

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

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U.S. DISTRICT COURT

United States Equal Employment Opportunity  
Commission,

Plaintiff,

and

Ruben Cruz, Carlos Cruz, Luis De La Fuente,  
Jimmy Rocha, Silvino Castañeda, David Perez,  
Jose Villareal, John Lucio, Nestor Quiles and Polo  
Berumen,

Intervenor-Plaintiffs,

v.

FPM L.L.C., d/b/a Ipsen Heat Treating,

Defendant.

Case No. 03 C 50361

Judge Philip G. Reinhard

Magistrate Judge P. Michael Mahoney

**COMPLAINT OF INTERVENOR-PLAINTIFFS**

Intervenor-Plaintiffs complain of defendant as follows:

**I. NATURE OF THE ACTION**

1. This is an action under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §2000e *et. seq.* ("Title VII") seeking to redress unlawful employment practices on the basis of race and national origin.

**II. JURISDICTION AND VENUE**

2. This Court has jurisdiction pursuant to 28 U.S.C. §§1331, 1343 and 42 U.S.C. §2000e-5(f)(3).

3. Venue is proper in the Northern District of Illinois, Western Division under 28 U.S.C. §1391(b) because (a) defendant resides in this District and (ii) the unlawful conduct alleged herein was committed and continues to occur within the District.

### **III. PARTIES**

4. Intervenor-Plaintiff Ruben Cruz is an Hispanic former employee of defendant. Ruben Cruz's national origin is Mexican.

5. Intervenor-Plaintiff Carlos Cruz is an Hispanic former employee of defendant. Carlos Cruz's national origin is Mexican.

6. Intervenor-Plaintiff Luis De La Fuente is an Hispanic former employee of defendant. Luis De La Fuente's national origin is Mexican.

7. Intervenor-Plaintiff Jimmy Rocha is an Hispanic former employee of defendant. Jimmy Rocha's national origin is Mexican.

8. Intervenor-Plaintiff Silvio Castañeda is an Hispanic current employee of defendant. Silvino Castañeda's national origin is Mexican.

9. Intervenor-Plaintiff David Perez is an Hispanic former employee of defendant. David Perez's national origin is Mexican.

10. Intervenor-Plaintiff Jose Villareal is an Hispanic former employee of defendant. Jose Villareal's national origin is Mexican.

11. Intervenor-Plaintiff John Lucio is an Hispanic former employee of defendant. John Lucio's national origin is Mexican.

12. Intervenor-Plaintiff Nestor Quiles is an Hispanic former employee of defendant. Nestor Quiles' national origin is Mexican.

13. Intervenor-Plaintiff Polo Berumen is an Hispanic current employee of defendant. Polo Berumen's national origin is Mexican.

14. Defendant FPM L.L.C., d/b/a Ipsen Heat Treating ("Ipsen") is an employer continuously engaged in an industry affecting commerce within the meaning of §§ 701(b), (g) and (h) of Title VII, 42 U.S.C. §§ 2000e(b), (g) and (h). At all relevant times, Ipsen has continuously been a corporation doing business within Winnebago County, Illinois and has continuously employed at least fifteen employees.

#### **IV. BACKGROUND**

15. Each of the Intervenor-Plaintiffs filed a timely Charge of Discrimination with the EEOC. (Ex. 1) Subsequent to the filing of the charges, the EEOC issued class-based Determinations of Reasonable Cause to believe violations of Title VII by defendant have occurred. Thereafter, the EEOC informed Intervenor-Plaintiffs that conciliation efforts have failed.

16. On September 9, 2003, the EEOC initiated class-wide litigation based on the Charges of the Intervenor-Plaintiffs.

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

18. As set forth below, Ipsen has engaged in a pervasive company-wide pattern and practice of discrimination against Hispanics for many years. The discriminatory conduct against Hispanics that defendant has engaged in includes, but is not limited to the following:

- a. defendant has subjected Hispanic employees to different terms and conditions of employment, including disproportionately assigning Hispanic employees to the Belts Department, which requires working in the most uncomfortable, undesirable and dangerous working conditions in the plant;
- b. defendant has deprived Hispanic employees of necessary safety equipment routinely provided to non-Hispanic workers;

- c. defendant has paid Hispanic workers lower wages than paid to similarly-situated non-Hispanic workers;
- d. defendant has denied Hispanic workers lunch and rest breaks routinely afforded to non-Hispanic workers;
- e. defendant has terminated Hispanic employees because of their national origin or in retaliation for their complaints about working conditions for Hispanic employees;
- f. defendant has caused Hispanic employees to resign their employment because of continued disparate treatment on the basis of their national origin or in retaliation for complaints about discrimination, thus constructively discharging them;
- g. defendant has failed to take prompt and appropriate corrective action in response to complaints and other notice of discrimination on the basis of Hispanic national origin.

V. **DEFENDANT'S UNLAWFUL CONDUCT  
TOWARD THE INTERVENOR PLAINTIFFS**

A. **INTERVENOR-PLAINTIFF RUBEN CRUZ**

19. Ruben Cruz incorporates and realleges paragraphs 1 through 18 above.

20. Ruben Cruz was hired by defendant in November 1999 as a furnace operator in the Belts Department. At all times, Ruben Cruz performed his job duties in a satisfactory manner.

21. Work conditions in the Belts Department are extremely dangerous and difficult, requiring workers to perform their jobs in extremely hot temperatures. Defendant has segregated its work force in the Belts Department, assigning Hispanic workers almost exclusively to the Department. Hispanic employees, like Intervenor-Plaintiffs, are kept in the Belts Department, whereas non-Hispanic employees are permitted to transfer to other departments.

22. As an employee of the Belts Department, Ruben Cruz was denied lunch and rest breaks routinely afforded to non-Hispanic workers assigned to more favorable departments.

23. As an employee of the Belts Department, Ruben Cruz was denied adequate equipment, including adequate safety equipment, routinely provided to non-Hispanic employees.

24. Ruben Cruz was paid lower wages than similarly-situated non-Hispanic workers of similar experience and tenure, who were placed in less difficult and dangerous assignments.

25. In March 2001, Ruben Cruz was terminated by defendant after complaining about a dangerous work assignment. Non-Hispanic workers were not required to perform such assignments and were not terminated in such circumstances.

26. The aforementioned conduct of defendant was motivated by Intervenor-Plaintiff's race and national origin and constitutes discrimination against Ruben Cruz in violation of Title VII of the Civil Rights Act of 1964, as amended.

**B. INTERVENOR-PLAINTIFF CARLOS CRUZ**

27. Carlos Cruz incorporates and realleges paragraphs 1 through 18 above.

28. Carlos Cruz was hired by defendant in December 1999 as a furnace operator in the Belts Department. At all times, Carlos Cruz performed his job duties in a satisfactory manner.

29. Work conditions in the Belts Department are extremely dangerous and difficult, requiring workers to perform their jobs in extremely hot temperatures. Defendant has segregated its work force in the Belts Department, assigning Hispanic workers almost exclusively to the Department. Hispanic employees, like Intervenor-Plaintiffs, are kept in the Belts Department, whereas non-Hispanic employees are permitted to transfer to other departments.

30. As an employee of the Belts Department, Carlos Cruz was denied lunch and rest breaks routinely afforded to non-Hispanic workers assigned to more favorable departments.

31. As an employee of the Belts Department, Carlos Cruz was denied adequate equipment, including adequate safety equipment, routinely provided to non-Hispanic employees.

32. Carlos Cruz was paid lower wages than similarly-situated non-Hispanic workers of similar experience and tenure, who were placed in less difficult and dangerous assignments.

33. In August 2001, Carlos Cruz took a day off from work under the Family Medical Leave Act due to the birth of his son. When he returned to work, his supervisor increased his work assignments and placed additional demands upon him. Non-Hispanic workers taking FMLA or other time off were not treated in this manner.

34. During this same period, an Hispanic co-worker, Jimmy Rocha, took FMLA-protected time off for illness and, upon his return, was required to perform work alone that could not be performed by one person without endangering the person's safety. Non-Hispanic workers were not required to undertake such dangerous assignments. Carlos Cruz, and three other co-workers, including Jimmy Rocha, engaged in protected oppositional conduct by protesting this treatment to their supervisor. As a result, each of them was terminated by defendant on August 21, 2001.

35. The aforementioned conduct of defendant was motivated by Intervenor-Plaintiff's race and national origin and was retaliatory and constitutes discrimination against Carlos Cruz in violation of Title VII of the Civil Rights Act of 1964, as amended.

**C. INTERVENOR-PLAINTIFF LUIS DE LA FUENTE**

36. Luis De La Fuente incorporates and realleges paragraphs 1 through 18 above.

37. Luis De La Fuente was hired by defendant in February 2000 as a furnace operator in the Belts Department. At all times, De La Fuente performed his job duties in a satisfactory manner.

38. Work conditions in the Belts Department are extremely dangerous and difficult, requiring workers to perform their jobs in extremely hot temperatures. Defendant has segregated its work force in the Belts Department, assigning Hispanic workers almost exclusively to the

Department. De La Fuente requested a transfer to another department, but his request was denied. Similar requests of white employees were granted.

39. As an employee of the Belts Department, De La Fuente was denied lunch and rest breaks routinely afforded to non-Hispanic workers assigned to more favorable departments.

40. As an employee of the Belts Department, De La Fuente was denied adequate equipment, including adequate safety equipment, routinely provided to non-Hispanic employees.

41. De La Fuente was paid lower wages than similarly-situated non-Hispanic workers of similar experience and tenure, who were placed in less difficult and dangerous assignments.

42. In July 2001, De La Fuente injured his back at work and was given light duty restrictions. The light duty restrictions were ignored by defendant, who required De La Fuente to continue to perform heavy lifting. Similarly situated non-Hispanic workers who are given light duty restrictions are not required to perform heavy lifting.

43. In August 2001, after two Hispanic co-workers were mistreated by defendant after taking days off under the Family Medical Leave Act, Intervenor-Plaintiff and three other co-workers engaged in protected oppositional conduct by protesting this treatment to the supervisor. Non-Hispanic workers are not mistreated or made to perform unsafe assignments after taking days off. As a result of protesting the actions taken by defendant, Intervenor-Plaintiff De La Fuente and the other protesting co-workers were terminated.

44. The aforementioned conduct of defendant was motivated by Intervenor-Plaintiff's race and national origin and was retaliatory and constitutes discrimination against Luis De La Fuente in violation of Title VII of the Civil Rights Act of 1964, as amended.

**D. INTERVENOR-PLAINTIFF JIMMY ROCHA**

45. Jimmy Rocha incorporates and realleges paragraphs 1 through 18 above.

46. Rocha was hired by defendant in July 2000 as a furnace operator in the Belts Department. At all times, Rocha performed his job duties in a satisfactory manner.

47. Work conditions in the Belts Department are extremely dangerous and difficult, requiring workers to perform their jobs in extremely hot temperatures. Defendant has segregated its work force in the Belts Department, assigning Hispanic workers almost exclusively to the Department.

48. As an employee of the Belts Department, Rocha was denied lunch and rest breaks routinely afforded to non-Hispanic workers assigned to more favorable departments.

49. As an employee of the Belts Department, Rocha was denied adequate equipment, including adequate safety equipment, routinely provided to non-Hispanic employees.

50. Rocha was paid lower wages than similarly-situated non-Hispanic workers of similar experience and tenure, who were placed in less difficult and dangerous assignments.

51. Rocha requested a transfer to a different job, but his request was denied. Non-Hispanic employees received such transfers.

52. In August 2001, Rocha took FMLA-protected time off for illness and, upon his return, was required to perform work alone that could not be performed by one person without endangering the person's safety. Non-Hispanic workers were not required to undertake such dangerous assignments. Rocha, and three other co-workers, engaged in protected oppositional conduct by protesting this treatment to their supervisor. As a result, each of them was terminated by defendant on August 21, 2001.

53. The aforementioned conduct of defendant was motivated by Intervenor-Plaintiff's race and national origin and was retaliatory and constitutes discrimination against Jimmy Rocha in violation of Title VII of the Civil Rights Act of 1964, as amended.



**E. INTERVENOR-PLAINTIFF SILVINO CASTAÑEDA**

54. Silvino Castañeda incorporates and realleges paragraphs 1 through 18 above.

55. Castañeda was hired by defendant in May 2001 as a machine operator in the Induction Department. At all times, Castañeda has performed his job duties in a satisfactory manner.

56. Castañeda is paid lower wages than similarly-situated non-Hispanic workers of similar experience and tenure.

57. Castañeda requested a transfer to an inspection job in the lab, which would have resulted in an increase in pay. Castañeda's request was denied and the job was given to a white female from outside the company.

58. The aforementioned conduct of defendant was motivated by Intervenor-Plaintiff's race and national origin and constitutes discrimination against Silvino Castañeda in violation of Title VII of the Civil Rights Act of 1964, as amended.

**F. INTERVENOR-PLAINTIFF DAVID PEREZ**

59. David Perez incorporates and realleges paragraphs 1 through 18 above.

60. David Perez was hired by defendant in June 2001 as a furnace operator in the Belts Department. At all times, Perez performed his job duties in a satisfactory manner.

61. Work conditions in the Belts Department are extremely dangerous and difficult, requiring workers to perform their jobs in extremely hot temperatures. Defendant has segregated its work force in the Belts Department, assigning Hispanic workers almost exclusively to the Department. Hispanic employees, like Intervenor-Plaintiffs, are kept in the Belts Department, whereas non-Hispanic employees are permitted to transfer to other departments.

62. As an employee of the Belts Department, Perez was denied lunch and rest breaks routinely afforded to non-Hispanic workers assigned to more favorable departments.

63. As an employee of the Belts Department, Perez was denied adequate equipment, including adequate safety equipment, routinely provided to non-Hispanic employees.

64. Perez was paid lower wages than similarly-situated non-Hispanic workers of similar experience and tenure, who were placed in less difficult and dangerous assignments.

65. The aforementioned conduct of defendant was motivated by Intervenor-Plaintiff's race and national origin and constitutes discrimination against David Perez in violation of Title VII of the Civil Rights Act of 1964, as amended.

**G. INTERVENOR-PLAINTIFF JOSE VILLAREAL**

66. Jose Villareal incorporates and realleges paragraphs 1 through 18 above.

67. Villareal was hired by defendant in September 1998 as a furnace operator in the Belts Department. At all times, Villareal performed his job duties in a satisfactory manner.

68. Work conditions in the Belts Department are extremely dangerous and difficult, requiring workers to perform their jobs in extremely hot temperatures. Defendant has segregated its work force in the Belts Department, assigning Hispanic workers almost exclusively to the Department. Hispanic employees, like Intervenor-Plaintiffs, are kept in the Belts Department, whereas non-Hispanic employees are permitted to transfer to other departments.

69. As an employee of the Belts Department, Villareal was denied lunch and rest breaks routinely afforded to non-Hispanic workers assigned to more favorable departments.

70. As an employee of the Belts Department, Villareal was denied adequate equipment, including adequate safety equipment, routinely provided to non-Hispanic employees.

71. Villareal was paid lower wages than similarly-situated non-Hispanic workers of similar experience and tenure, who were placed in less difficult and dangerous assignments.

72. In August 2001, after two Hispanic co-workers were mistreated by defendant after taking days off under the Family Medical Leave Act, Intervenor-Plaintiff and three other co-workers engaged in protected oppositional conduct by protesting this treatment to the supervisor. Non-Hispanic workers are not mistreated or made to perform unsafe assignments after taking days off. As a result of protesting the actions taken by defendant, Intervenor-Plaintiff Villareal and the other protesting co-workers were terminated.

73. The aforementioned conduct of defendant was motivated by Intervenor-Plaintiff's race and national origin and was retaliatory and constitutes discrimination against Jose Villareal in violation of Title VII of the Civil Rights Act of 1964, as amended.

**H. INTERVENOR-PLAINTIFF JOHN LUCIO**

74. John Lucio incorporates and realleges paragraphs 1 through 18 above.

75. Lucio was hired by defendant in August 2000 as a furnace operator in the Belts Department. At all times, Lucio performed his job duties in a satisfactory manner.

76. Work conditions in the Belts Department are extremely dangerous and difficult, requiring workers to perform their jobs in extremely hot temperatures. Defendant has segregated its work force in the Belts Department, assigning Hispanic workers almost exclusively to the Department. Hispanic employees, like Intervenor-Plaintiffs, are kept in the Belts Department, whereas non-Hispanic employees are permitted to transfer to other departments.

77. As an employee of the Belts Department, Lucio was denied lunch and rest breaks routinely afforded to non-Hispanic workers assigned to more favorable departments.

78. As an employee of the Belts Department, Lucio was denied adequate equipment, including adequate safety equipment, routinely provided to non-Hispanic employees.

79. Lucio was paid lower wages than similarly-situated non-Hispanic workers of similar experience and tenure, who were placed in less difficult and dangerous assignments.

80. In May 2001, Lucio was constructively discharged after his supervisor treated him in an unconscionably abusive and unfair manner concerning the terms and conditions of his employment.

81. The aforementioned conduct of defendant was motivated by Intervenor-Plaintiff's race and national origin and constitutes discrimination against John Lucio in violation of Title VII of the Civil Rights Act of 1964, as amended.

**I. INTERVENOR-PLAINTIFF NESTOR QUILES**

82. Nestor Quiles incorporates and realleges paragraphs 1 through 18 above.

83. Quiles was hired by defendant in December 2000 as a furnace operator in the Belts Department. Quiles has schooling and experience in computers, iron work and forklift. At all times, Quiles performed his job duties in a satisfactory manner.

84. Work conditions in the Belts Department are extremely dangerous and difficult, requiring workers to perform their jobs in extremely hot temperatures. Defendant has segregated its work force in the Belts Department, assigning Hispanic workers almost exclusively to the Department. Quiles requested a transfer to another department, but his request was denied. Similar requests of white employees were granted.

85. As an employee of the Belts Department, Quiles was denied lunch and rest breaks routinely afforded to non-Hispanic workers assigned to more favorable departments.

86. As an employee of the Belts Department, Quiles was denied adequate equipment, including adequate safety equipment, routinely provided to non-Hispanic employees.

87. Quiles was paid lower wages than similarly-situated non-Hispanic workers of similar experience and tenure, who were placed in less difficult and dangerous assignments.

88. In approximately February 2001, Quiles requested a transfer to the Induction Department. The amount of training required to work in Induction is not greater than that required to work in the Belts Department. Even though the Induction Department was typically short-handed, Quiles was denied a transfer. Most Hispanic workers are not permitted to transfer to the Induction Department whereas Anglo employees and temporary employees are placed there on a regular basis.

89. The aforementioned conduct of defendant was motivated by Intervenor-Plaintiff's race and national origin and constitutes discrimination against Nestor Quiles in violation of Title VII of the Civil Rights Act of 1964, as amended.

**J. INTERVENOR-PLAINTIFF POLO BERUMEN**

90. Polo Berumen incorporates and realleges paragraphs 1 through 18 above.

91. Berumen was hired by defendant in February 1997 as a machine operator in the Belts Department. Berumen ultimately became a supervisor in the Induction Department. At all times, Berumen has performed his job duties in a satisfactory manner.

92. In November 2001, a Caucasian worker employee under Berumen's supervision left the plant in violation of company rules. The employee then returned apparently intoxicated. Berumen raised the issue that this employee should be terminated and raised the issue with management that Hispanic workers are terminated or disciplined for less and often inadequate reasons. Defendant did not accept Berumen's account of events or recommendation as it would have with a white supervisor. The white employee was allowed to return to work. Although the white worker was eventually terminated by a white supervisor, Berumen was unjustly disciplined for his actions.

93. Berumen has been paid lower wages than similarly-situated non-Hispanic workers of similar experience and tenure.

94. The aforementioned conduct of defendant was motivated by Intervenor-Plaintiff's race and national origin and constitutes discrimination against Berumen in violation of Title VII of the Civil Rights Act of 1964, as amended.

**COUNT I**  
**TITLE VII - RACE DISCRIMINATION IN THE**  
**TERMS AND CONDITIONS OF EMPLOYMENT**

95. This Count is brought by Intervenor-Plaintiffs R. Cruz, C. Cruz, De La Fuente, Rocha, Perez, Villareal, Lucio, Quiles and Berumen.

96. Intervenor-Plaintiffs incorporate and reallege Paragraphs 1 through 94 of this Complaint as if set forth herein.

97. The aforementioned conduct of defendant was motivated by Intervenor-Plaintiffs' race and national origin and constitutes discrimination by defendant against Intervenor-Plaintiffs in the terms and conditions of their employment, in violation of Title VII of the Civil Rights Act of 1964, as amended. The aforementioned conduct, in its totality, constitutes a work environment hostile to Intervenor-Plaintiffs in terms of their race and national origin.

98. The aforementioned conduct by defendant has resulted in damages to Intervenor-Plaintiffs including, but not limited to, loss of pay, loss of benefits, emotional anguish, humiliation and embarrassment. The defendant intentionally discriminated against Intervenor-Plaintiffs with malice or reckless indifference to Intervenor-Plaintiffs' civil rights, thereby entitling Intervenor-Plaintiffs to punitive damages.

99. Intervenor-Plaintiffs request that the Court order systemic injunctive relief to address the unlawful conduct complained of herein.

## **PRAYER FOR RELIEF**

With respect to Count I, Intervenor-Plaintiffs R. Cruz, C. Cruz, De La Fuente, Rocha, Perez, Villareal, Lucio, Quiles and Berumen respectfully request that this Court:

- A. Enter a declaratory judgment finding and declaring that defendant has discriminated against Intervenor-Plaintiffs, in violation of Title VII;
- B. Grant a permanent injunction enjoining defendant, its officers, successors, assigns and all persons in active concert or participating with them, from engaging in any employment practice with respect to the terms and conditions of employment, which discriminates on the basis of race or national origin;
- C. Order defendant to make whole Intervenor-Plaintiffs by providing backpay and prejudgment interest in amounts to be proven at trial and other affirmative relief necessary to eradicate the effects of defendant's unlawful employment practices;
- D. Order defendant to make whole Intervenor-Plaintiffs by providing compensation for past and future pecuniary losses resulting from the unlawful employment practices alleged herein;
- E. Order defendant to make whole Intervenor-Plaintiffs by providing compensation for past and future non-pecuniary losses resulting from the unlawful employment practices alleged herein, including humiliation, emotional distress and embarrassment, in amounts to be determined at trial;
- F. Order defendant to pay Intervenor-Plaintiffs punitive damages for the malicious and reckless conduct alleged herein, in amounts to be determined at trial;
- G. Award the Intervenor-Plaintiffs attorneys' fees and costs incurred in this action; and
- H. Grant such other and further relief as this Court deems appropriate.

## **COUNT II**

### **TITLE VII - RACE DISCRIMINATION IN TERMINATION**

100. This Count is brought by Intervenor-Plaintiffs R. Cruz, C. Cruz, De La Fuente, Rocha, Villareal and Lucio.

101. Intervenor-Plaintiffs incorporate and reallege Paragraphs 1 through 94 of this Complaint as if set forth herein.

102. By virtue of defendant's foregoing conduct, Intervenor-Plaintiffs were unlawfully terminated on the basis of their race and national origin in violation of Title VII.

103. The aforementioned conduct has resulted in damages to Intervenor-Plaintiffs including, but not limited to, loss of pay, loss of benefits, emotional anguish, humiliation and embarrassment. The defendant intentionally discriminated against Intervenor-Plaintiffs with malice or reckless indifference to Intervenor-Plaintiff's civil rights, thereby entitling Intervenor-Plaintiffs to punitive damages.

104. Intervenor-Plaintiffs request that the Court order systemic injunctive relief to address the unlawful conduct complained of herein.

#### **PRAYER FOR RELIEF**

With respect to Count II, Intervenor-Plaintiffs R. Cruz, C. Cruz, De La Fuente, Rocha, Villareal and Lucio respectfully request that this Court:

- A. Enter a declaratory judgment finding and declaring that defendant has discriminated against Intervenor-Plaintiffs in violation of Title VII;
- B. Grant a permanent injunction enjoining defendant, its officers, successors, assigns and all persons in active concert or participating with them, from engaging in any employment practice that amounts to termination or constructive discharge and which discriminates on the basis of race or national origin;
- C. Order defendant to make whole Intervenor-Plaintiffs by providing backpay and prejudgment interest in amounts to be proven at trial and other affirmative relief necessary to eradicate the effects of defendant's unlawful employment practices, including rightful place reinstatement;
- D. Order defendant to make whole Intervenor-Plaintiffs by providing compensation for past and future pecuniary losses resulting from the unlawful employment practices alleged herein;
- E. Order defendant to make whole Intervenor-Plaintiffs by providing compensation for past and future non-pecuniary losses resulting from the unlawful employment practices alleged herein, including humiliation, emotional distress and embarrassment, in amounts to be determined at trial;



- F. Order defendant to pay Intervenor-Plaintiffs punitive damages for the malicious and reckless conduct alleged herein, in amounts to be determined at trial;
- G. Award the Intervenor-Plaintiffs attorneys' fees and costs incurred in this action; and
- H. Grant such other and further relief as this Court deems appropriate.

**COUNT III**  
**TITLE VII - RACE DISCRIMINATION IN COMPENSATION**

105. This Count is brought by Intervenor-Plaintiffs R. Cruz, C. Cruz, De La Fuente, Rocha, Castañeda, Perez, Villareal, Lucio, Quiles and Berumen.

106. Intervenor-Plaintiffs incorporate and reallege Paragraphs 1 through 94 of this Complaint as if set forth herein.

107. The aforementioned conduct of defendant was motivated by Intervenor-Plaintiffs' race and national origin and constitutes discrimination against Intervenor-Plaintiffs in connection with compensation in violation of Title VII of the Civil Rights Act of 1964, as amended.

108. The aforementioned conduct of defendant has resulted in damages to Intervenor-Plaintiffs including, but not limited to, loss of pay, loss of benefits, emotional anguish, humiliation and embarrassment. The defendant intentionally discriminated against Intervenor-Plaintiffs with malice or reckless indifference to Intervenor-Plaintiffs' civil rights, thereby entitling Intervenor-Plaintiffs to punitive damages.

109. Intervenor-Plaintiffs request that the Court order systemic injunctive relief to address the unlawful conduct complained of herein.

**PRAYER FOR RELIEF**

With respect to Count III, Intervenor-Plaintiffs R. Cruz, C. Cruz, De La Fuente, Rocha, Castañeda, Perez, Villareal, Lucio, Quiles and Berumen respectfully request that this Court:

- A. Enter a declaratory judgment finding and declaring that defendant has discriminated against the Intervenor-Plaintiffs in compensation, in violation of Title VII of the Civil Rights Act of 1964, as amended;
- B. Grant a permanent injunction enjoining defendant, its officers, successors, assigns and all persons in active concert or participating with them, from engaging in any employment practice with respect to compensation, which discriminates on the basis of race or national origin;
- C. Order defendant to make whole the Intervenor-Plaintiffs by providing backpay and prejudgment interest in amounts to be proven at trial and other affirmative relief necessary to eradicate the effects of defendant's unlawful employment practices;
- D. Order defendant to make whole Intervenor-Plaintiffs by providing compensation for past and future pecuniary losses resulting from the unlawful employment practices described above;
- E. Order defendant to make whole Intervenor-Plaintiffs by providing compensation for past and future non-pecuniary losses resulting from the unlawful practices alleged herein, including humiliation, emotional distress and embarrassment in amounts to be determined at trial;
- F. Order defendant to pay to Intervenor-Plaintiffs punitive damages for its malicious and reckless conduct alleged herein in amounts to be determined at trial;
- G. Award the Intervenor-Plaintiffs attorneys' fees and costs incurred in this action; and
- H. Grant such other and further relief as this Court deems appropriate.

#### **COUNT IV**

#### **TITLE VII - RACE DISCRIMINATION IN TRANSFERS**

110. This Count is brought by Intervenor-Plaintiffs R. Cruz, C. Cruz, De La Fuente, Rocha, Castañeda, Perez, Villareal, Lucio and Quiles.

111. Intervenor-Plaintiffs incorporate and reallege Paragraphs 1 through 94 of this Complaint as if set forth herein.

112. The aforementioned conduct of defendant was motivated by Intervenor-Plaintiffs' race and national origin and constitutes discrimination against Intervenor-Plaintiffs in connection with transfers in violation of Title VII of the Civil Rights Act of 1964, as amended.

113. The aforementioned conduct of defendant has resulted in damages to Intervenor-Plaintiffs including, but not limited to, loss of pay, loss of benefits, emotional anguish, humiliation and embarrassment. The defendant intentionally discriminated against Intervenor-Plaintiffs with malice or reckless indifference to Intervenor-Plaintiffs' civil rights, thereby entitling Intervenor-Plaintiffs to punitive damages.

114. Intervenor-Plaintiffs request that the Court order systemic injunctive relief to address unlawful conduct complained of herein.

#### **PRAYER FOR RELIEF**

With respect to Count IV, Intervenor-Plaintiffs R. Cruz, C. Cruz, De La Fuente, Rocha, Castañeda, Perez, Villareal, Lucio and Quiles respectfully request that this Court:

- A. Enter a declaratory judgment finding and declaring that defendant has discriminated against the Intervenor-Plaintiffs, in violation of Title VII of the Civil Rights Act of 1964, as amended;
- B. Grant a permanent injunction enjoining defendant, its officers, successors, assigns and all persons in active concert or participating with them, from engaging in any employment practice with respect to transfers which discriminates on the basis of race or national origin;
- C. Order defendant to make whole the Intervenor-Plaintiffs by providing backpay and prejudgment interest in amounts to be proven at trial and other affirmative relief necessary to eradicate the effects of defendant's unlawful employment practices;
- D. Order defendant to make whole the Intervenor-Plaintiffs by providing compensation for future pecuniary losses resulting from the unlawful employment practices described above;
- E. Order defendant to make whole the Intervenor-Plaintiffs by providing compensation for past and future non-pecuniary losses resulting from the unlawful conduct alleged herein, including humiliation, emotional distress and embarrassment, in amounts to be determined at trial;
- F. Order defendant to pay to the Intervenor-Plaintiffs punitive damages for the malicious and reckless conduct alleged herein, in amounts to be determined at trial;

- G. Award the Intervenor-Plaintiffs attorneys' fees and costs incurred in this action; and
- H. Grant such other and further relief as this Court deems appropriate.

**COUNT V**  
**TITLE VII - RETALIATION**

115. This Count is brought by Intervenor-Plaintiffs C. Cruz, De La Fuente, Rocha Villareal and Berumen.

116. Intervenor-Plaintiffs incorporate and reallege Paragraphs 1 through 94 of this Complaint as if set forth herein.

117. By virtue of the foregoing conduct, Intervenor-Plaintiffs were subjected to retaliation in violation of Title VII as a result of complaints about unlawful conditions and conduct by defendant.

118. The aforementioned retaliatory conduct undertaken by defendant as described herein has resulted in damages to these Intervenor-Plaintiffs. In retaliating against Intervenor-Plaintiffs, defendant acted with malice or reckless indifference to their civil rights, thereby entitling Intervenor-Plaintiffs to punitive damages.

119. Intervenor-Plaintiffs request that the Court order systemic injunctive relief to address the unlawful conduct complained of herein.

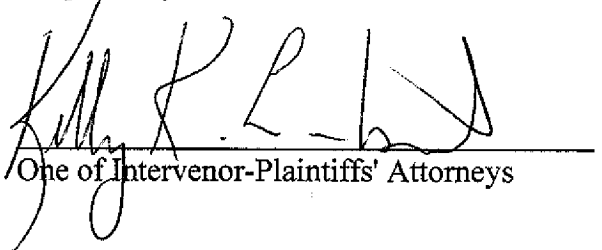
**PRAYER FOR RELIEF**

With respect to Count V, Intervenor-Plaintiffs C. Cruz, De La Fuente, Rocha, Villareal and Berumen respectfully request that this Court:

- A. Enter a declaratory judgment finding and declaring that defendant has retaliated against Intervenor-Plaintiffs in violation of Title VII;
- B. Grant a permanent injunction enjoining defendant, its officers, successors, assigns and all persons in active concert or participating with them, from engaging in any employment practice which constitutes unlawful retaliation;

- C. Order defendant to make whole Intervenor-Plaintiffs by providing such backpay and prejudgment interest as may be proven at trial and other affirmative relief necessary to eradicate the effects of defendant's retaliatory conduct;
- D. Order defendant to make whole Intervenor-Plaintiffs by providing compensation for any past and future pecuniary losses resulting from defendant's retaliatory conduct;
- E. Order defendant to make whole Intervenor-Plaintiffs by providing compensation for past and future non-pecuniary losses resulting from the retaliatory conduct alleged herein, including humiliation, in amounts to be determined at trial;
- F. Order defendant to pay Intervenor-Plaintiffs punitive damages for its malicious and reckless conduct alleged herein in amounts to be determined at trial;
- G. Award the Intervenor-Plaintiffs attorneys' fees and costs incurred in this action; and
- H. Grant such other and further relief as this Court deems necessary and proper.

Respectfully submitted,



One of Intervenor-Plaintiffs' Attorneys

Dated: October 20, 2003

Kelly K. Lambert  
Jennifer K. Soule  
James G. Bradtke  
**Soule, Bradtke & Lambert**  
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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
WESTERN DIVISION

FILED-WD

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CLERK  
U. S. DISTRICT COURT

United States Equal Employment Opportunity  
Commission,

Plaintiff,

and

Ruben Cruz, Carlos Cruz, Luis De La Fuente, Jimmy  
Rocha, Silvino Castañeda, David Perez, Jose  
Villareal, John Lucio, Nestor Quiles and Polo  
Berumen,

Intervenor-Plaintiffs,

v.

FPM L.L.C., d/b/a Ipsen Heat Treating,

Defendant.

Case No. 03 C 50361

Judge Philip G. Reinhard

Magistrate Judge P. Michael Mahoney

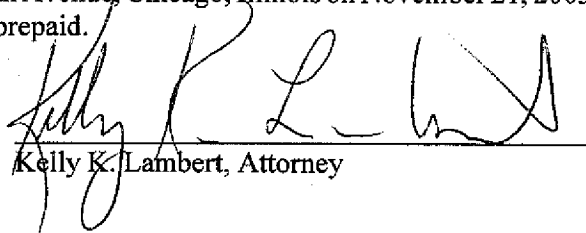
**NOTICE OF FILING**

To: See Attached Service List

PLEASE TAKE NOTICE that on Friday, November 21, 2003, I caused the original and one copy of the **COMPLAINT OF INTERVENOR-PLAINTIFFS** to be sent via Federal Express to the Clerk of the United States District Court for the Northern District of Illinois, Western Division, for the purposes of filing, by depositing same in the Federal Express Dropbox located at 155 North Michigan Avenue, Chicago, Illinois on November 21, 2003 on or before the hour of 5:00 p.m. A copy of said document is attached hereto and herewith served upon you.

**PROOF OF SERVICE**

I, Kelly K. Lambert, an attorney, hereby certify that I caused a copy of this Notice of Filing and the above referenced document to be served upon the referenced addressees via U.S. First Class Mail by depositing same in the USPS Mailbox located at 155 North Michigan Avenue, Chicago, Illinois on November 21, 2003 on or before the hour of 5:00 p.m, with proper postage prepaid.

  
\_\_\_\_\_  
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