

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

05-2122 DSD/SRN

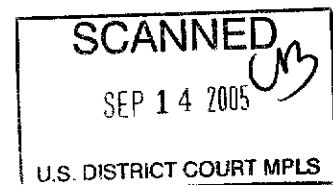
EQUAL EMPLOYMENT OPPORTUNITY)	
COMMISSION,)	
)	CIVIL ACTION NO.
Plaintiff,)	
)	
v.)	COMPLAINT
)	
KCD CONSTRUCTION, INC.)	Jury Trial Demand
)	
Defendant.)	
)	

NATURE OF THE ACTION

This is an action under Title VII of the Civil Rights Act of 1964 and Title I of the Civil Rights Act of 1991 to correct unlawful employment practices on the basis of national origin harassment. Specifically, Defendant discriminated against Francis Soto, Javier Hernandez, Jose Antonio Hernandez, Humberto Bravo, Roberto Santos, Jose Rodriguez, William Morales, Joel Perez, Otonel Rivera and Efren Romero when it subjected them and a class of similarly situated Hispanic employees to harassment based on their national origin. Defendant's action violated Section 703(a) of Title VII, 42 U.S.C. §2000e-2(a).

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) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e-5(f)(1) ("Title VII").



2. The employment practices alleged to be unlawful were and are now being committed within the jurisdiction of the United States District Court for the District of Minnesota.

PARTIES

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

4. At all relevant times, KCD Construction, Inc. ("Defendant"), has continuously been an Iowa corporation doing business in the State of Minnesota and the City of Slayton, and has continuously had at least 15 employees.

5. At all relevant times, KCD Construction, Inc., has continuously been an employer engaged in an industry affecting commerce under Sections 701(b), (g) and (h) of Title VII, 42 U.S.C. §§ 2000e (b), (g) and (h).

STATEMENT OF CLAIMS

6. More than thirty days prior to the institution of this lawsuit, Francis Soto, Javier Hernandez, Jose Antonio Hernandez, Humberto Bravo, Roberto Santos, Jose Rodriguez, William Morales, Joel Perez, Otonel Rivera and Efren Romero (hereinafter "Charging Parties") filed charges with the EEOC alleging violations of Title VII by Defendant. All conditions precedent to the institution of this lawsuit have been fulfilled.

7. Charging Parties and a class of similarly situated Hispanic employees were subjected to harassment based on their national origin when the owner and his sons repeatedly

made derogatory comments to the Charging Parties, including calling them “stupid Mexican” and “wetback.” Defendant created a hostile work environment when Defendant threw pieces of wood at the Charging Parties, physically hit and pushed them, and spit on them. Defendant’s actions are in violation of Section 703(a) of Title VII, 42 U.S.C. §§2000e-2(a).

8. The effect of the practices complained of in paragraph 7 above has been to deprive the Charging Parties and a class of similarly situated Hispanic employees 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 paragraph 7 above were intentional.

10. The unlawful employment practices complained of in paragraph 7 above were done with malice or with reckless indifference to the federally protected rights of the Charging Parties and a class of similarly situated Hispanic employees.

PRAYER FOR RELIEF

Wherefore, the EEOC respectfully 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 practice which discriminates on the basis of national origin.

B. Order Defendant to make whole Charging Parties and a class of similarly situated Hispanic employees by providing compensation for past and future pecuniary losses resulting

from the unlawful employment practices complained of in paragraph 7 above, in amounts to be determined at trial.

C. Order Defendant to make whole Charging Parties and a class of similarly situated Hispanic employees by providing compensation for past and future nonpecuniary losses resulting from the unlawful practices complained of in paragraph 7 above, including emotional distress, in amounts to be determined at trial.

D. Order Defendant to pay Charging Parties and a class of similarly situated Hispanic employees punitive damages for its malicious and reckless conduct, complained of in paragraph 7 above, in amounts to be determined at trial.

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

F. Award the EEOC its costs of this action.

JURY TRIAL DEMAND

The EEOC requests a jury trial on all questions of fact raised by its Complaint.

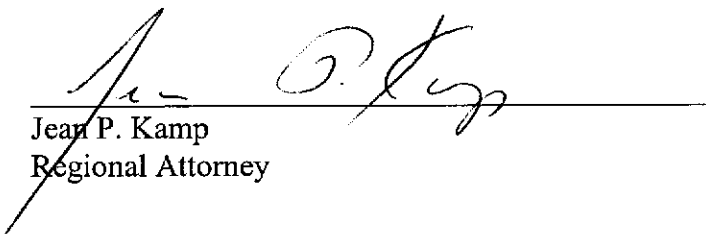
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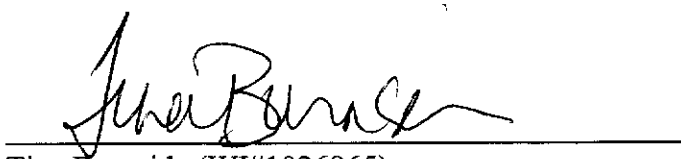
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Dated: September 13, 2005



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Dated: 9/14/05



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