
7 engaging in any employment practice which discriminates on the basis of sex and/or retaliation.

8 B. Order defendants Grimmway and Esparza to institute and carry out policies,  
9 practices, and programs which provide equal employment opportunities for female employees and  
10 which eradicate the effects of its past and present unlawful employment practices.

11 C. Order defendants to make whole Ms. Rubio and similarly situated female employees,  
12 by providing appropriate backpay with prejudgment interest, in amounts to be determined at trial,  
13 and other affirmative relief necessary to eradicate the effects of their unlawful employment practices,  
14 including but not limited to reinstatement.

15 D. Order defendants Grimmway and Esparza to make whole Ms. Rubio and similarly  
16 situated female employees by providing compensation for past and future pecuniary losses resulting  
17 from the unlawful employment practices described above, including medical expenses, with interest,  
18 in amounts to be determined at trial.

19 E. Order defendants Grimmway and Esparza to make whole Ms. Rubio and similarly  
20 situated female employees by providing compensation for past and future non-pecuniary losses  
21 resulting from the above unlawful employment practices, including pain and suffering, emotional  
22 distress, indignity, loss of enjoyment of life, loss of self-esteem, and humiliation, in amounts to be  
23 determined at trial.

24 F. Order defendants Grimmway and Esparza to pay Ms. Rubio and similarly situated  
25 female employees punitive damages for their malicious and reckless conduct described above, in  
26 amounts to be determined at trial.

27 G. Grant such further relief as the Court deems proper.  
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H. Award the EEOC its costs in this action.

**JURY TRIAL DEMAND**

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

Respectfully submitted,

JAMES LEE  
Deputy General Counsel

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

May 3, 2006

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//s//  
WILLIAM R. TAMAYO  
Regional Attorney

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//s//  
DAVID F. OFFEN-BROWN  
Supervisory Trial Attorney

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//s//  
LINDA ORDONIO-DIXON  
Senior Trial Attorney

Attorneys for Plaintiff EEOC

U. S. EQUAL EMPLOYMENT  
OPPORTUNITY COMMISSION  
San Francisco District Office  
350 The Embarcadero, Suite 500  
San Francisco, California 94105-1260