

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 01-4035-CIV-SEITZ

UNITED STATES EQUAL EMPLOYMENT)
OPPORTUNITY COMMISSION,)

Plaintiff,)

v.)

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

Defendants.)

JESUS MOLINA, HUMFREDO PEREZ,)
FELIX QUEVEDO, AVRAHAM PARDO,)
and SUSAN WEINBERG,)

Plaintiff,)

v.)

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

Defendants.)

AMENDED COMPLAINT

JURY TRIAL DEMAND
INJUNCTIVE RELIEF SOUGHT

FILED BY [Signature]
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U.S. DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
P.C.

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

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practices. As stated with greater particularity in paragraphs seven through ten, 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.

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 56 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).

8. 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.

- a) 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.

9. Avraham Mardo and other similarly situated individuals, were regularly subjected to religious and ethnic 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.

a) The harassment included, but was not limited to, frequent, derogatory ethnic and religious slurs and reference to Mr. Mardo as "spic Jew" and "stupid Israeli."

b) Defendant Employer is liable for the unlawful harassment to which it subjected Avraham Mardo and any other similarly situated individuals during their employment.

10. 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.

a) Defendant is liable for Mr. Mardo's, and any other similarly situated individuals', constructive termination.

11. The effect of the practices complained of in paragraphs 7 through 10 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.

12. The unlawful employment practices complained of in paragraphs 7 through 10 above were intentional.

13. The unlawful employment practices complained of in paragraphs 7 through 10 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, 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, job search expenses 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 paragraphs 7 through 10 above, including but not limited to, medical 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 paragraphs 7 through 10 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 paragraphs 7 through 10 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,

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