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14 UNITED STATES DISTRICT COURT
15 NORTHERN DISTRICT OF CALIFORNIA
16 SAN FRANCISCO DIVISION

17 ROBERT RAMIREZ, ROBERT
18 HARRIS, LUIS POCASANGRE
19 CARDOZA, JOSE SALCEDO, A.
20 SHAPPELLE THOMPSON,
21 CORETTA SILVERS (formerly
22 VICK), SANDRA EVANS, BLANCA
23 NELLY AVALOS, JAMES MORGAN
24 and ANTHONY JONES, on behalf of
25 themselves and all others similarly
26 situated,

27 Plaintiffs,

28 vs.

CINTAS CORPORATION,

Defendant.

EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION,

Plaintiff/Intervenor.

CASE No. C04-0281-JSW

[RELATED TO CASE NO. C05-03145-JSW]

**JOINT STIPULATION OF DISMISSAL OF
PLAINTIFF LUIS POCASANGRE CARDOZA'S
CLAIMS WITH PREJUDICE AND ~~PROPOSED~~
ORDER**

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RECITALS

WHEREAS, on August 3, 2005, Plaintiff Luis Pocasangre Cardoza (“Cardoza”) filed his Fourth Amended Complaint (“FAC”) asserting claims on behalf of himself and as a putative class representative for certain present and former employees of Defendant Cintas Corporation (“Cintas”);

WHEREAS, in the FAC, Cardoza individually asserted claims under the Civil Rights Act of 1866, 42 U.S.C. §1981, as amended by the Civil Rights Act of 1991 (“Section 1981”), Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e, *et seq.*, as amended (“Title VII”), California Fair Employment and Housing Act, California Government Code § 12940, *et seq.* (“FEHA”), and Business and Professions Code § 17200, *et seq.* (“Section 17200”), specifically contending that Cintas refused to hire and then promote him to a driver (“Sales Service Representative” or “SSR”) position because of his race (Hispanic) and national origin (El Salvador) (FAC ¶ 6), and that he resigned on or about August 6, 2003 as a result of that discrimination;

WHEREAS, in the FAC, Cardoza sought to assert claims as a class representative for Hispanics who allegedly were discriminated against by Cintas’s decisions not to hire or promote them to the SSR position in Cintas’ Rental Division in violation of Section 1981, Title VII, FEHA and Section 17200 (FAC ¶¶ 33-40, 48(c), 49(b));

WHEREAS, Cardoza does not have standing to assert any of the claims he has alleged in his FAC because:

1 (1) Cardoza filed a Voluntary Petition for relief under Chapter 7 of the
2 Bankruptcy Code in the United States Bankruptcy Court for the Northern District of
3 California, Case No. 05-42541, on May 11, 2005;

4 (2) In his Voluntary Petition Cardoza represented to the Court that he had
5 no “suits and administrative proceedings, executions, garnishments and attachments”;

6 and

7 (3) The Bankruptcy Court issued a Discharge of Debtor and Final Decree
8 on August 2, 2005, based on Cardoza’s representations.

9
10 WHEREAS, Cardoza intends to dismiss both his individual and class claims
11 and therefore cannot serve as a class representative for any form of relief sought on behalf
12 of the putative class described in paragraphs 48(c) and 49(b) of the FAC; and

13
14 WHEREAS, Cardoza has agreed to dismiss with prejudice his individual
15 and class claims against Cintas in exchange for Cintas’ waiver of its right to recover costs
16 against Cardoza pursuant to Federal Rule of Civil Procedure 54(d).

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18 **STIPULATION**

19
20 THE PARTIES, BY AND THROUGH THEIR COUNSEL, HEREBY
21 STIPULATE AS FOLLOWS:

22
23 1. Plaintiff Luis Pocasangre Cardoza (“Cardoza”) withdraws as a named,
24 representative plaintiff and dismisses with prejudice his class claims for the putative class
25 of Hispanic applicants and Hispanic employees in Cintas’ Rental Division who contend
262 they were denied hiring or promotion to driver (“SSR”) positions in violation of Section
7 1981, Title VII, FEHA and Section 17200;

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2. Cardoza dismisses with prejudice his individual claims for discriminatory failure to hire and failure to promote in violation of Section 1981, Title VII, FEHA and Section 17200, and for a resignation resulting from discrimination;

3. Plaintiffs' counsel will not include any attorneys' fees or costs incurred as part of maintaining Cardoza's individual claims (or the class claims Cardoza has asserted if there is no adequate class representative to represent the putative class described in paragraphs 48(c) and 49(b) of the FAC), should they later apply for an award of attorneys' fees or costs in this litigation. However, if Plaintiffs or Plaintiffs' counsel apply for an award of attorneys' fees and costs, this stipulation will not preclude them from arguing that some portion of the time and costs spent on the class claims asserted by Cardoza should be allocated to a claim on which Plaintiffs prevailed (including a claim of discrimination in hiring for the SSR job, if Plaintiffs prevail on that claim); nothing in this stipulation will preclude Defendant from asserting any legal arguments in opposition to such an allocation; and nothing in this stipulation will preclude the Court from ruling that such an allocation should or should not be made; and

4. Cintas waives its right to recover costs against Plaintiff Luis Pocasangre Cardoza after the dismissal of his individual and putative class claims as permitted by Federal Rule of Civil Procedure 43(d).

1 DATED: MARCH 8, 2006

Respectfully submitted,

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By: /S/ MORRIS J. BALLER
MORRIS J. BALLER

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Counsel for Plaintiffs Robert Ramirez, et al.

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DATED: MARCH 8, 2006

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NANCY L. ABELL

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Counsel for Defendant Cintas Corporation

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ORDER

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3 **BASED ON THE PARTIES’ STIPULATION AND GOOD CAUSE**
4 **APPEARING THEREFORE**, this Court finds that Plaintiff Luis Pocasangre Cardoza may
5 not represent the alleged class of Hispanic applicants who contend that they were
6 discriminated against when they were not hired, and the alleged class of Hispanic
7 employees who contend that they were discriminated against when they were not
8 promoted, to driver (“SSR”) positions in Cintas’ Rental Division in violation of Section
9 1981, Title VII, FEHA and Section 17200 as set forth in the Fourth Amended Complaint
10 at paragraphs 33-40, 48(c), and 49(b); on this basis the Court **DISMISSES WITH**
11 **PREJUDICE** Plaintiff Luis Pocasangre Cardoza’s claims on behalf of this alleged class.

12
13 This Court **DISMISSES WITH PREJUDICE** Plaintiff Luis Pocasangre
14 Cardoza’s individual claims that Cintas has violated Section 1981, Title VII, FEHA and
15 Section 17200 by allegedly refusing to hire him as an SSR and refusing promote him to an
16 SSR position because of his race (Hispanic) and national origin (El Salvador), and by
17 causing him to resign as a result of discrimination.

18
19 The Court also finds that Plaintiffs’ counsel is not entitled to recover any
20 amount in attorneys’ fees and costs attributable to pursuing Cardoza’s individual claims
21 herein (or the class claims Cardoza has asserted if there is no adequate class representative
22 to represent the putative class described in paragraphs 48(c) and 49(b) of the FAC).

23
24 The parties have agreed that Plaintiffs’ counsel will not include any
25 attorneys’ fees or costs incurred as part of maintaining Cardoza’s individual claims (or the
262 class claims Cardoza has asserted if there is no adequate class representative to represent
7 the putative class described in paragraphs 48(c) and 49(b) of the FAC), should they later
28 apply for an award of attorneys’ fees or costs in this litigation. However, if Plaintiffs or

1 Plaintiffs' counsel apply for an award of attorneys' fees and costs, this Order will not
2 preclude them from arguing that some portion of the time and costs spent on the class
3 claims asserted by Cardoza should be allocated to a claim on which Plaintiffs prevailed
4 (including a claim of discrimination in hiring for the SSR job, if Plaintiffs prevail on that
5 claim); and nothing in this Order will preclude Defendant from asserting any legal
6 arguments in opposition to such an allocation.
7

8 Finally, Cintas may not recover costs against Plaintiff Luis Pocasangre
9 Cardoza.

10 IT IS SO ORDERED.

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13 DATED: March 9, 2006


HONORABLE JEFFREY S. WHITE
United States District Judge

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