

FILED

JAN 29 2001

MICHAEL W. DOBBINS
CLERK, U.S. DISTRICT COURT

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

**EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,**)
)
)
 Plaintiff,)
)
 v.)
)
)
 KMART CORPORATION,)
)
)
 Defendant.)
 _____)

01C 0594

Civil Action No.

JUDGE HIBBLER

COMPLAINT

JURY TRIAL DEMANDED

DOCKETED
MAGISTRATE JUDGE DENLOW
JAN 30 2001

NATURE OF THE ACTION

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") and Title I of the Civil Rights Act of 1991 to correct unlawful employment practices on the basis of national origin and to provide appropriate relief to Francisco Gomez ("Gomez") and a class of Hispanic workers who were adversely affected by the unlawful practices. Plaintiff, Equal Employment Opportunity Commission ("EEOC"), alleges that Defendant Kmart Corporation ("Kmart") subjected Gomez and a class of Hispanic workers to ethnic harassment and a hostile work environment because of their national origin.

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, 42 U.S.C. § 2000e-5(f)(1) and (3) and § 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981A.

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2. The employment practices hereafter alleged to be unlawful were and are now being committed within the jurisdiction of the United States District Court for the Northern District of Illinois, Eastern Division.

PARTIES

3. Plaintiff, the Equal Employment Opportunity 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 Section 706(f)(1) and (3) of Title VII, 42 U.S.C. Section 2000e-5(f)(1) and (3).

4. At all times relevant, Defendant, Kmart Corporation, a Michigan corporation, has continuously been doing business in the Northern District of Illinois and has continuously had at least fifteen employees.

5. At all times relevant, Kmart Corporation, 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. Sections 2000e(b), (g) and (h).

STATEMENT OF CLAIMS

6. More than 30 days prior to the institution of this lawsuit, Francisco Gomez filed a charge of discrimination with the EEOC, alleging violations of Title VII by the Defendant. All conditions precedent to the institution of this lawsuit have been fulfilled.

7. Since at least December 1998, Defendant has engaged in unlawful employment

practices at its Zion, Illinois facility, in violation of Sections 701(j) and 703(a) of Title VII, 42 U.S.C. Sections 2000e(j) and 2(a). Such unlawful employment practices have included (a) ethnic harassment of Hispanic workers, and (b) subjecting Hispanic workers to a hostile work environment.

8. The effect of the practices complained of above has been to deprive Gomez and a class of others adversely affected by the harassment of equal employment opportunities and otherwise adversely affect their status as employees because of their national origin.

9. The unlawful employment practices complained of in paragraphs 7 and 8 above were intentional.

10. The unlawful employment practices complained of in paragraphs 7 and 8 above were done with malice or with reckless indifference to the federally protected rights of Gomez and a class of Hispanic workers.

PRAYER FOR RELIEF

WHEREFORE, the Commission respectfully requests that this Court:

A. Grant a permanent injunction enjoining Defendant Kmart Corporation, its officers, successors, assigns, and all persons in active concert or participation with it, from engaging in any employment practice which discriminates because of national origin.

B. Order Defendant to institute and carry out policies, practices and programs which eradicate the effects of its past and present unlawful practices.

C. Order Defendant to make whole Gomez and the affected class 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.

D. Order Defendant to make whole Gomez and the affected class, by providing compensation for past and future pecuniary losses resulting from the unlawful employment practices described in paragraphs 7 and 8 above, including medical expenses, in amounts to be determined at trial.

E. Order Defendant to make whole Gomez and the affected class by providing compensation for past and future nonpecuniary losses resulting from the unlawful practices complained of in paragraphs 7 and 8 above, including emotional pain, inconvenience, and humiliation, in amounts to be determined at trial.

F. Order Defendant to pay Gomez and the affected class punitive damages for its malicious and reckless conduct described in paragraphs 7 and 8 above, in amounts to be determined at trial.

G. Grant such further relief as the 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 its complaint.

Respectfully submitted,

GWENDOLYN YOUNG REAMS
Associate General Counsel

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION


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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS

Civil Cover Sheet

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This automated JS-44 conforms generally to the manual JS-44 approved by the Judicial Conference of the United States in September 1974. The data is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. The information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is authorized for use only in the Northern District of Illinois.

Plaintiff(s): U.S. Equal Employment Opportunity Commission

Defendant(s): KMART CORPORATION

County of Residence:

County of Residence:

Plaintiff's Atty: Pamela S. Moore-Gibbs
(312)886-9120
Equal Employment Opportunity Commission
500 W. Madison Street, Suite 2800
Chicago, IL 60661

Defendant's Atty: **01C**
0594
DOCKETED
JAN 30 2001
JUDGE HIBBLER
MAGISTRATE JUDGE DENLOW

II. Basis of Jurisdiction: 1 U.S. Gov't Plaintiff

FILED

III. Citizenship of Principle Parties (Diversity Cases Only)

Plaintiff:- N/A
Defendant:- N/A

JAN 29 2001

MICHAEL W. DOBBINS
CLERK, U.S. DISTRICT COURT

IV. Origin : 1. Original Proceeding

V. Nature of Suit: 442 Employment

VI. Cause of Action: Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. Section 2000e et seq. and Title I of the Civil Rights Act of 1991

VII. Requested in Complaint

Class Action:
Dollar Demand:
Jury Demand:

VIII. This case **Is NOT** a refiling of a previously dismissed case. (If yes case number __ by Judge __)

Signature: *Pamela Moore-Gibbs*

Date: *January 29, 2001*

If any of this information is incorrect, please go back to the Civil Cover Sheet Input form using the *Back* button in your browser and change it. Once correct, print this form, sign and date it and submit it with your new civil action. **Note: You may need to adjust the font size in your browser display to make the form print properly.**

Revised: 06/28/00

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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS**

In the Matter of

U.S. Equal Employment Opportunity Commission,
Plaintiff,

01C 0594

v.

Case Number:

KMART CORPORATION

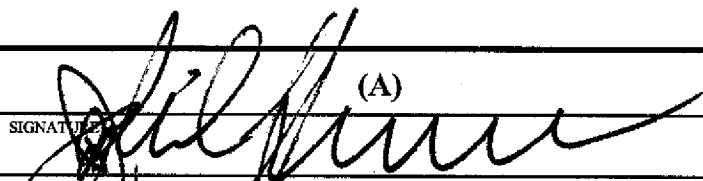
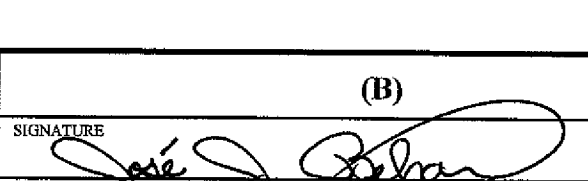
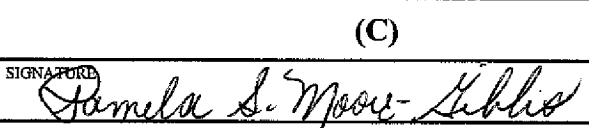
MAGISTRATE JUDGE DENLOW JUDGE HIBBLER

APPEARANCES ARE HEREBY FILED BY THE UNDERSIGNED AS ATTORNEY(S) FOR

DOCKETED

U.S. Equal Employment Opportunity Commission, Plaintiff

JAN 30 2001

(A)		(B)	
SIGNATURE 		SIGNATURE 	
NAME John C. Hendrickson		NAME Jose J. Behar	
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IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE) ARDC No. 01187589		IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE) ARDC No. 06203727	
MEMBER OF TRIAL BAR? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>		MEMBER OF TRIAL BAR? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>	
TRIAL ATTORNEY? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>		TRIAL ATTORNEY? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>	
DESIGNATED AS LOCAL COUNSEL? YES <input type="checkbox"/> NO <input type="checkbox"/>		DESIGNATED AS LOCAL COUNSEL? YES <input type="checkbox"/> NO <input type="checkbox"/>	
(C)		FILED	
SIGNATURE 		SIGNATURE	
NAME Pamela S. Moore-Gibbs		NAME JAN 29 2001	
FIRM Equal Employment Opportunity Commission		FIRM MICHAEL W. DOBBINS	
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MEMBER OF TRIAL BAR? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>		MEMBER OF TRIAL BAR? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	
TRIAL ATTORNEY? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>		TRIAL ATTORNEY? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	
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