

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

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EQUAL EMPLOYMENT OPPORTUNITY	:	
COMMISSION,	:	Civil Action No. 04-CV-7514
	:	Judge Hellerstein
Plaintiff,	:	ECF Case
	:	
-against-	:	<u>COMPLAINT</u>
	:	
MELROSE HOTEL COMPANY,	:	
INC., MHC BARBIZON, L.P. and	:	
BERWIND PROPERTY GROUP, LTD.,	:	<u>JURY TRIAL DEMAND</u>
	:	
Defendants.	:	
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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, and to provide appropriate relief to Barbara Garcia, Juana Velez and a class of other similarly situated employees affected by such unlawful practices. As alleged with greater specificity below, the Commission charges that Defendants have engaged in national origin discrimination by creating a hostile work environment for Hispanic employees, enforcing a broad English-only rule against Hispanic employees and by terminating Hispanic employees, all because of their national origin. Defendants also have engaged in unlawful retaliation against employees who opposed the discrimination, including by terminating Ms. Garcia after she complained about discrimination.

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) and 707 of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e-5(f)(1)(3) and §2000e-6 (“Title VII”) and Section 102 of the Civil Rights Act of 1991, 42 U.S.C. §1981a.

2. The alleged unlawful employment practices were and are now being committed within the jurisdiction of the United States District Court for the Southern District of New York.

PARTIES

3. Plaintiff, the Equal Employment Opportunity Commission (the “Commission”), 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 Sections 706(f)(1) and (3) and 707 of Title VII, 42 U.S.C. § 2000e-5(f)(1) and (3).

4. At all relevant times, Defendant Melrose Hotel Company has continuously been a Pennsylvania corporation doing business in the State of New York and the county of New York, and has continuously had at least 15 employees.

5. At all relevant times, Defendant Melrose Hotel Company 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).

6. At all relevant times, Defendant MHC Barbizon, L.P. has continuously been a New York corporation doing business in the State of New York and the county of New York, and has continuously had at least 15 employees.

7. At all relevant times, Defendant MHC Barbizon, L.P. 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).

8. At all relevant times, Defendant Berwind Property Group, Ltd. has continuously been a Pennsylvania corporation doing business in the State of New York and the county of New York, and has continuously had at least 15 employees.

9. At all relevant times, Defendant Berwind Property Group, Ltd. 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

10. More than thirty days prior to the institution of this lawsuit, Barbara Garcia and Juana Velez filed charges with the Commission alleging violations of Title VII by Defendants. All conditions precedent to the institution of this lawsuit have been fulfilled.

11. Since approximately May 2001, Defendants have engaged in unlawful employment practices in violation of Sections 703 and 704 of Title VII, 42 U.S.C. §§ 2000e-2 and e-3. These practices have included, but are not limited to, the following:

- A. Defendants have discriminated against a class of Hispanic employees by terminating them due to their national origin. For example, shortly after Ms. Garcia complained about discrimination against Hispanic employees, she and other Hispanic employees were terminated and/or forced to resign.
- B. Defendants have discriminated against a class of Hispanic employees

based on their national origin by subjecting them to a hostile work environment. Specifically, Defendants have subjected Hispanic employees to ridicule and derogatory comments based on their national origin. For example, a Senior Vice President for Defendants regularly criticized, mimicked and made fun of Ms. Velez's accent and belittled her about being from the Dominican Republic.

- C. Defendants have discriminated against a class of Hispanic employees regarding the terms and conditions of their employment. Specifically, Defendants have enforced a rule requiring Hispanic employees to speak only English at all times while at work. For example, a Senior Vice President for Defendants instructed employees not to speak Spanish to each other while on break. A manager reprimanded a Hispanic employee for speaking Spanish while assisting a Spanish-speaking hotel guest.
- D. Defendants have retaliated against a class of Hispanic employees after those employees complained of discrimination based on their national origin. For example, shortly after Ms. Garcia complained of discrimination, Defendants engaged in retaliation by criticizing her performance and then terminating her.

12. The effect of the practices complained of above has been to deprive Barbara Garcia, Juana Velez and a class of other similarly situated employees of equal employment opportunities and otherwise adversely affect their status as employees because of their national origin.

13. The unlawful employment practices complained of above were and are intentional.

14. The unlawful employment practices complained of above were and are done with malice or with reckless indifference to the federally protected rights of Barbara Garcia, Juana Velez and a class of other similarly situated employees.

PRAYER FOR RELIEF

Wherefore, the Commission respectfully requests that this Court:

A. Grant a permanent injunction enjoining Defendants, its officers, successors, assigns, and all persons in active concert or participation with them, from engaging in employment practices which discriminate on the basis of national origin and unlawful retaliation.

B. Order Defendants to institute and carry out policies, practices, and programs which provide equal employment opportunities and which eradicate the effects of Defendants' past and present unlawful employment practices.

C. Order Defendants to make whole Barbara Garcia, Juana Velez and other similarly situated employees by providing appropriate backpay with prejudgment interest, in amounts to be determined at trial, and other affirmative relief necessary to eradicate the effects of their unlawful employment practices, including, but not limited to, front pay and reinstatement.

D. Order Defendants to make whole Barbara Garcia, Juana Velez and other similarly situated employees by providing compensation for past and future pecuniary losses resulting from the unlawful employment practices described above, in amounts to be determined at trial.

E. Order Defendant to make whole Barbara Garcia, Juana Velez and other similarly

situated employees by providing compensation for past and future non-pecuniary losses resulting from the unlawful practices complained of above, including pain, suffering and humiliation, in amounts to be determined at trial.

F. Order Defendants to pay Barbara Garcia, Juana Velez and other similarly situated employees punitive damages for Defendants' malicious and reckless conduct described above, in amounts to be determined at trial.

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

H. 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.

Respectfully submitted,

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EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION

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