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CLERK U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

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12 UNITED STATES DISTRICT COURT
13 NORTHERN DISTRICT OF CALIFORNIA

14 EQUAL EMPLOYMENT OPPORTUNITY)
15 COMMISSION,)
16)
17 Plaintiff,)
18)
19 v.)
20)
21 INTERSTATE HOTELS, L.L.C.,)
22)
23 Defendants.)

IC 04 4092
Civil Action No. 4092
COMPLAINT
Civil Rights - Employment Discrimination
DEMAND FOR JURY TRIAL
WHA

24 NATURE OF THE ACTION

25 This action is brought pursuant to Title VII or the Civil Rights Act of 1964 and Title I of
26 the Civil Rights Act of 1991 to correct unlawful employment practices on the basis of national
27 origin and retaliation, and to provide appropriate relief to Charging Party Raul Gutierrez, and
28 similarly situated individuals who were adversely affected by such practices. Defendant
Interstate Hotels, L.L.C., which manages the Marriott Hotel at Fisherman's Wharf, subjected the
above Charging Party and similarly situated Hispanic/Latino individuals to unlawful harassment
based on their national origin, and retaliated against them for opposing such harassment.

JURISDICTION AND VENUE

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

1 and §102 of the Civil Rights Act of 1991, 42 U.S.C. §1981a.

2 2. Venue is proper in the Northern District of California, as a substantial part of the
3 events and omissions giving rise to this claim occurred in the County of San Francisco.

4 **INTRADISTRICT ASSIGNMENT**

5 3. This action is appropriate for assignment to San Francisco/Oakland as this civil
6 action arose in the County of San Francisco.

7 **PARTIES**

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

12 5. Defendant Interstate Hotels, L.L.C. is a Delaware limited liability company, doing
13 business in San Francisco County in the State of California and has continuously had at least 15
14 employees.

15 6. At all relevant times, Defendant Interstate Hotels, L.L.C. (hereinafter
16 "Defendant") has continuously been an employer engaged in an industry affecting commerce,
17 within the meaning of Section 701(b), (g) and (h) of Title VII, 42 U.S.C. §2000-e(b), (g) and (h).

18 **STATEMENT OF CLAIMS**

19 **FIRST CLAIM FOR RELIEF**

20 **Violation of Title VII of Civil Rights Act : National Origin Discrimination,
21 Harassment Based on National Origin**

22 7. More than thirty days prior to the institution of this lawsuit, Charging Party Raul
23 Gutierrez ("Charging Party") filed a charge with Plaintiff Commission alleging violations of Title
24 VII by Defendants. All conditions precedent to the institution of this lawsuit have been fulfilled.

25 8. Since at least December 1, 2002, Defendant has engaged in unlawful practices of
26 discrimination based on national origin in violation §703(a) (1)of Title VII, 42 U.S.C. §2000e-
27 2(a)(1) by subjecting the Charging Party and similarly situated Latino/Hispanic individuals to a
28 hostile, abusive, intimidating and offensive work environment because of their national origin.

1 9. The effect of the actions complained of in Paragraph 8 above has been to deprive
2 the Charging Party and similarly situated individuals of equal employment opportunities and
3 otherwise adversely affect their status as employees because of their national origin.

4 10. The unlawful employment practices complained of in Paragraph 8 above were
5 intentional.

6 11. The unlawful employment practices complained of in Paragraph 8 above were
7 done with malice or with reckless indifference to the federally protected rights of Charging Party
8 and similarly situated individuals.

9 **SECOND CLAIM FOR RELIEF**

10 **Violation of Title VII of Civil Rights Act Based on Retaliation**

11 12. Plaintiff Commission hereby incorporates the allegations of paragraphs 1 through
12 8 above as though fully set forth herein.

13 13. In addition to the above-referenced harassment, Defendant engaged in unlawful
14 employment practices in violation of §704(a) of Title VII, 42 U.S.C. §2000-e-3(a) by engaging in
15 adverse employment actions against Charging Party and similarly situated individuals in
16 retaliation for their opposition to and/or rejection of the discrimination referenced herein at
17 Paragraph 8, including but not limited to precluding Charging Party from working, resulting in
18 wage loss.

19 14. The effect of the action complained of in Paragraph 13 above has been to deprive
20 Charging Party and similarly situated individuals of equal employment opportunities and
21 otherwise adversely affect their status as employee because of their protected activity.

22 15. The unlawful employment practices complained of in Paragraph 13 above were
23 intentional.

24 16. The unlawful employment practices complained of in Paragraph 13 above were
25 done with malice or with reckless indifference to the federally protected rights of Charging Party
26 and similarly situated individuals.

27 **PRAYER FOR RELIEF**

28 Wherefore, the Commission respectfully requests that this Court:

1 A. Grant a permanent injunction enjoining Defendant, its officers, successors,
2 assigns, and all persons acting in concert or participation with it, from engaging in discrimination
3 against its employees including harassment based on national origin and retaliation.

4 B. Order Defendant to institute and carry out policies, practices, and programs which
5 prohibit harassment based on national origin and retaliation, and which eradicate the effects of its
6 unlawful employment practices.

7 C. Order Defendant to make whole Charging Party and similarly situated individuals
8 by providing appropriate back pay, lost wages and benefits with prejudgment interest, and other
9 affirmative relief necessary to eradicate the effects of its unlawful employment practices,
10 including but not limited to reinstatement and/or front pay and other appropriate relief to be
11 determined at trial.

12 D. Order Defendant to make whole Charging Party and similarly situated individuals
13 by providing compensation for past and future pecuniary losses resulting from the unlawful
14 employment practices complained of above, including but not limited to such out-of-pocket
15 expenses as medical care necessitated by Defendant's unlawful conduct, in amounts to be
16 determined at trial.

17 E. Order Defendant to make whole Charging Party and similarly situated individuals
18 by providing compensation for past and future nonpecuniary losses resulting from the unlawful
19 practices complained of above including, but not limited to emotional pain and suffering,
20 inconvenience, loss of enjoyment of life, and humiliation, in amounts to be determined at trial.

21 F. Order Defendant to pay Charging Party and similarly situated individuals by
22 providing punitive damages for the malicious and reckless conduct described above, in amounts
23 to be determined at trial.

24 G. Grant such further relief as the Court may deem just and proper in the public
25 interest.

26 H. Award the Commission its costs of this action.

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DEMAND FOR JURY TRIAL

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


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General Counsel

James L. Lee
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Gwendolyn Young Reams
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**Equal Employment Opportunity
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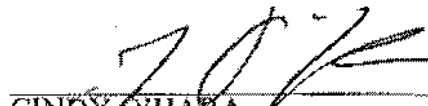
Date: Sept 28, 2004


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