

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

ECF CASE

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4482

**EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,**

Civil Action No.

COMPLAINT

JURY TRIAL DEMAND

Plaintiff,

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

v.

SEP 22 2005

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JAPANESE FOOD SOLUTIONS, INC. BROOKLYN OFFICE
(d/b/a MINADO RESTAURANT),

WEXLER, J.

Defendant.

J. ORENSTEIN, M.J.

NATURE OF THE ACTION

This is an action under Title VII of the Civil Rights Act of 1964, as amended, 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 Zuo Zhou Lin and a class of similarly situated employees of Chinese descent adversely affected by such practices. As alleged with greater particularity in paragraph seven (7) below, Defendant Japanese Food Solutions, Inc. (d/b/a Minado Restaurant) (hereinafter "Minado") engaged in national origin discrimination against Zuo Zhou Lin and a class of similarly situated employees of Chinese descent by maintaining an English-only Rule which was enforced only against employees of Chinese descent and by otherwise discriminating against them in regard to their terms, conditions or privileges of employment, all in violation of Title VII.

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 Sections 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) ("Title VII") and pursuant to Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981a.

2. The unlawful employment practices alleged below were committed within the jurisdiction of the United States District Court for the Eastern District of New York.

PARTIES

3. Plaintiff, Equal Employment Opportunity Commission (hereinafter "EEOC" or "the 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 Sections 706(f)(1) and (3) of Title VII, 42 U.S.C. §§ 2000e-5(f)(1) and (3).

4. At all relevant times, Minado has continuously been a corporation doing business in the State of New York and the county of Nassau, and has continuously had at least fifteen employees.

5. At all relevant times, Minado 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).

STATEMENT OF CLAIMS

6. More than thirty days prior to the institution of this lawsuit, Zuo Zhou Lin filed a charge with the Commission alleging violations of Title VII by Defendant. All conditions precedent to the institution of this lawsuit have been fulfilled.

7. Since at least May 2003, Defendant has engaged in unlawful employment practices in violation of Section 703(a) of Title VII, 42 U.S.C. § 2000e. These practices include, but are not limited to, the following:

- a) Defendant instituted an unlawful English-only/No-Chinese Language Rule in the restaurant;
- b) Defendant's management repeatedly instructed Zuo Zhou Lin and a class of similarly situated employees of Chinese descent not to speak in Chinese, and to only speak in English at all times in the restaurant;
- c) Defendant's enforcement of the English-only/No-Chinese Language Rule constitutes disparate treatment of employees of Chinese descent;
- d) Defendant permitted employees of non-Chinese descent, including but not limited to Hispanics and Koreans, to speak in languages other than English and Chinese in all areas of the restaurant;
- e) Defendant's English-only Language Rule was not justified by business necessity and had an adverse disparate impact on employees of Chinese descent;
- f) Defendant's management repeatedly harassed the employees of Chinese descent based on their national origin. For example, a manager would yell at the Chinese employees to "Stop fuckin' speaking Chinese!";
- g) Defendant's management repeatedly made derogatory statements in Chinese. One such comment was "Fuck your mother's pussy!"
(Translated in English);

- h) Defendant's management would threaten the Chinese employees with termination if they spoke Chinese by saying, "One word and you're fired!";
- i) Defendant's non-management employees of non-Chinese descent repeatedly harassed the employees of Chinese descent based on their national origin. Some examples include, but are not limited to, employees shouting, "Fuckin' Chinese-cheap, cheap, cheap" and "Your group are stupid-Speak English!"; and
- j) Defendant also retaliated against the employees of Chinese descent when they complained about the English-only Language Rule and the unequal treatment. The retaliatory acts include, but are not limited to reducing work hours, assigning less favorable shifts, and disparately scrutinizing work, and termination.

8. The effect of the practices complained of above has been to deprive Zuo Zhou Lin and a class of similarly situated employees of Chinese descent of equal employment opportunities and otherwise adversely affect their status as employees because of their national origin.

9. The unlawful employment practices complained of above were intentional.

10. At all relevant times, Defendant has acted with malice or reckless indifference to the federally protected rights of Zuo Zhou Lin and a class of similarly situated employees of Chinese descent.

PRAYER FOR RELIEF

Wherefore, the Commission respectfully requests that this Court:

- A. Grant a permanent injunction enjoining the Defendant, its officers, successors, assigns and all persons in active concert or participation with them, from engaging in any employment practices that discriminate on the basis of national origin;
- B. Order the Defendant to institute and carry out policies, practices and programs that provide equal employment opportunities for all employees, regardless of national origin, and that eradicate the effects of Defendant's past and present unlawful employment practices;
- C. Order the Defendant to make whole all those individuals affected by the unlawful employment practices described above, by providing compensation for past and future pecuniary losses in amounts to be determined at trial;
- D. Order the Defendant to make whole all those individuals affected by the unlawful employment practices described above, by providing compensation for non-pecuniary losses, including pain, suffering and humiliation, in amounts to be determined at trial;
- E. Order the Defendant to provide punitive damages for its malicious and/or reckless conduct, in amounts to be determined at trial;
- F. Grant such further relief as the Court deems necessary and proper;
- G. 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.


Dated: New York, New York
September 22, 2005


Respectfully submitted,

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