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U.S. DISTRICT COURT  
DISTRICT OF NEBRASKA

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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

OFFICE OF THE CLERK

Civil Action No.

8:05CV339

**EQUAL EMPLOYMENT OPPORTUNITY  
COMMISSION,**

**Plaintiff,**

v.

**THE HERTZ CORPORATION,**

**Defendant.**

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**COMPLAINT AND JURY TRIAL DEMAND**

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**NATURE OF THE ACTION**

This is an action under Title VII of the Civil Rights Act of 1964 to correct unlawful employment practices on the basis of race and color, Black, and to provide appropriate relief to James Lam Bil ("Lam Bil"), who was adversely affected by such practices. As alleged with greater particularity below, the United States Equal Employment Opportunity Commission ("Plaintiff" or the "Commission") alleges that The Hertz Corporation ("Defendant") subjected Lam Bil to offensive racial comments and created a hostile work environment in violation of Title VII.

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U.S. DISTRICT COURT  
OMAHA

### **JURISDICTION AND VENUE**

1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 451, 1331, 1337, 1343 and 1345. This action is authorized and instituted pursuant to Section 706(f)(1) and (3) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e-5(f)(1) and (3), and Section 102 of the Civil Rights Act of 1991, 42 U.S.C. §1981A.

2. The employment practices were committed within the jurisdiction of the United States District Court for the District of Nebraska.

### **PARTIES**

3. Plaintiff is an agency of the United States government charged with the administration, interpretation and enforcement of Title VII, and is expressly authorized to bring this action by Sections 706(F)(1) and (3) of Title VII, 42 U.S.C. § 2000e-5(f)(1) and (3).

4. At all relevant times, Defendant was a Delaware corporation doing business in the State of Nebraska, the City of Omaha, and has continuously had at least fifteen (15) employees.

5. At all relevant times, Defendant has continuously been an employer engaged in an industry affecting commerce within the meaning of Sections 701(b), (g) and (h) of Title VII, 42 U.S.C. §§ 2000e-(b), (g) and (h).

### **GENERAL ALLEGATIONS**

6. More than thirty (30) days prior to the institution of this lawsuit, Lam Bil filed a charge with the Commission alleging violations of Title VII by Defendant.

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

8. Lam Bil worked for Defendant as a Transporter in Omaha, Nebraska.

9. On or about September 6, 2002, Manager Crista Lorence (“Lorence”) (white) made racially derogatory remarks when she referred to Lam Bil as “ape” while in the presence of approximately six (6) other employees.

10. General Manager Tim Jaekels (“Jaekels”) was advised of Lorence’s conduct.

11. On or about September 20, 2002, Jaekels met with Lam Bil and Lorence. Lorence denied Lam Bil’s allegation.

12. Defendant failed to conduct an investigation or take remedial action as a result of Lam Bil’s allegations.

13. On or about October 10, 2002, Lorence referred to Lam Bil as a “monkey” in the presence of other employees.

14. Lam Bil reported the incident to Jaekels on or about October 11, 2002.

15. Jaekels took no action in response to Lam Bil’s allegation.

16. Lam Bil resigned on or about October 18, 2002.

### **CLAIM FOR RELIEF**

17. The effect of the practices complained of in the paragraphs above has been to deprive Lam Bil of equal employment opportunities and otherwise adversely affect his status as an employee because of his race and color, Black.

25. The unlawful employment practices complained of in the paragraphs above were intentional.

26. The unlawful employment practices complained of in the paragraphs above were done with malice or with reckless indifference to the federally protected rights of Lam Bil.

### **PRAYER FOR RELIEF**

Wherefore, the Commission respectfully requests that this Court:

A. Grant a permanent injunction enjoining Defendant Employer, its officers, successors, assigns, and all persons in active concert or participation with it, from engaging in, maintaining, or failing to remedy a hostile work environment, and any other employment practice which discriminates on the basis of race or color.

B. Order Defendant Employer, to make whole Lam Bil by providing appropriate backpay with prejudgment interest, in an amount to be determined at trial, and other affirmative relief necessary to eradicate the effects of its unlawful employment practices, including but not limited to reinstatement of Lam Bil.

C. Order Defendant Employer to make whole Lam Bil by providing compensatory damages in amounts to be proved at trial, and other affirmative and equitable relief necessary to eradicate the effects of its unlawful employment practices.

D. Order Defendant Employer to pay punitive damages for their malicious and reckless conduct described above, in an amount to be determined at trial.

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

F. Award the Commission its costs of this action.

### **JURY TRIAL DEMAND**

The Commission requests a jury trial on all questions of fact raised by its complaint.

Dated: July 13, 2005

Respectfully Submitted,

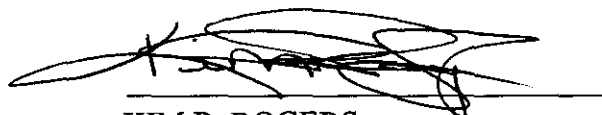
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NOTE: It is sufficient for service on the EEOC that pleadings, notices, and any other court documents be served on the Trial Attorneys. Duplicate service is not required on the General Counsel in Washington, D.C.