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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

EQUAL EMPLOYMENT OPPORTUNITY)
COMMISSION,)
)
Plaintiff,)
)
and)
)
DELIA CASAS, MYRIAM CAZARES,)
MIRIAM DELGADO, PATRICIA)
DELGADO, FLOR RIVERA)
and TERRI SALCIDO)
)
Applicant-Intervenors)
)
vs.)
)
KOVACEVICH "5" FARMS, a partnership,)
)
Defendant.)

CASE NO: 1:06-cv-00165 OWW TAG

**COMPLAINT
IN INTERVENTION-
CIVIL RIGHTS
EMPLOYMENT DISCRIMINATION**

DEMAND FOR JURY TRIAL

1 **PRELIMINARY STATEMENT**

2 1. Plaintiff-Intervenors, DELIA CASAS, MYRIAM CAZARES, MIRIAM
3 DELGADO, PATRICIA DELGADO, FLOR RIVERA and TERRI SALCIDO, bring this action
4 for damages resulting from Defendant's violation of their civil rights, as secured under the
5 Constitution and the laws of the United States and the State of California, by its maintenance of
6 unlawful employment practices which had the purpose or effect of discriminating against them,
7 and a class of female applicants, on the basis of their sex, female. Plaintiff-Intervenors bring this
8 action on behalf of themselves and a class of similarly situated females who were denied
9 employment, and/or were deterred from applying for employment, on the basis of their gender,
10 female.

11
12 **JURY DEMAND**

13 2. Plaintiff-Intervenors hereby demand a jury trial as provided by Rule 38(a) of the
14 Federal Rules of Civil Procedure.

15
16 **JURISDICTION**

17 3. This action is brought to redress violations of Plaintiff-Intervenors' rights as
18 guaranteed by Title VII of the Civil Rights Act of 1964, 42 U.S.C. §2000e et seq., as amended,
19 California Fair Employment and Housing Act, California Government Code §12900 et seq., and
20 Article I, Section 8 of the California Constitution, to secure protection against and to redress
21 deprivation of their right to be free of sex discrimination in employment. The jurisdiction of this
22 Court is invoked pursuant to 28 U.S.C. §1343(4) to secure the above-specified rights. This Court
23 also has jurisdiction over the subject matter pursuant to 28 U.S.C. §1331 in that this civil action
24 arises in part under the Constitution or laws of the United States of America. Plaintiff-Intervenors
25 request that the Court exercise jurisdiction over their state law claims pursuant to 28 U.S.C.
26 §1367(a).

27 **CLASS ACTION ALLEGATIONS**

28 4. Plaintiffs bring this action pursuant to Rule 23(a) and (b)(2) of the Federal Rules of

1 Civil Procedure on their own behalf and on behalf of all others persons similarly situated. The
2 members of the class are:

3 (a) All women who applied for employment with Defendant Kovacevich "5"
4 Farms and who were denied employment because of their gender (female) at
5 any time during the period from January 1998 to the present.

6 (b) All women who were deterred from applying for or seeking employment
7 with Defendant Kovacevich "5" Farms, at any time during the period from
8 January 1998 to the present, because of said company's known policy and
9 practice of refusing employment to females because of their gender
10 (female).

11 5. The members of these classes are too numerous to be joined.

12 6. There are common questions of law and fact, including whether the female class
13 members were denied employment, or deterred from seeking employment, because of their gender,
14 female.

15 7. The claims of the plaintiffs are typical of the class claims.

16 8. The Defendant has acted or refused to act on grounds generally applicable to the
17 class, thereby making appropriate final injunctive relief or corresponding declaratory relief to the
18 class as a whole.

19

20 **PARTIES**

21 9. Plaintiff-Intervenors are each experienced female farm workers who applied for
22 employment with Defendant Kovacevich "5" Farms and were rejected and/or deterred from
23 applying for employment by said Defendant because of their gender (female), thereby constituting
24 unlawful sex discrimination at the time of the acts giving rise to this action.

25 10. Plaintiff, EQUAL EMPLOYMENT OPPORTUNITY COMMISSION, (hereinafter
26 "Plaintiff") is an agency of the United States of America charged with the administration,
27 interpretation and enforcement of Title VII of the Civil Rights Act of 1964, and is expressly
28 authorized to bring this action by §706(f)(1) and (3) of Title VII, 2000e(f)(1) and (3).

1 11. Defendant, at all times relevant herein, was, and is, a California partnership,
2 qualified and doing business in the State of California, and was an employer who continuously
3 had, and does now have at least fifteen employees. At all relevant times, Defendant has been an
4 employer engaged in an industry affecting commerce within the meaning of 42 U.S.C. §2000e(b)
5 and (h).

6
7 **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

8 12. On or about November 13, 2003, Plaintiff-Intervenors filed charges of employment
9 discrimination with Plaintiff alleging sex discrimination by Defendant. These charges of
10 employment discrimination were dual-filed with the California Department of Fair Employment
11 and Housing (“DFEH”). Pursuant to the work-sharing agreement between said agencies, the
12 DFEH issued a right to sue letter to each Plaintiff-Intervenor and Plaintiff assumed responsibility
13 for investigating and processing said charges. On August 18, 2004, Plaintiff issued a letter of
14 Determination, finding that Defendant violated Title VII of the Civil Rights Act of 1964 by
15 refusing to hire Plaintiff-Intervenors, and a class of female applicants, because of their sex, female.

16
17 **FIRST CLAIM FOR RELIEF:**

18 **VIOLATION OF TITLE VII: Sex Discrimination**

19 13. More than thirty (30) days prior to the institution of this lawsuit, Plaintiff-
20 Intervenors filed charges of employment discrimination with Plaintiff Equal Employment
21 Opportunity Commission alleging violation of Title VII by Defendant against Plaintiff-Intervenors
22 and a class of female applicants who were denied employment and/or deterred from applying for
23 employment, because of their gender, female. All conditions precedent to the institution of this
24 lawsuit have been fulfilled.

25 14. Since at least January of 1998, Defendant has engaged in unlawful practices of sex
26 discrimination, in violation of §703(a) of Title VII, 42 U.S.C. §2000e-2a, by refusing to hire
27 Plaintiff-Intervenors and a class of similarly situated females based upon their gender, female.

28 15. The effect of the actions complained of in Paragraph 9 above has been to deprive

1 Plaintiff-Intervenors, and a class of similarly situated females, of equal employment opportunities
2 and has otherwise adversely affected their status as employees because of their gender, female.

3 16. The unlawful employment practices complained of in Paragraph 9 above were
4 intentional.

5 17. The unlawful employment practices complained of in Paragraph 9 above were done
6 with malice or with reckless indifference to the federally protected rights of the Plaintiff-
7 Intervenors and a class of similarly situated females.

8
9 **SECOND CLAIM FOR RELIEF:**

10 **CALIFORNIA FAIR EMPLOYMENT AND HOUSING ACT (Calif. Gov't §12900 et seq.)**

11 18. Plaintiff-Intervenors reallege and incorporate by reference herein each and every
12 allegation stated in Paragraphs 1 through 12, above, as though fully stated herein.

13 19. Plaintiff-Intervenors filed timely charges of employment discrimination with the
14 California Department of Fair Employment and Housing ("DFEH") alleging employment
15 discrimination against them, and a class of female applicants who were rejected for employment
16 and/or deterred from applying for employment, on the basis of their gender, female. The DFEH
17 issued letters of right to sue to each of Plaintiff-Intervenors. Plaintiff-Intervenors have exhausted
18 their administrative remedies.

19 20. Plaintiff-Intervenors are informed and believe, and thereon allege, that a substantial
20 motivating factor in Defendant's discrimination was their gender, female, in violation of the
21 California Fair Employment and Housing Act ("FEHA") Calif. Government Code §12900, et seq.

22 21. As a direct and proximate result of Defendant's willful, knowing and intentional
23 discrimination, Plaintiff-Intervenors have suffered and will continue to suffer pain and suffering,
24 and extreme and severe mental anguish and emotional distress. Plaintiff-Intervenors are hereby
25 entitled to general and compensatory damages in amounts to be proven at trial.

26 22. Plaintiff-Intervenors are informed and believe, and based thereon allege, that the
27 outrageous conduct of Defendant described above was done with malice, fraud and oppression and
28 with conscious disregard for their rights and with the intent, design and purpose of injuring them.

1 Defendant, through its officers, managing agents and or supervisors, authorized, condoned and/or
2 ratified the unlawful conduct. By reason thereof, Plaintiff-Intervenors are entitled to punitive or
3 exemplary damages from the Defendant in a sum according to proof at trial.

4
5 **PRAYER**

6 WHEREFORE, Plaintiff-Intervenors pray this Court for the relief set forth below;

7 1. For back pay and employment benefits, in order to make whole Plaintiff-
8 Intervenors and a class of similarly situated females who were denied employment and/or deterred
9 from applying for employment, for injuries sustained on account of Defendant's acts;

10 2. For front pay, to compensate Plaintiff-Intervenors and a class of similarly situated
11 females who were denied employment and/or deterred from applying for employment, for the
12 future losses occasioned by Defendant's acts;

13 3. For emotional distress;

14 4. For compensatory damages according to proof at trial;

15 5. For punitive damages according to proof at trial;

16 6. For interest on all back pay and employment benefits awarded to make Plaintiff-
17 Intervenors whole and to deter Defendant from engaging in discriminatory acts in the future;

18 7. For reasonable attorney fees, costs and disbursements occasioned by this litigation;

19 and 8. For injunctive relief and for such other and further relief as the Court may deem
20 proper.

21
22 DATED: June 20, 2006

ALLRED, MAROKO & GOLDBERG

23
24 By 
25 ROBERT TOMAS OLMOS
DOLORES Y. LEAL

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By *Marcos Camacho* *by RJO*
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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is: 6300 Wilshire Boulevard, Suite 1500, Los Angeles, California 90048-5217.

On August 23, 2006, I served the foregoing document described as **COMPLAINT IN INTERVENTION - CIVIL RIGHTS EMPLOYMENT DISCRIMINATION** on interested parties in this action

by placing true copies thereof enclosed in sealed envelopes addressed as stated on the attached mailing list:

by placing the original a true copy thereof enclosed in sealed envelopes at Los Angeles, California addressed as follows:

Ronald H. Barsamian, Esq.
Michael C. Saqui, Esq.
Patrick S. Moody, Esq.
Anthony P. Raimondo, Esq.
BARSAMIAN, SAQUI & MOODY
1141 W. Shaw Avenue, Suite 104
Fresno, CA 93711-3704

William R. Tamayo, Esq.
Jonathan T. Peck, Esq.
Evangelina Fierro Hernandez, Esq.
Linda Ordonio-Dixon, Esq.
EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
San Francisco District Office
350 The Embarcadero, Suite 500
San Francisco, CA 94105

BY MAIL: I caused such envelope with postage thereon fully prepaid to be placed in the United States mail at Los Angeles, California.

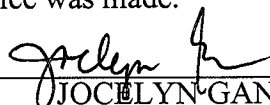
BY PERSONAL SERVICE: I caused such envelope to be delivered by hand to the addressee(s).

BY FAX: by transmitting a true copy via facsimile transmission from telecopier number (323) 653-1660 located at 6300 Wilshire Blvd., Ste. 1500, Los Angeles, California 90048, to the following:

Executed on August 23, 2006 at Los Angeles, California.

State I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Federal I declare that I am employed in the office of a member of the bar of this Court at whose direction the service was made.



JOCELYN GAN