

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF FLORIDA  
MIAMI DIVISION

01-4035  
CIV - GOLD

MAGISTRATE JUDGE  
SIMONTON

UNITED STATES EQUAL EMPLOYMENT )  
OPPORTUNITY COMMISSION, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
G.F.B. ENTERPRISES, LLC )  
d/b/a LEXUS OF KENDALL, )  
 )  
Defendant. )  
\_\_\_\_\_ )

CIVIL ACTION NO.

COMPLAINT

JURY TRIAL DEMAND  
INJUNCTIVE RELIEF SOUGHT

21  
10/1/2001  
MAGISTRATE JUDGE  
SIMONTON

NATURE OF THE ACTION

This is an action under Title VII of the Civil Rights Act of 1964 and Title I of the Civil Rights Act of 1991, to correct unlawful employment practices on the basis of race, national origin, and religion, and to provide appropriate relief to Avraham Mardo, Jesus Molina, Humfredo Perez, Felix Quevedo, and any other similarly situated individuals who were adversely affected by such practices. As stated with greater particularity in paragraph seven, the Equal Employment Opportunity Commission (hereinafter the "EEOC" or "Commission") alleges that Mr. Mardo, Mr. Molina, Mr. Perez, Mr. Quevedo, and other similarly situated individuals were subjected to harassment by management officials of Defendant because of their race (Black), national origin (Hispanic and Israeli) and religion (Jewish). The harassment was sufficiently severe and pervasive to create a hostile, intimidating work environment. The Commission further alleges that the conditions of Mr. Mardo's employment were made so intolerable by the hostile work environment that he was forced to resign.

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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 Section 706(f)(1) and (3) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e-5(f)(1) and (3) ("Title VII") and Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981A.

2. The employment practices alleged to be unlawful were committed within the jurisdiction of the United States District Court for the Southern District of Florida, Miami Division.

PARTIES

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

4. At all relevant times, Defendant, G.F.B. Enterprises, LLC d/b/a Lexus of Kendall (the "Employer"), has continuously been a Delaware corporation doing business in the State of Florida and the City of Miami, and has continuously had at least 15 employees.

5. At all relevant times, Defendant Employer has continuously been an employer engaged in an industry affecting commerce within the meaning of Sections 701(b), (g) and (h) of Title VII, 42 U.S.C. §§ 2000e-5(b), (g) and (h).

STATEMENT OF CLAIMS

6. More than thirty days prior to the institution of this lawsuit, Avraham Mardo, Jesus Molina, Humfredo Perez, and Felix Quevedo each filed a charge with the Commission alleging violations of Title VII by Defendant Employer. All conditions precedent to the institution of this lawsuit have been fulfilled.

7. Defendant Employer has engaged in unlawful employment practices at its Miami, Florida facility, in violation of Section 703(a)(1) of Title VII, 42 U.S.C. § 2000e-2(a).

- a) Jesus Molina, Humfredo Perez, Felix Quevedo, and other similarly situated individuals were regularly subjected to racial and ethnic harassment by Terrence Bean, Defendant's owner's son, and Virgil Atkins, Director of Fixed Operations. This harassment consisted of unwelcome verbal comments which were sufficiently severe and pervasive to constitute an intimidating, hostile and offensive work environment. The harassment included, but was not limited to, frequent, derogatory ethnic and racial slurs and jokes and consistent reference to Black and Hispanic employees as "niggers", "spics" and "wet backs."
- b) Defendant Employer is liable for the unlawful harassment to which it subjected Jesus Molina, Humfredo Perez, Felix Quevedo, and any other similarly situated individuals during their employment.
- c) Avraham Mardo and other similarly situated individuals, were regularly subjected to racial, ethnic and religious harassment by Terrence Bean and David Reckseit, Finance Manager, in the form of unwelcome verbal comments which were sufficiently severe and pervasive to constitute an intimidating, hostile and offensive work environment. The harassment included, but was not limited to, frequent, derogatory ethnic, racial and religious slurs and reference to Mr. Mardo as "spic Jew" and "stupid Israeli."
- d) Defendant Employer is liable for the unlawful harassment to which it subjected Avraham Mardo and any other similarly situated individuals during their employment.

e) The continuous hostile work environment to which Defendant subjected Avraham Mardo made the conditions of his employment so intolerable that he was forced to resign.

8. The effect of the practices complained of in paragraph 7 above has been to deprive Avraham Mardo, Jesus Molina, Humfredo Perez, and Felix Quevedo and other similarly situated individuals of equal employment opportunities and otherwise adversely affect their status as employees because of their race, national origin, and/or religion.

9. The unlawful employment practices complained of in paragraph 7 above were intentional.

10. The unlawful employment practices complained of in paragraph 7 above were done with malice or with reckless indifference to the federally protected rights of Avraham Mardo, Jesus Molina, Humfredo Perez, and Felix Quevedo and any other similarly situated individuals.

PRAYER FOR RELIEF

Wherefore, the Commission respectfully requests that this Court:

A. Grant a permanent injunction enjoining Defendant Employer, its officers, successors, assigns, and all persons in active concert or participation with it, from engaging in harassment based on race, national origin, or religion and any other employment practice which discriminates on the basis of race, national origin, or religion.

B. Order Defendant Employer to institute and carry out policies, practices, and programs which provide equal employment opportunities for all its employees regardless of race, national origin or religion, which eradicate the effects of its past and present unlawful employment practices.

C. Order Defendant Employer to make whole Avraham Mardo, Jesus Molina, Humfredo Perez, Felix Quevedo, and any other similarly situated individuals, by providing appropriate back

pay with prejudgment interest, in amounts to be determined at trial, and other affirmative relief necessary to eradicate the effects of its unlawful employment practices, including but not limited to, reinstatement, rightful place promotion and/or front pay.

D. Order Defendant Employer to make whole Avraham Mardo, Jesus Molina, Humfredo Perez, Felix Quevedo, and any other similarly situated individuals, by providing compensation for past and future pecuniary losses resulting from the unlawful employment practices described in paragraph 7 above, including but not limited to, out of pocket losses, medical expenses and job search expenses, in amounts to be determined at trial.

E. Order Defendant Employer to make whole Avraham Mardo, Jesus Molina, Humfredo Perez, Felix Quevedo, and any other similarly situated individuals, by providing compensation for past and future nonpecuniary losses resulting from the unlawful practices complained of in paragraph 7 above, including but not limited to, emotional pain, suffering, inconvenience, loss of enjoyment of life, and humiliation, in amounts to be determined at trial.

F. Order Defendant Employer to pay Avraham Mardo, Jesus Molina, Humfredo Perez, Felix Quevedo, and any other similarly situated individuals, punitive damages for its malicious and reckless conduct described in paragraph 7 above, in amounts to be determined at trial.

G. Grant such further relief as the Court deems necessary and proper in the public interest.

H. Award the Commission its costs of this action.

JURY TRIAL DEMAND

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

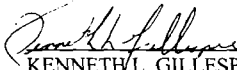
Respectfully Submitted,

NICHOLAS M. INZEO  
Acting Deputy General Counsel

GWENDOLYN YOUNG REAMS  
Associate General Counsel

DELNER FRANKLIN-THOMAS  
Regional Attorney

MICHAEL FARRELL  
Supervisory Trial Attorney

  
KENNETH L. GILLESPIE  
Trial Attorney  
Florida Bar No. 0083054

EQUAL EMPLOYMENT OPPORTUNITY  
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(Rev. 12/96)

# CIVIL COVER SHEET 01-4035

This is a civil cover sheet and the information contained hereon neither creates nor constitutes a filing or a docket entry in the Florida State Docket System. It is required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THIS FORM.)

### I. (a) PLAINTIFFS

UNITED STATES EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

### DEFENDANTS

G.F.B. ENTERPRISES, LLC d/b/a LEXUS OF KENDALL

MAGISTRATE JUDGE SIMONTON

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF (EXCEPT IN U.S. PLAINTIFF CASES)

ADARDEORIC/4035/ASG/Am 5

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT (IN U.S. PLAINTIFF CASES ONLY)

DADE

NOTE: IN LAND CONDEMNATION CASES USE THE LOCATION OF THE TRACT OF LAND INVOLVED

(c) ATTORNEY'S FIRM NAME, ADDRESS AND TELEPHONE NUMBER:

KENNETH L. GILLESPIE, TRIAL ATTORNEY, EEOC ONE BISCAYNE TOWER, 2.S, BISCAYNE BLVD., #2700 MIAMI, FLORIDA 33131

ATTORNEYS (IF KNOWN):

(d) CIRCLE COUNTY WHERE ACTION AROSE (DADE) MONROE BROWARD PALM BEACH MARTIN ST. LUCIE INDIAN RIVER OKEECHOBEE HIGHLANDS

### II. BASIS OF JURISDICTION (PLACE AN "X" IN ONE BOX ONLY)

- 1 U.S. Government Plaintiff
- 2 U.S. Government Defendant
- 3 Federal Question (U.S. Government Not a Party)
- 4 Diversity (Indicate Citizenship of Parties in Item III)

### III. CITIZENSHIP OF PRINCIPAL PARTIES (For Diversity Cases Only)

- |   |                            |                            |   |                            |                            |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated & Principal Place of Business in This State      | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

### IV. ORIGIN

(PLACE AN "X" IN ONE BOX ONLY)

- 1 Original Proceeding
- 2 Removed from State Court
- 3 Remanded from Appellate Court
- 4 Reinstated or Reopened
- 5 Transferred from another district (specify)
- 6 Multidistrict Litigation
- 7 Appeal to District Judge from Magistrate Judgment

### V. NATURE OF SUIT (PLACE AN "X" IN ONE BOX ONLY)

A CONTRACT	A TORTS	FORFEITURE/PENALTY	A BANKRUPTCY	A OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input checked="" type="checkbox"/> 152 Recovery of Defaulted Student Loans Excl. Veterans <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 180 Other Contract <input type="checkbox"/> 195 Contract Product Liability	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane-Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine-Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle-Product Liability <input type="checkbox"/> 360 Other Personal Injury  <b>PERSONAL INJURY</b> <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury-Product Liability  <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth-in-Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage-Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug-Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157  <b>A PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark  <b>B SOCIAL SECURITY</b> <input type="checkbox"/> 861 F.A. 1995H <input type="checkbox"/> 862 Black Lung 1923 <input type="checkbox"/> 863 DMC/DWV 405(g) <input type="checkbox"/> 864 SSD Title XVI <input type="checkbox"/> 865 RSI 405(g)	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC R.R./etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 881 Agricultural Acts <input type="checkbox"/> 882 Economic Stabilization Act <input type="checkbox"/> 883 Environmental Matters <input type="checkbox"/> 884 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions A OR B
<b>A REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Eminent Domain <input type="checkbox"/> 230 Rent/Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>A CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input checked="" type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights	<b>PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motions to vacate Sentence <input type="checkbox"/> 520 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<b>A LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor Mgmt. Relations <input type="checkbox"/> 730 Labor Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input checked="" type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 26 USC 7609

### VI. CAUSE OF ACTION

DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY. This is an action under Title VII of the Civil Rights Act of 1964 and Title 1 of the Civil Rights Act of 1991, to correct unlawful employment practices on the basis of race, national origin, and religion, and to provide appropriate relief to Avraham Mardo, Jesus Molina, Humberto Perez, Felix Quevedo, and any other similarly situated individuals who were adversely affected by such practices.

### VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint. JURY DEMAND:  YES  NO

### VIII. RELATED CASE(S) IF ANY

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

9-28-01

FOR OFFICE USE ONLY

RECEIPT # \_\_\_\_\_ AMOUNT \_\_\_\_\_ APPLYING F.P. \_\_\_\_\_ JUDGE \_\_\_\_\_ MAG. JUDGE \_\_\_\_\_