

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.

LAW OFFICE OF DAVID S. FEATHER
666 OLD COUNTRY ROAD, SUITE 304
GARDEN CITY, NEW YORK 11530
(516) 745-9000

★ APR 11 2005 ★

LONG ISLAND OFFICE

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X CV 03-4990 (JS)(ARL)
EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,

Plaintiff,

ADRIANA TORRES,

PLAINTIFF-INTERVENOR'S
COMPLAINT AND
DEMAND FOR JURY TRIAL

Intervenor,

-against-

FIRST WIRELESS GROUP, INC.,

Defendant.

-----X

Plaintiff-Intervenor, complaining of Defendant First Wireless Group Inc., alleges:

STATEMENT PURSUANT TO LOCAL RULE 9

1. For the purposes of complying with Local Rule 9, the Plaintiff states that she has no corporate parent, subsidiary or affiliate and that there are no other interested parties.

NATURE OF THE ACTION

2. This is a civil rights action to redress deprivation of rights accorded to the Plaintiffs-Intervenor pursuant to the Civil Rights Act of 1964, 42 U.S.C.A 2000e et seq. ("Title VII").
3. The Plaintiff-Intervenor is a past employee of First Wireless Group, and was subjected to unequal terms and conditions in her employment. Specifically, Asian

employees at Defendant Company, First Wireless Group, Inc., were provided with preferential treatment, and the Plaintiff-Intervenor alleges that she was discriminated against due to her national origin. The discriminatory animus reflected itself in pay disparities between Asian and Hispanic workers. Moreover, Plaintiff-Intervenor alleges that she was retaliated against for opposing the unlawful discriminatory practices. Plaintiff-Intervenor brings this action seeking injunctive and declaratory relief, compensatory damages, punitive damages, attorneys' fees, costs and disbursements, and any other relief the court may find just and proper.

JURISDICTION AND VENUE

4. Plaintiff invokes the jurisdiction of this Court pursuant to (i) 28 U.S.C. §1343(3) and §1343(4), which confer original jurisdiction upon this Court in a civil action to recover damages secured or to secure equitable relief under any Act of Congress providing for the protection or civil rights; (ii) the Declaratory Judgment Statute, 28 U.S.C. §2201; and (iii) Title VII, 42 U.S.C. §2000e, *et. seq.* , and (iv) **28 U.S.C. §1367(a), in that the state and federal claims arise from a common nucleus of operative facts such that they are so related that they form part of the same case or controversy under Article III of the United States Constitution.**
5. Venue is proper in the Court pursuant to 28 U.S.C. §1391(b), in as much as the Defendant has an office and conducts business within the Eastern District of New York, and the action arose and occurred in the Eastern District of New York. Venue is also proper in this court pursuant to §706(f)(3) of Title VII, 42 U.S.C.

§2000e, in as much as the unlawful employment practices complained of herein occurred within the Eastern District of New York.

PARTIES

6. The Equal Employment Opportunity Commission (hereinafter the "EEOC") is a Commission created by the government of the United States pursuant to section 705 of the Civil Rights Act of 1964, 42 U.S.C. sec. 2000e-4. The EEOC maintains its principal office in the District of Columbia. The EEOC is authorized to bring this action pursuant to 42 U.S.C. sec. 2000e-5 (f) (1).
7. The Plaintiff-Intervenor resides in the County of Suffolk, State of New York, and was an employee of the Defendant. Plaintiff-Intervenor is authorized to intervene in this action pursuant to 42 U.S.C. sec. 2000 (e) -5 (f) (1).
8. Upon information and belief, the Defendant, First Wireless Group, Inc., is a corporation duly organized and existing under the laws of the State of New York.
9. The Defendant First Wireless Group, Inc., is engaged in an industry affecting commerce, as defined in Title VII of the Civil Rights Act of 1964, as amended §701 (g) - (h), 42 U.S.C. §2000 e (g) - (h).
9. At all relevant times, the Defendant First Wireless, had, and still has, at least fifteen (15) or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year. Therefore, the Defendant is "an employer" within the meaning of Title VII §701, 42 U.S.C. §2000e - (b).

PROCEDURAL REQUIREMENTS

10. On or about June 27, 2001, the Plaintiff-Intervenor filed a timely charge with the

Suffolk County Human Rights Commission.

11. On or about August 19, 2002, the Plaintiff-Intervenor's charge was transferred to the EEOC for investigation.
 12. On or about July 25, 2003, following its investigation of that Charge, the EEOC issued a determination that there was reasonable cause to believe that the Plaintiff-Intervenor was discriminated against due to her national origin and retaliated against for opposing unlawful discriminatory practices.
-
13. Following the determination set forth above, the EEOC attempted to eliminate unlawful employment practices by informal methods of conference, conciliation and persuasion pursuant to 42 U.S.C. §2000 e-5 (f) (1), but was unable to secure a conciliation agreement.
 14. On or about September 30, 2003, the EEOC commenced a federal lawsuit for discriminatory practices in employment against Defendant First Wireless.

FACTUAL ALLEGATIONS

15. Plaintiff-Intervenor Adrianna Torres, was hired by the Defendants on or about October 14, 2000 as a shift solder operator. As such, she worked on the assembly line on the second shift. Plaintiff-Intervenor Torres was terminated on or about April 24, 2001. Plaintiff-Intervenor Torres is a Hispanic female.
16. Plaintiff-Intervenor's work performance throughout her employment with Defendant was exemplary. In fact, the Plaintiff-Intervenor received a commendation dated April 6, 2001 for being the "Employee of the Month".
17. The majority of the work force at First Wireless Group, Inc. were Hispanics.
18. The Plaintiff-Intervenor was hired at an hourly wage of \$7.00 per hour, and after

seven months, she received an increase to \$7.25 per hour.

19. Shortly after her employment commenced, the Plaintiff-Intervenor noticed a pattern of unfair hiring practices by the Defendant. Many more individuals of Asian descent were being hired, and were being hired at a much higher rate of pay than their Hispanic counterparts. Upon information and belief, these Asian employees had less experience and were less qualified than many of the Hispanic employees performing the same or similar job functions. In fact, the Plaintiff-Intervenor trained many of these Asian employees.
20. In or about April, 2003, the Plaintiff-Intervenor and another Hispanic employee drafted and circulated a petition, requesting that the Defendant cease its discriminatory policy of pay disparities between the Asian and Hispanic workers.
21. On or about April 23, 2003, and after the petition had been signed by a number of Hispanic employees, the Defendant's Human Resources manager, Eileen Baraniecki, came over to the Plaintiff-Intervenor's work station, and the Plaintiff-Intervenor gave her the petition, and had a brief conversation with her regarding the discrepancy in pay between Hispanic and Asian employees.
22. On or about April 24, 2001, the Plaintiff-Intervenor was called into Ms. Baraniecki's office and was terminated.
23. Upon information and belief, the Plaintiff-Intervenor was replaced by an Asian employee at a higher salary.
24. By its actions against the Plaintiff-Intervenor, the Defendant has discriminated against the Plaintiff-Intervenor in violation of Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000(e).

FIRST CAUSE OF ACTION
AS AND FOR EMPLOYMENT DISCRIMINATION

25. The Plaintiff-Intervenor avers that by the above acts, the Defendant discriminated against her because of her national origin in the terms, conditions and privileges of her employment in violation of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §2000e-2.
26. The Defendant's acts were with malice and reckless disregard for the Plaintiff-Intervenor's federally protected civil rights.
27. The Plaintiff-Intervenor has suffered and will continue to suffer irreparable injury and monetary damages as a result of the Defendant's discriminatory practices unless and until this Court grants relief.
28. As a result of the Defendant's discrimination on the basis of national origin, the Plaintiff-Intervenor suffered economic losses, and mental anguish, pain and suffering, and other nonpecuniary losses. Plaintiff-Intervenor requests backpay, front pay, and benefits, compensatory damages and punitive damages in an amount to be determined at trial, plus attorneys' fees, expert fees, costs and disbursements.

SECOND CAUSE OF ACTION AS AND
FOR RETALIATION

29. The Defendants discriminated against Plaintiff-Intervenor based upon her opposing unlawful employment practices under Title VII of the Civil Rights Act of 1964, 42 U.S.C. §2000(e).
30. By reason of the Defendant's actions, the Plaintiff-Intervenor was retaliated against and caused to suffer economic loss and was otherwise greatly injured, and

therefore demands back pay, front pay, and benefits, as well as compensatory damages and punitive damages in an amount to be determined at trial, plus attorneys' fees, expert fees, costs and disbursements.

PRAYER FOR RELIEF

WHEREFORE, the Plaintiff-Intervenor respectfully pray for judgment against the Defendants as follows:

(a) As and for the First Cause of Action for Employment Discrimination, awarding to the Plaintiff a money judgment representing back pay, front pay and benefits, as well as compensatory damages and punitive damages, all in an amount to be determined at trial, plus attorneys' fees, expert fees, costs and disbursements;

(b) As and for the Second Cause of Action for Retaliation, awarding to the Plaintiff a money judgment representing back pay, front pay and benefits, as well as compensatory damages and punitive damages, all in an amount to be determined at trial, plus attorneys' fees, expert fees, costs and disbursements;

(c) An award of prejudgment interest on the money awards requested above in paragraphs (a) through (b) above;

(d) That the Court retain jurisdiction over this action until the Defendant has fully complied with the Orders of the Court and that the Court require the Defendant to file such reports as may be necessary to supervise such compliance; and

(e) To award the Plaintiff-Intervenor such other and further relief as this Court deems just and proper.

JURY DEMAND

31. Plaintiff herein demands a trial by jury of all issues in this action.

Dated: December 20, 2004
Garden City, New York

Respectfully submitted,

THE LAW OFFICES OF
DAVID S. FEATHER



DAVID S. FEATHER (DSF-1832)
666 Old Country Road
Suite 304
Garden City, New York 11530
(516) 745-9000

LAW OFFICES OF DAVID S. FEATHER
666 OLD COUNTRY ROAD
SUITE 304
GARDEN CITY, NEW YORK 11530
516-745-9000
DAVID S. FEATHER, ESQ. (DF-1832)

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,

Plaintiff,

Docket No.: CV 03-4990 (JS)(ARL)

ADRIANA TORRES,

Intervenor,

AFFIDAVIT OF SERVICE

-against-

FIRST WIRELESS GROUP, INC.,

Defendant.

-----X

STATE OF NEW YORK)

ss.:

COUNTY OF NASSAU)

Jodi Rollo, being duly sworn, deposes and says:

I am not a party to the foregoing action, am over the age of 18 years, and I reside in Massapequa, New York. On December 27, 2004, I served the within documents:

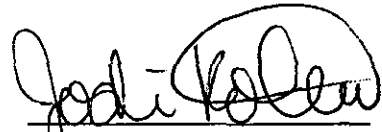
PLAINTIFF-INTERVENOR'S COMPLAINT AND DEMAND FOR JURY TRIAL

by mailing the same in a sealed envelope, with postage prepaid thereon, in a post-office or official depository of the U.S. Postal Service within the State of New York, addressed to the following person or persons at the addresses set forth:

Douglas Wigdor, Esq.
Thompson, Wigdor & Gilly LLP
Empire State Building
350 Fifth Avenue, Suite 5720
New York, New York 10118

Adela P. Santos, Esq.
U.S. Equal Employment Opportunity Commission
New York District Office
33 Whitehall Street
New York, New York 10014

Delvis Melendez, Esq.
90 Bradley Street
Brentwood, New York 11717


JODI ROLLO

Sworn to before me this
27TH day of December, 2004.


NOTARY PUBLIC

RONALD G. GOLDMAN
Notary Public, State of New York
No. 02GO5065218
Qualified in Suffolk County
Commission Expires 9/3/2006

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,

Plaintiff,

ADRIANA TORRES,

Intervenor,

-against-

FIRST WIRELESS GROUP, INC.,

Defendant.

PLAINTIFF-INTERVENOR'S COMPLAINT AND DEMAND FOR JURY TRIAL

LAW OFFICES OF DAVID S. FEATHER
Attorney(s) for Plaintiff-Intervenor Adriana Torres

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SUITE 304
GARDEN CITY, NEW YORK 11530
(516) 745-9000

Pursuant to 22 NYCRR 130-1.1, the undersigned, an attorney admitted to practice in the courts of New York State, certifies that, upon information and belief and reasonable inquiry, the contentions contained in the annexed document are not frivolous.

Dated December 23, 2004

Signature.....

David S. Feather

Print Signer's Name.....

Service of a copy of the within

is hereby admitted.

Dated:

Attorney(s) for

PLEASE TAKE NOTICE

Check Applicable Box

that the within is a (certified) true copy of a
NOTICE OF entered in the office of the clerk of the within named Court on
ENTRY

that an Order of which the within is a true copy will be presented for settlement to the
NOTICE OF Hon.
SETTLEMENT at one of the judges of the within named Court,
at on , at M.

Dated:

LAW OFFICES OF DAVID S. FEATHER
Attorney(s) for Plaintiff-Intervenor Adriana Torres

666 OLD COUNTRY ROAD
SUITE 304
GARDEN CITY, NEW YORK 11530
(516) 745-9000

To:

LAW OFFICES OF

DAVID S. FEATHER

666 OLD COUNTRY ROAD
SUITE 304
GARDEN CITY, NEW YORK 11530

FACSIMILE: 516.228.8349

• TELEPHONE: 516.745.9000 •

E-MAIL: DSFeatherLaw@aol.com

April 8, 2005

VIA ECF & REGULAR MAIL

Robert C. Heinemann
Clerk of the Court
U.S. District Court
Eastern District Court of New York
100 Federal Plaza
Central Islip, New York 11722

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U.S. DISTRICT COURT E.D.N.Y.

★ APR 11 2005 ★

LONG ISLAND OFFICE

Re: EEOC v. First Wireless Group, Inc.
03-CV-4990

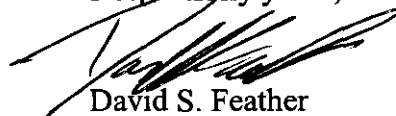
Dear Mr. Heinemann:

The undersigned represents Adriana Torres, a plaintiff-intervenor in the above-referenced matter. Enclosed please find a copy of the Plaintiff-Intervenor's Complaint in the above-referenced matter, as well as a Notice of Appearance.

Please be advised that both of these documents were served upon the defendant and all other interested parties on December 27, 2004. However, at that time, my office was having technical problems vis-a-vis electronic case filing. Since that time, these problems have been resolved but I inadvertently neglected to electronically or otherwise file these documents.

I apologize for the delay and any inconvenience it may have caused you or the other parties to this matter. If you have any questions or concerns, please feel free to contact me.

Respectfully yours,



David S. Feather

DSF/jr
Enclosures