

Page 1 of 8
Handwritten initials and signatures

1 WILLIAM R. TAMAYO (CA Bar No. 084965)
2 JONATHAN T. PECK, Supervisory Trial Attorney (VA Bar No. 12303)
3 CINDY O'HARA (CA Bar No. 114555)
4 EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
5 San Francisco District Office
6 350 The Embarcadero, Suite 500
7 San Francisco, CA 94105
8 Telephone No. (415) 625-5653
9 Facsimile No. (415) 625-5657

FILED
06 SEP 29 PM 4:47
RICHARD W. WIERING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

Attorneys for Plaintiff Equal Employment Opportunity Commission

E-Filing

8 **UNITED STATES DISTRICT COURT**
9 **NORTHERN DISTRICT OF CALIFORNIA**

RS

10 **EQUAL EMPLOYMENT**
11 **OPPORTUNITY COMMISSION,**

12 Plaintiff,

13 v.

14 **HAMMON PLATING CORPORATION,**

15 Defendant.

Case No. **06-6140**
COMPLAINT

Civil Rights-Employment Discrimination

DEMAND FOR JURY TRIAL

16
17 **NATURE OF THE ACTION**

18 This action is brought pursuant to Title VII of the Civil Rights Act of 1964 and Title I of
19 the Civil Rights Act of 1991 to correct unlawful employment practices on the basis of national
20 origin and retaliation, and to provide appropriate relief to Teresa Aguilar, Luz Esparza, and Julio
21 Villa, and similarly situated employees who were adversely affected by such practices.
22 Defendant Hammon Plating Corporation subjected Ms. Aguilar and Ms. Esparza, and similarly
23 situated employees to unlawful sexual harassment. In addition, Defendant subjected Ms.
24 Aguilar, Ms. Esparza, Mr. Villa, and similarly situated employees to unlawful discriminatory
25 harassment based on their national origin, Mexican.

26 **JURISDICTION AND VENUE**

27 1) Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§451, 1331, 1337,
28 1343 and 1345. This action is authorized and instituted pursuant to §706(f)(1) and (3) of Title

1 VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §2000e-5(f)(1) and (3) ("Title VII")
2 and §102 of the Civil Rights Act of 1991, 42 U.S.C. §1981a.

3 2) The unlawful employment practices alleged herein were and are now being
4 committed within the jurisdiction of the United States District Court for the Northern District of
5 California.

6 **INTRADISTRICT ASSIGNMENT**

7 3) This action is appropriate for assignment to San Jose because the unlawful
8 employment practices alleged were and are being committed in Santa Clara County, the
9 employment records relevant to the unlawful practices were and are located in Santa Clara
10 County, and Defendant's principal place of business is in Santa Clara County.

11 **PARTIES**

12 4) Plaintiff, the Equal Employment Opportunity Commission ("Commission") is the
13 agency of the United States of America charged with the administration, interpretation and
14 enforcement of Title VII, and is expressly authorized to bring this action by §§706(f)(1) and (3)
15 of Title VII, §§2000-e(f)(1) and (3).

16 5) Defendant Hammon Plating Corporation ("Defendant") is a California
17 corporation, doing business in the State of California, in the County of Santa Clara, and has
18 continuously had at least 15 employees.

19 6) At all relevant times, Defendant Hammon Plating Corporation has continuously
20 been an employer engaged in an industry affecting commerce, within the meaning of Section
21 701(b), (g) and (h) of Title VII, 42 U.S.C. §§2000-e(b), (g) and (h).

22 **STATEMENT OF CLAIMS**

23 **FIRST CLAIM FOR RELIEF**

24 **On Behalf of Charging Parties Aguilar and Esparza and Similarly Situated Employees**
25 **Violation of Title VII of Civil Rights Act Based on Sexual Harassment**

26 7) More than thirty days prior to the institution of this lawsuit, Teresa Aguilar, Luz
27 Esparza and Julio Villa filed charges of discrimination with Plaintiff Commission alleging
28 violations of Title VII by Defendant. All conditions precedent to the institution of this lawsuit

1 have been fulfilled.

2 8) Since at least August 29, 2004, Defendant engaged in unlawful employment
3 practices in violation of §704(a) of Title VII, 42 U.S.C. §2000-e-3(a) by subjecting Charging
4 Parties Aguilar and Esparza, and similarly situated employees, to a sexually hostile, abusive,
5 intimidating and offensive work environment. This hostile environment was created by
6 unwelcome verbal and physical harassment of a sexual nature and based on sex, and resulted in
7 the constructive discharge of Charging Parties Aguilar and Esparza, and similarly situated
8 employees.

9 9) The effect of the actions complained of in paragraph 8 above has been to deprive
10 Charging Parties Aguilar and Esparza, and similarly situated employees of equal employment
11 opportunities and otherwise adversely affect their status as employees.

12 10) The unlawful employment practice complained of in paragraph 8 above were
13 intentional.

14 11) The unlawful employment practice complained of in paragraph 8 above were
15 done with malice and/or with reckless indifference to the federally protected rights of Charging
16 Parties Aguilar and Esparza, and similarly situated employees.

17 **SECOND CLAIM FOR RELIEF**

18 **On Behalf of Charging Parties Aguilar, Esparza and Villa, and Similarly Situated**
19 **Employees**

20 **Violation of Title VII of Civil Rights Act Based on National Origin-Based Harassment**

21 12) Plaintiff Commission hereby incorporates the allegations of paragraphs 1 through
22 7 above as though fully set forth herein.

23 13) In addition to the above-referenced disparate treatment, Defendant engaged in
24 unlawful employment practices in violation of §704(a) of Title VII, 42 U.S.C. §2000-e-3(a) by
25 subjecting Charging Parties Aguilar, Esparza, and Villa, and similarly situated employees, to a
26 hostile, abusive, intimidating and offensive work environment on the basis of their national
27 origin, Mexican. This hostile environment was created by unwelcome derogatory comments and
28 degrading actions based on the employees' national origin, and resulted in the constructive
discharge of Charging Parties Aguilar, Esparza, Villa, and similarly situated employees.

1 14) The effect of the actions complained of in paragraph 13 above has been to deprive
2 Charging Parties and similarly situated employees of equal employment opportunities and
3 otherwise adversely affect their status as employees because of their national origin.

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

6 16) The unlawful employment practice complained of in paragraph 13 above was
7 done with malice or with reckless indifference to the federally protected rights of Charging
8 Parties and similarly situated employees.

9 **PRAYER FOR RELIEF**

10 Wherefore, the Commission respectfully requests that this Court:

11 A. Grant a permanent injunction enjoining Defendant, its officers, successors,
12 assigns, and all persons acting in concert or participation with them, from engaging in sex
13 discrimination, including sexual harassment, against its employees.

14 B. Grant a permanent injunction enjoining Defendant, its officers, successors,
15 assigns, and all persons acting in concert or participation with them, from engaging in national
16 origin discrimination, including harassment based on national origin, against its employees.

17 C. Order Defendant to institute and carry out policies, practices, and programs which
18 prohibit disparate treatment based on sex and national origin, and which eradicate the effects of
19 its unlawful employment practices.

20 D. Order Defendant to make Charging Parties and similarly situated employees
21 whole, by providing appropriate back pay and benefits with prejudgment interest, and other
22 affirmative relief necessary to eradicate the effects of their unlawful employment practices,
23 including but not limited to reinstatement and/or front pay and other appropriate relief to be
24 determined at trial.

25 E. Order Defendant to make Charging Parties and similarly situated employees
26 whole by providing compensation for past and future pecuniary losses resulting from the
27 unlawful employment practices complained of above, including but not limited to such out-of-
28 pocket expenses as medical care necessitated by Defendant's unlawful conduct, in amounts to be

1 determined at trial.

2 F. Order Defendant to make Charging Parties and similarly situated employees
3 whole by providing compensation for past and future nonpecuniary losses resulting from the
4 unlawful practices complained of above including, but not limited to emotional pain and
5 suffering, inconvenience, loss of enjoyment of life and humiliation, in amounts to be determined
6 at trial.

7 G. Order Defendant to pay Charging Parties and similarly situated employees
8 punitive damages for the malicious and reckless conduct described above, in amounts to be
9 determined at trial.

10 H. Grant such further relief as the Court may deem just and proper in the public
11 interest.


12 I. Award the Commission its costs of this action.

13 **DEMAND FOR JURY TRIAL**

14 Pursuant to the provisions of Federal Rule of Civil Procedure 38(b), Plaintiff hereby
15 demands a jury trial.

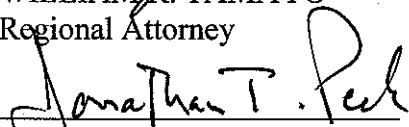
16 **Ronald S. Cooper**
17 General Counsel
18 **James L. Lee**
19 Deputy General Counsel
20 **Gwendolyn Young Reams**
21 Associate General Counsel
22 **Equal Employment Opportunity**
23 **Commission**
24 1801 L Street, N.W.
25 Washington, DC 20507

22 Date: Sept. 26, 2006




WILLIAM R. TAMAYO
Regional Attorney

25 Date: Sept. 26, 2006



JONATHAN T. PECK
Supervisory Trial Attorney

27 Date: Sept. 26, 2006



CINDY O'HARA
Senior Trial Attorney