

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

**EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,**

Plaintiff,

and

**DOMINGO RAMIREZ and
CUAUHTEMOC GUERRERO,**

Intervenors,

v.

**CEISEL MASONRY, INC.
Defendant.**

CIVIL ACTION NO. 06 CV 2075

**UNOPPOSED MOTION FOR
REASSIGNMENT BASED ON RELATEDNESS**

Intervenors, Domingo Ramirez and Cuauhtemoc Guerrero, pursuant to Northern District of Illinois Local Rule 40.4, request this Court make a finding that the lawsuit captioned *Ramirez et al. v. Ceisel Masonry, Inc.*, (Case No. 06 CV 2084) currently pending before the Honorable Wayne R. Anderson is sufficiently related to the case at bar and it is appropriate for the *Ramirez* case to be reassigned to this Court. The Equal Employment Opportunity Commission and Ceisel Masonry do not oppose this Motion. In further support of this Motion, Intervenors state as follows:

1. Local Rule 40.4 of the United States District Court for the Northern District of Illinois requires a showing “that the cases are related under Local Rule 40.4(a) and that reassignment is appropriate pursuant to Local Rule 40.4(b).” *Teachers Retirement Sys. Of Louisiana v. Black*, No. 04-C-834, 2004 U.S. Dist. LEXIS 10259, at *6 (N.D. Ill. May 27, 2004).

2. According to Local Rule 40.4(a) “cases are related if they: (1) involve the same property; (2) involve the same issues of fact or law; (3) grow out of the same transaction or occurrence; or (4) in a class action, one or more of the classes involved are the same.” *Mach. Movers v. Joseph/Anthony, Inc.*, No. 03-C-13631, 2004 U.S. Dist. LEXIS 13631, at * 5-6 (N.D. Ill. July 15, 2004); *Freeman v. Bogusiewicz*, No. 03-C-2908, 2004 U.S. Dist. LEXIS 15723, at *5-6 (N.D. Ill. Aug. 10, 2004) (granting reassignment where, under Local Rule 40.4(a), the plaintiff’s claims in both cases involve the same facts, the same law and grow out of the same incident).

3. In our case, for the following reasons the *Ramirez* case is sufficiently related within the meaning of Local Rule 40.4(a) to the instant case:

- a. On April 13, 2006, the Equal Employment Opportunity Commission brought this case pursuant to Title VII, 42 U.S.C. § 2000e (“Title VII”) on behalf of a class of Hispanic workers alleging that these workers had been subject to discriminatory harassment by their employer, Ceisel Masonry Inc. (“Ceisel”). (Ex. A, EEOC Complaint.)
- b. Similarly, on April 13, 2006, the Intervenors, individually and on behalf of a class of Hispanic workers, filed another suit in the Northern District of Illinois alleging that Ceisel’s conduct of permitting and promoting the prolonged and unlawful harassment of a class of Hispanic workers violates the Civil Rights Act of 1870, 42 U.S.C. § 1981. Thereafter, on June 19, 2006, the Intervenors amended their complaint to include an additional named plaintiff and an individual retaliatory discharge claim under Section 1981 and Title VII. (Ex. B, *Ramirez* Amended Complaint.)

- c. On June 8, 2006, the Intervenors successfully petitioned this Court to intervene into this case based on Ceisel's unlawful employment practices. (Ex. C, Intervenor's Complaint.)
- d. Both the *Ramirez* case and the present case seek similar equitable relief as well as similar compensatory and punitive damages in amounts sufficient to punish Ceisel and to deter Ceisel from continuing with its unlawful racial harassment.

4. Because the *Ramirez* case and the present case involve the same discriminatory conduct by the same alleged offender during the same period of time and seek similar relief under both Title VII and § 1981, the *Ramirez* case involves many of the same issues of law and fact as are involved in the case at bar (*e.g.*, whether the employer is liable for its foremen's frequent use of terms such as "wetback" and "spic," whether the harassment was severe and/or pervasive, whether defendant took reasonable steps to prevent and correct the harassment, and whether those facts suppose punitive damages).

5. Lastly, both cases involve the same plaintiff class: Hispanic workers employed by Ceisel who were subjected to verbal abuse on account of their race and national origin.

6. "Rule 40.4(a) does not require complete identity of issues in order for cases to be considered related." *Mach. Movers*, 2004 U.S. Dist. LEXIS at *6 (internal quotations removed).

7. Accordingly, the points of commonality between these two cases have been sufficiently detailed for this Court to find under Local Rule 40.4(a) that the *Ramirez* case is related to the case at bar. *See Freeman*, 2004 U.S. Dist. LEXIS at *5-6.

8. Once the cases have been found to be related, Local Rule 40.4(b) requires four additional factors to be met in order to establish that reassignment is appropriate. They are:

(1) both cases must be pending in the Northern District of Illinois; (2) the handling of both cases by the same judge is likely to result in a substantial savings of judicial time and effort; (3) the earlier case has not progressed to the point where designating a later filed case as related would be likely to delay the proceedings in the earlier case substantially; and (4) the actions are susceptible to disposition in a single proceeding. United States District Court for Northern District of Illinois Local Rule 40.4(b).

9. The following demonstrates that the Intervenors, under Local Rule 40.4(b), have not only shown that the cases are related, but also that it is appropriate to reassign the *Ramirez* case to this Court:

- a. *First*, both the *Ramirez* case and the case at bar are pending in the United States District Court for the Northern District of Illinois.
- b. *Second*, because both cases involve the same parties and the same common issues of law and fact (as detailed above), the handling and management of both of these actions by the same judge is likely to result in a substantial saving of judicial time and effort. For example, a summary judgment motion in either case would argue the same material issues of fact and the same issues of law. In other words, it would save judicial time and effort to have only one judge hear both cases.
- c. *Third*, the only responsive pleading filed in this case thus far has been the answer, and Ceisel is due to respond to the *Ramirez* Amended Complaint by July 5, 2006. No discovery has taken place, and no other substantive motion has been filed. Accordingly, neither case has progressed to the point where a finding of relatedness would substantially delay the proceedings in this matter.

d. *Fourth*, as the two cases involve the same parties, the same common factual issues, common legal issues and similar remedies (both cases have requested trial by jury), the cases are susceptible of disposition in a single proceeding. *Lawrence E. Jaffe Pension Plan v. Household Int'l*, No. 02-C-5893, 2003 U.S. Dist. LEXIS 7466, at *7-8 (N.D. Ill. May 5, 2003) (Judges of the United States District Court for the Northern District of Illinois have ruled that a movant satisfies the fourth condition that reassignment would be susceptible to disposition in a single proceeding “if issues of *both* law and fact are the same in the related cases.”).

10. Accordingly, the elements have been met to establish that reassignment is appropriate under Local Rule 40.4(b).

11. Finally, the Equal Employment Opportunity Commission (Plaintiff in this case) and Ceisel (Defendant in both cases) do not oppose this Motion.

WHEREFORE, Intervenors' Domingo Ramirez and Cuauhtemoc Guerrero respectfully request that this Court enter an order pursuant to Local Rule 40.4 finding that the *Ramirez* case (No. 06 CV 2084) is related to the case at bar and that reassigning the *Ramirez* case to this Court is appropriate.

Dated: July 5, 2006

Respectfully submitted,

s/ Daniel A. Dorfman

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Exhibit

A

FILED

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APR 13 2006

MICHAEL W. DOBBINS
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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

EQUAL EMPLOYMENT OPPORTUNITY)
COMMISSION,)
)
Plaintiff,)
)
v.)
)
CEISEL MASONRY, INC.)
)
)
Defendant.)

06CV2075
JUDGE LEINENWEBER
MAGISTRATE MASON

JURY TRIAL DEMAND

NATURE OF THE ACTION

This is an action under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000c et seq. ("Title VII"), and Title I of the Civil Rights Act of 1991, 42 U.S.C. § 1981a, to correct unlawful employment practices on the basis of national origin and to provide appropriate relief to Domingo Ramirez, Cuahetemoc Guerrero, Francisco Algarin, and a class of Hispanic employees who were adversely affected by such practices.

JURISDICTION AND VENUE

1. This action is brought by the United States Equal Employment Opportunity Commission to enforce the provisions of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e et seq.
2. This action is authorized and instituted pursuant to § 706(f)(1) and § 706(f)(3) of Title VII, as amended, 42 U.S.C. §2000e-5(f)(1) and §2000e-5(f)(3), and § 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981A.
3. This court has jurisdiction of this action pursuant to 28 U.S.C. §§ 451, 1331, 1337, 1343, and 1345.
4. The unlawful acts alleged below were and are now being committed within the jurisdiction of the United States District Court for the Northern District of Illinois, Eastern Division.

PARTIES

5. Plaintiff, Equal Employment Opportunity Commission ("EEOC" or the "Commission"), is an 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 § 706(f)(1) and (3) of Title VII, 42 U.S.C. §2000e-5(f)(1) and (3).

6. At all relevant times, Defendant Ceisel Masonry Inc., has continuously been a corporation doing business in the State of Illinois and the Village of Northbrook, Illinois.

7. At all relevant times, Ceisel Masonry, Inc. has continuously had at least fifteen (15) employees.

8. At all relevant times, Ceisel Masonry, Inc., 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. §§ 2000c(b), (g) and (h).

STATEMENT OF CLAIMS

9. More than thirty (30) days prior to the institution of this lawsuit, Domingo Ramirez, Cuahetemoc Guerrero, and Francisco Algarin filed charges of discrimination with the Commission alleging violations of Title VII by Ceisel Masonry, Inc.

10. All conditions precedent to the institution of this lawsuit have been fulfilled.

11. Since at least 2000, Defendant has engaged in unlawful employment practices in violation of §703(a) of Title VII, 42 U.S.C. § 2000e-2(a). Such unlawful employment practices include subjecting Domingo Ramirez, Cuahetemoc Guerrero, Francisco Algarin, and a class of Hispanic employees to harassment and different terms and conditions because of their national origin.

12. The result of the practices complained of in paragraph 11 has been to deprive Domingo Ramirez, Cuahetemoc Guerrero, Francisco Algarin, and a class of Hispanic employees of equal employment opportunities and otherwise adversely affect their status as employees because of their national origin.

13. The unlawful employment practices complained of above were intentional.

14. The unlawful practices complained of above were done with malice or with reckless

indifference to the federally protected rights of Domingo Ramirez, Cuahetemoc Guerrero, Francisco Algarin, and a class of Hispanic employees.

PRAYER FOR RELIEF

WHEREFORE, the Commission requests that this Court:

- A. Grant a permanent injunction enjoining Defendant, its officers, successors, assigns, and all persons in active concert or participation with it, from engaging in any employment practices which discriminate on the basis of national origin;
- B. Order Defendant to institute and carry out policies, practices and programs which provide equal employment opportunities for its employees regardless of national origin, and which eradicate the effects of its unlawful employment practices;
- C. Order Defendant to make whole Domingo Ramirez, Cuahetemoc Guerrero, Francisco Algarin, and a class of Hispanic employees by providing compensation for past and future pecuniary losses resulting from those unlawful employment practices, including medical expenses, in amounts to be determined at trial;
- D. Order Defendant to make whole Domingo Ramirez, Cuahetemoc Guerrero, Francisco Algarin, and a class of Hispanic employees by providing compensation for past and future non-pecuniary losses resulting from those unlawful employment practices, including emotional pain, suffering, loss of enjoyment of life, humiliation, and inconvenience, in amounts to be determined at trial;
- E. Order Defendant to pay Domingo Ramirez, Cuahetemoc Guerrero, Francisco Algarin, and a class of Hispanic employees punitive damages for its malicious and reckless conduct in amounts to be determined at trial.
- F. Prohibit Defendant from discriminating against any individual for engaging in protected activity under Title VII of the Civil Rights Act of 1964, or for opposing practices made unlawful by Title VII, or for participating in this lawsuit;
- G. Grant such further relief as this Court deems necessary and proper in the public interest; and
- H. Award the Commission its costs in this action.

JURY TRIAL DEMAND

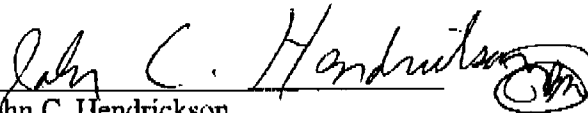
The Commission requests a jury trial on all questions of fact raised by the Complaint.

Respectfully submitted,

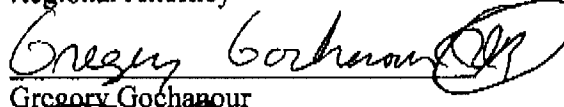
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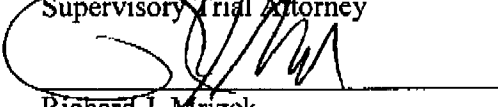
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**Exhibit
B**

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

DOMINGO RAMIREZ,)	
CUAUHTEMOC GUERRERO, and)	
JUAN CALDERON, for themselves individually)	
and on behalf of others similarly situated,)	
)	
Plaintiffs,)	Civil Action No.: 06 CV 2084
)	
v.)	
)	
CEISEL MASONRY, INC.,)	JURY TRIAL REQUESTED
an Illinois corporation,)	
)	
Defendant.)	
)	

FIRST AMENDED COMPLAINT

By their attorneys, the Chicago Lawyers' Committee for Civil Rights Under Law, Inc., and Howrey LLP, Class Plaintiffs Domingo Ramirez, Cuauhtemoc Guerrero and Juan Calderon ("Named Plaintiffs"), for themselves individually and as class representatives, state as follows:

Nature of Action

1. This class action arises under the Civil Rights Act of 1870, 42 U.S.C. § 1981 and under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e *et seq.* ("Title VII") based on Defendant's conduct of permitting and promoting the prolonged and unlawful harassment based on race and national origin of a class of non-white Hispanic workers.

Parties, Jurisdiction and Venue

2. Plaintiff and class representative Domingo Ramirez ("Ramirez") is a non-white Hispanic man currently residing in Berwyn, Illinois. From approximately 1996 to December 2003, Ramirez worked at Ceisel Masonry as a laborer. He is an employee for purposes of 42 U.S.C.

§ 1981 and for purposes of 42 U.S.C. § 2000e (c). On behalf of all non-white Hispanic employees who worked at Ceisel Masonry as further described below, Ramirez seeks to pursue relief for injuries sustained by that class of employees.

3. Plaintiff and class representative Cuauhtemoc Guerrero (“Guerrero”) is a non-white Hispanic man currently residing in Lake Forest, Illinois. From approximately July 1995 through early February 2005, Guerrero worked at defendant Ceisel Masonry, first as a laborer and then as a bricklayer. He is an employee for purposes of 42 U.S.C. § 1981 and for purposes of 42 U.S.C. § 2000e (c). On behalf of all non-white Hispanic employees who worked at Ceisel Masonry as further described below, Guerrero seeks to pursue relief for injuries sustained by that class of employees.

4. Plaintiff and class representative Juan Calderon (“Calderon”) is a non-white Hispanic man currently residing in Chicago, Illinois. From approximately January 1999 through February 2006, Calderon worked at Defendant Ceisel Masonry as a laborer. He is an employee for purposes of 42 U.S.C. § 1981 and for purposes of 42 U.S.C. § 2000e (c). On behalf of all non-white Hispanic employees who worked at Ceisel Masonry as further described below, Calderon seeks to pursue relief for injuries sustained by that class of employees.

5. Defendant, Ceisel Masonry (“Ceisel” or “Defendant”), is an Illinois corporation with its principal place of business located in Northbrook, Illinois. Ceisel operates a brick masonry business.

6. This Court has subject matter jurisdiction over this controversy pursuant to 28 U.S.C. §§ 1331, 1343 and 42 U.S.C. § 2000e-5 (f)(3) .

7. Pursuant to 28 U.S.C. § 1391, venue is proper in this district because Ceisel resides in this district, and all wrongful acts and injuries occurred in this district.

Class Allegations

8. Class representatives Ramirez, Guerrero and Calderon bring this action individually and as a class action pursuant to Fed.R.Civ.P. 23(b)(2) and 23(b)(3). The class consists of all non-white Hispanic employees of Ceisel who work or worked with managers at Ceisel at any time from April 13, 2002, through the present and were subject to harassment on account of their race and national origin. Ramirez, Guerrero and Calderon are members of the class.

9. On information and belief, during the relevant time frame there have been more than 50 non-white Hispanic workers who experienced unlawful harassment based on their race and national origin at the hands of their managers and coworkers of Ceisel.

10. Pursuant to Rule 23(a)(1), based on the number of class members, the class is so numerous that joinder of all members is impracticable.

11. This action is properly maintainable under both Rules 23(b)(2) and 23(b)(3) because Ceisel has acted or refused to act on grounds generally applicable to the class, thereby making appropriate final injunctive relief or corresponding declaratory relief with respect to the class as a whole, and because questions of law or fact predominate over questions affecting individual members, and a class action is superior to other available methods for the fair and efficient adjudication of this case. This action also is properly maintainable under Rule 23(c)(4)(A) for all class issues alleged herein.

12. All class members have been exposed to the same type of harassment based on race and national origin during the class period by the same group of managers. Accordingly, pursuant to Rule 23(a)(2), there are questions of law or fact that are common to the class.

13. The class representatives, Ramirez, Guerrero and Calderon, have been exposed to harassment based on race and national origin that is comparable to that of the class. Accordingly,

pursuant to Rule 23(a)(3), the claims of the class representatives are typical of the claims of the class.

14. The class representatives, Ramirez and Guerrero, have previously undertaken the initiative and effort to have their claims administratively exhausted at the U.S. Equal Employment Opportunity Commission (the "EEOC"). Ramirez's EEOC charge included class allegations, and both Ramirez and Guerrero have preserved claims that benefit the class.

15. The class representatives, Ramirez, Guerrero and Calderon have sought out and retained as their counsel the Chicago Lawyers' Committee for Civil Rights Under Law, Inc., a non-profit, public interest law firm that specializes in class actions and employment discrimination cases and lawyers from Howrey LLP with extensive class action experience. Accordingly, pursuant to Rule 23(a)(4), the class representatives will fairly and adequately protect the interests of the class.

16. In addition, pursuant to Rule 23(b)(3), the questions of law or fact common to the members of the class predominate over any questions affecting only individual members, and a class action is superior to other available methods for the fair and efficient adjudication of the controversy.

17. The reasons for satisfying Rule 23(b)(3) include, without limitation, the following: (a) liability for harassment based on race and national origin is based on the frequency, nature or severity of the racial harassment, and the frequency, nature or severity of the racial harassment in this case is substantially similar for the members of the class; (b) the likelihood of individual members securing counsel for individual cases of racial harassment is sufficiently low that as a practical matter a class action is the only reasonable method for adjudicating and resolving the claims of the members of the class; (c) it is efficient for the court and convenient for the parties to

adjudicate this controversy in one forum located at this venue; and (d) this action is sufficiently well-defined so that its presentation as a class action presents no likely management difficulties.

18. In addition, pursuant to Rule 23(b)(3), the questions of law or fact that predominate over any individual questions include, without limitation:

- (a) Has Ceisel violated Section 1981 and Title VII by systematically harassing and unlawfully engaging in prohibited employment practices on the basis of race/national origin and retaliating against its non-white Hispanic workers in a frequent and pervasive manner?
- (b) Prior to Ceisel's adoption of an anti-racial harassment policy, did Ceisel take reasonable steps to prevent and correct racial harassment?
- (c) Did Ceisel at any time effectively promulgate and disseminate a policy regarding harassment based on race and national origin?
- (d) Has Ceisel violated Section 1981 and Title VII by failing to respond meaningfully to complaints about harassment based on race and national origin?
- (e) Did Ceisel have a policy and practice of retaliation against class members who oppose unlawful employment practices?
- (f) Did Ceisel subject itself to punitive damages by harassing and engaging in unlawful employment practices and retaliating against the class while perceiving a substantial risk that its actions violated federal law?
- (g) Does the evidence of racial harassment and unlawful employment practices on the basis of race/national origin warrant class-wide injunctive relief?

Substantive Allegations of Wrongful Conduct

19. At all relevant times, managers at Ceisel engaged in an unremitting and unlawful pattern of harassment based on race and national origin of class members that unreasonably interfered with their work environment.

20. The harassment based on race and national origin which managers inflicted on class members on a frequent and prolonged basis, was unwelcome, unwanted and included but is not limited to:

- (a) managers regularly calling non-white Hispanic workers “wetbacks,” “spics,” “fucking Mexicans,” “border jumpers,” “julios” and “chicos”;
- (b) managers regularly making comments such as “all Mexicans are good for is cutting grass,” and “go back to your own country”;
- (c) managers making comments such as “I’ve been hunting and shooting cans—Mexicans, Africans, Puerto Ricans”;
- (d) managers making comments such as “all you Mexicans are good for are your strong backs” and “you Mexicans are good for nothing”;
- (e) managers making comments to Puerto Rican workers such as “damn Puerto Rican” and “damn pork chop”;
- (f) managers making comments such as “you stupid Mexican—you are just like those fucking niggers”;
- (g) managers making comments such as “niggers are lazy—you’re better than niggers, but you will always be Mexicans” and “you come to this country to use our welfare”;
- (h) managers taking steps to segregate and stigmatize non-white Hispanic workers, such as telling them to stay on the Mexican side of the work space and such as saying things like “watch what I do to this Mexican” and then splattering mortar in a Mexican worker’s face;
- (i) the owner of the company making comments such as “fucking Mexican” and “Mexicans don’t know how to do anything”; and
- (j) offensive graffiti, such as “spic” and “this is where Mexicans belong,” with an arrow pointing to the toilet.

21. Class members expressed to the managers perpetrating this harassment based on race and national origin that it was unwelcome and unwanted. In addition, much of the harassment and unlawful employment practices took place in the presence of Ceisel’s high-level managers.

22. The managers committing the acts of harassment based on race and national origin, in fact, had and continues to have the power and authority to evaluate and discipline, and to terminate employees such as those in the Plaintiff Class.

23. In addition, these managers warned members of the Plaintiff Class that they had the power and authority to evaluate employees such as those in the Plaintiff Class and to get them fired.

24. These managers have used their actual and apparent employment powers to coerce class members to submit to unwanted harassment based on race and national origin that unreasonably interfered with their work environment.

25. At all relevant times, Ceisel did not effectively provide or implement for all of its workers any policy prohibiting harassment based on race and national origin or any procedure for victims of racial harassment to seek redress and relief at Ceisel. It was not until Plaintiffs filed discrimination charges at the EEOC that Ceisel established any anti-harassment policy.

26. Despite the failure to provide or implement any effective policy or procedure prohibiting harassment based on race and national origin, members of the class complained about this harassment to managers at Ceisel and requested that it be stopped.

27. The harassment based on race and national origin described in this Complaint is of a continuing nature in that it has been ongoing for a period of years.

28. The harassment based on race and national origin and retaliation described in this Complaint damaged the class members in that they have suffered unnecessary and extreme degradation, humiliation, emotional distress and embarrassment in the workplace.

29. The actions of Ceisel in permitting, condoning and failing to correct the severe, frequent and prolonged harassment based on race and national origin by its managers constitute a malicious, intentional or reckless disregard of its known legal obligations.

COUNT I
(Violation of Section 1981 for Racial Harassment)

30. Plaintiffs restate and incorporate all prior paragraphs of this Complaint as though fully stated herein. The Named Plaintiffs Ramirez, Guerrero and Calderon herein assert both individual and class racial harassment claims.

31. Section 1981 prohibits discrimination in the workplace on account of race, including racial harassment of non-white Hispanics because of their race and authorizes the award of compensatory and other damages for losses suffered due to such racial harassment.

32. Ceisel harassed the Named Plaintiffs and Plaintiff Class on account of their race. This racial harassment was ongoing, severe and pervasive, and unreasonably altered the terms of their employment.

33. This racial harassment has caused the Named Plaintiffs and Plaintiff Class extreme humiliation and emotional distress.

WHEREFORE, on behalf of the class and themselves, Ramirez, Guerrero and Calderon respectfully requests that this Court:

- (a) certify this action as a class action of all non-white Hispanic employees of Ceisel who work or worked with managers at Ceisel at any time from April 13, 2002, through the present and were subject to harassment on account of their race and national origin, and certify Ramirez, Guerrero and Calderon as class representatives;
- (b) find that Ceisel violated Section 1981 in that it permitted and promoted the racial harassment of the class;
- (c) enjoin Ceisel to cease the racial harassment, to establish and disseminate an effective anti-harassment policy, and to train its workforce in Equal Employment Opportunity law;
- (d) award compensatory damages in an amount to be determined at trial to fully compensate Named Plaintiffs and the Plaintiff Class for its injuries;
- (e) award punitive damages in an amount to be determined at trial to deter Ceisel and other like employers from permitting and promoting such racial harassment in the future;

- (f) award Plaintiffs their reasonable attorneys' fees and costs, pursuant to 42 U.S.C. § 1988; and
- (g) award such other relief as the Court deems just and proper.

COUNT II
(Individual Retaliation/Layoff Claim – Section 1981)

34. Named Plaintiff Domingo Ramirez restates and incorporates paragraphs 1-29 of this Complaint as though fully stated herein.

35. Named Plaintiff Domingo Ramirez individually asserts the following allegations in support of his retaliation/layoff claim:

36. In April 2003, Ramirez complained that the superintendent, Don Eters (“Superintendent”), had treated white employees differently than non-white Hispanic employees with respect to Superintendent’s issuance of a safety citation.

37. Immediately following Ramirez’s protected discrimination complaint, the Superintendent became very hostile to Ramirez, by, for example, removing overtime from Ramirez’s schedule.

38. On or about August 1, 2003, as a direct foreseeable and proximate result of this discriminatory conduct and in retaliation for Ramirez’s protected discrimination complaint, the Superintendent retaliated against Ramirez once again, by ordering a foreman to work Ramirez’s “ass” off and send Ramirez home tired because he had called the Superintendent a racist. In further support of the Superintendent’s retaliation against Ramirez, the foreman informed Ramirez to watch out for the Superintendent, because the Superintendent had it in for him.

39. On or about December 23, 2003, as a direct foreseeable and proximate result of this discriminatory conduct and in retaliation for Ramirez’s protected discrimination complaint, the

Superintendent fired Ramirez, although less productive white laborers with less seniority than Ramirez were not fired. This retaliatory layoff violates Section 1981.

WHEREFORE, Domingo Ramirez respectfully requests that this Court:

- (a) reinstate Domingo Ramirez to his former position at Ceisel;
- (b) award Domingo Ramirez compensatory damages in an amount to be determined at trial, to include, but not limited to, lost wages and benefits, and emotional distress damages;
- (c) enjoin Defendant from harassment based on race and national origin in the future;
- (d) order Defendant to pay Domingo Ramirez punitive damages for its malicious and reckless conduct in amounts to be determined at trial;
- (e) award Domingo Ramirez reasonable attorneys' fees and costs; and
- (f) grant such further relief as this Court deems necessary and proper in the public interest.

COUNT III
(Individual Retaliation/Layoff Claim - Title VII)

40. Named Plaintiff Domingo Ramirez restates and incorporates paragraphs 1-39 of this Complaint as though fully stated herein.

41. Ceisel unlawfully laid off Domingo Ramirez because Domingo Ramirez had complained of race discrimination in violation of Title VII, 42 U.S.C. § 2000e.

WHEREFORE, Domingo Ramirez respectfully requests that this Court:

- (a) reinstate Domingo Ramirez as to his former position at Ceisel;
- (b) award Domingo Ramirez compensatory damages in an amount to be determined at trial, to include, but not limited to, lost wages and benefits, and emotional distress damages;
- (c) enjoin Defendant from harassment based on race and national origin in the future;
- (d) order Defendant to pay Domingo Ramirez punitive damages for its malicious and reckless conduct in amounts to be determined at trial;
- (e) award Domingo Ramirez reasonable attorneys' fees and costs; and

- (f) grant such further relief as this Court deems necessary and proper in the public interest.

JURY DEMAND

Plaintiffs and the Plaintiff Class demand trial by jury on all matters triable by a jury.

Dated: June 19, 2006

Respectfully submitted,

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s/ Daniel A. Dorfman

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Exhibit C

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

EQUAL EMPLOYMENT OPPORTUNITY)	
COMMISSION,)	
)	
Plaintiff,)	
)	CIVIL ACTION NO. 06 CV 2075
and)	
)	
DOMINGO RAMIREZ and)	
CUAUHTEMOC GUERRERO,)	JURY TRIAL DEMAND
)	
Intervenors,)	
v.)	
)	
CEISEL MASONRY, INC.)	
)	
Defendant.)	
)	

INTERVENORS' COMPLAINT

For a cause of action against defendant Ceisel Masonry Inc. ("Defendant" or "Ceisel"), intervenors Domingo Ramirez and Cuauhtemoc Guerrero (the "Intervenors") allege as follows:

Nature of Action

1. The Intervenors seek to file its Intervenors' Complaint under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e *et seq.*, ("Title VII"), to assert individual claims to correct unlawful employment practices on the basis of national origin and to provide appropriate relief.

2. The Intervenors' Complaint, which asserts individual claims, arises out of the same facts and law as alleged by the Equal Employment Opportunity Commission ("EEOC") in this case.

Parties, Jurisdiction and Venue

3. Domingo Ramirez ("Ramirez") is a non-white Hispanic man currently residing in Berwyn, Illinois. From approximately 1996 to December 2003, Ramirez worked at Ceisel as a laborer. He is an employee for purposes of 42 U.S.C. § 2000e (f).

4. Cuauhtemoc Guerrero ("Guerrero") is a non-white Hispanic man currently residing in Lake Forest, Illinois. From approximately July 1995 through early February 2005, Guerrero worked at Ceisel, first as a laborer and then as a bricklayer. He is an employee for purposes of 42 U.S.C. § 2000e (f).

5. Defendant is an Illinois corporation with its principal place of business located in Northbrook, Illinois. Defendant operates a brick masonry business.

6. This Court has subject matter jurisdiction over this controversy pursuant to 28 U.S.C. §§ 1331, 1343 and 42 U.S.C. § 2000e-5 (f)(3) .

7. Pursuant to 28 U.S.C. § 1391, venue is proper in this district because Defendant resides in this district, and all wrongful acts and injuries occurred in this district.

General Allegations

8. Intervenors are non-white Hispanic former employees of Ceisel.

9. Intervenors have been exposed to the same type of unlawful employment practices on the basis of race/national origin during the same period by the same group of managers as that complained of by the EEOC.

10. Prior to filing this lawsuit Intervenor filed charges of discrimination with the EEOC alleging unlawful employment practices on the basis of race/national origin by Defendant.

11. Intervenor has administratively exhausted their claims at the EEOC.

12. Intervenor has sought out and retained as their counsel the Chicago Lawyers' Committee for Civil Rights Under Law, Inc., a non-profit, public interest law firm that specializes in class actions and employment discrimination cases and lawyers from Howrey LLP with extensive class action experience in order to assert their individual Title VII claims.

Substantive Allegations of Wrongful Conduct

13. At all relevant times, managers at Ceisel have engaged in an unremitting and unlawful pattern of employment practices on the basis of race/national origin of Intervenor that unreasonably interfered with their work environment.

14. The unlawful employment practices on the basis of race/national origin, which managers inflicted on Intervenor and/or on class members on a frequent and prolonged basis, were unwelcome and include but are not limited to:

- (a) managers regularly calling non-white Hispanic workers "wetbacks," "spics," and "fucking Mexicans," "border jumpers," "julios" and "chicos";
- (b) managers regularly making comments such as "all Mexicans are good for is cutting grass," and "go back to your own country";
- (c) managers making comments such as "I've been hunting and shooting cans—Mexicans, Africans, Puerto Ricans";
- (d) managers making comments such as "all you Mexicans are good for are your strong backs" and "you Mexicans are good for nothing";
- (e) managers making comments to Puerto Rican workers such as "damn Puerto Rican" and "damn pork chop";
- (f) managers making comments such as "you stupid Mexican—you are just like those fucking niggers";

- (g) managers making comments such as “niggers are lazy—you’re better than niggers, but you will always be Mexicans” and “you come to this country to use our welfare”;
- (h) managers taking steps to segregate and stigmatize non-white Hispanic workers, such as telling them to stay on the Mexican side of the work space and such as saying things like “watch what I do to this Mexican” and then splattering mortar in a Mexican worker’s face;
- (i) the owner of the company making comments such as “fucking Mexican” and “Mexicans don’t know how to do anything”; and
- (j) offensive graffiti, such as “spic” and “this is where Mexicans belong,” with an arrow pointing to the toilet.

15. Intervenors and/or other class members expressed to the managers perpetrating these unlawful employment practices on the basis of race/national origin that they were unwelcome and unwanted. In addition, the unlawful employment practices took place in the presence of Defendant’s high-level managers.

16. The managers committing the acts of unlawful employment practices on the basis of race/national origin, in fact, had and continue to have the power and authority to evaluate and discipline, and in some cases, to terminate employees.

17. In addition, these managers warned Intervenors that they had the power and authority to evaluate employees and to get them fired.

18. These managers have used their actual and apparent employment powers to coerce Intervenors to submit to unwanted unlawful employment practices on the basis of race/national origin that unreasonably interfered with their work environment.

19. At all relevant times, Defendant did not effectively provide or implement for all of its workers any policy prohibiting unlawful employment practices on the basis of race/national origin or any procedure for victims of unlawful employment practices to seek redress and relief.

It was not until Intervenors filed discrimination charges at the EEOC that Defendant established any anti-harassment policy.

20. Despite the failure to provide or implement any effective policy or procedure prohibiting unlawful employment practices on the basis of race/national origin, Intervenors and/or other class members complained about the unlawful employment practices to managers and requested that it be stopped.

21. The unlawful employment practices on the basis of race/national origin and retaliation described in Intervenors' Complaint are of a continuing nature in that they have been ongoing for a period of years.

22. The unlawful employment practices on the basis of race/national origin and retaliation described in this Intervenors' Complaint damaged the Intervenors in that they have suffered unnecessary and extreme degradation, humiliation, emotional distress and embarrassment in the workplace.

23. The actions of Defendant in permitting, condoning and failing to correct the severe, frequent and prolonged unlawful employment practices on the basis of race/national origin by its managers constitute a malicious, intentional or reckless disregard of its known legal obligations.

CAUSE OF ACTION

(Violation of Title VII for harassment based on national origin)

24. Intervenors restate and incorporate paragraphs 1-23 of this Intervenors Complaint as though fully stated herein.

25. Title VII prohibits unlawful employment practices on the basis of race/national origin and authorizes equitable relief and damages for such discrimination.

26. Defendant violated Title VII on account of its unlawful employment practices on the basis of race/national origin. The unlawful employment practices were ongoing, severe and pervasive, and unreasonably altered the terms of their employment.

27. The unlawful employment practices have: (1) caused Intervenors extreme humiliation and emotional distress and (2) deprived Intervenors of equal employment opportunities.

28. The above-described conduct of Defendant constitutes a violation of Title VII. Intervenors are entitled to equitable relief, compensatory and punitive damages in amounts sufficient to punish Defendant and to deter Defendant from continuing with unlawful employment practices on the basis of race/national origin.

29. Intervenors are entitled to injunctive relief to stop the Defendant's wrongful conduct.

WHEREFORE, intervenors Ramirez and Guerrero respectfully request that this Court:

- (a) grant a permanent injunction enjoining Defendant, its officers, successors, assigns, and all persons in active concert or participation with it, from engaging in unlawful employment practices on the basis of race/national origin;
- (b) order Defendant to institute and carry out policies, practices and programs which provide equal employment opportunities for its employees regardless of national origin, and which eradicate the effects of its unlawful employment practices;
- (c) order Defendant to compensate Domingo Ramirez and Cuahetemoc Guerrero for past and future non-pecuniary losses resulting from the unlawful employment practices, including emotional pain, suffering, loss of enjoyment of life, humiliation, and inconvenience in amounts to be determined at trial;
- (d) order Defendant to pay Domingo Ramirez and Cuahetemoc Guerrero punitive damages for its malicious and reckless conduct in amounts to be determined at trial.

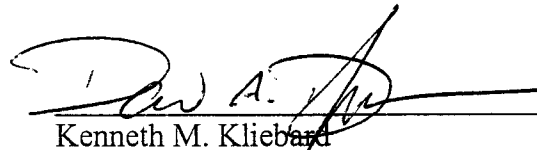
- (e) prohibit Defendant from discriminating against any individual for engaging in protected activity under Title VII of the Civil Rights Act of 1964, or for opposing practices made unlawful by Title VII, or for participating in this lawsuit;
- (f) award Domingo Ramirez and Cuahetemoc Guerrero their reasonable attorneys' fees and costs; and
- (g) grant such further relief as this Court deems necessary and proper in the public interest.

JURY DEMAND

Intervenors demand trial by jury on all matters triable by a jury.

Dated: June 8, 2006

Respectfully submitted,



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