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CLERK U.S. DISTRICT COURT
NORTHERN DISTRICT OF OHIO
CLEVELAND

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

**EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,**)
)
)
 Plaintiff,)
)
)
 v.)
)
 AMERICAN METAL COATINGS, INC.,)
)
)
 Defendant.)
 _____)

1:01CV2235
Civil Action No.

Judge JUDGE O'MALLEY

**COMPLAINT AND
JURY TRIAL DEMAND**

MAG. JUDGE HEMANN

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 race and national origin and to provide appropriate relief to Charging Party Samuel Rodriguez, Charging Party Roberto Reimundi, Charging Party Domingo Lugo, Norberto Ramirez, Edwin Vasquez, Raul Silva, German Lugo, Fidel Rosario, Samuel Rosario, Michael Brock, and other presently unidentified Hispanic, Puerto Rican, and Black employees who were adversely affected by such practices. As alleged with greater particularity in paragraphs 7-44, below, the United States Equal Employment

Opportunity Commission (“the Commission”) alleges that the Defendant American Metal Coatings, Inc. has engaged in a continuous course of race and national origin discrimination that has persisted since at least April 15, 1996.

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) (“Title VII”), and Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981a.

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 Northern District of Ohio, Eastern Division.

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 the ADA, and is expressly authorized to bring this action by Section 706(f)(1) and (3) of Title VII, 42 U.S.C. § 2000e-5(f)(1) and (3).

4. At all relevant times, Defendant American Metal Coatings, Inc. (“Defendant”), an Ohio corporation, has continuously been doing business in the State of Ohio and the City of Cleveland, and has continuously had at least 15 employees.

5. At all relevant times, Defendant has continuously been an employer engaged in an industry affecting commerce within the meaning of Section 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, Samuel Rodriguez, Roberto Reimundi and Domingo Lugo filed charges of discrimination 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 April 15, 1996, Defendant has engaged in unlawful employment practices at its Cleveland, Ohio facility in violation of Section 703(a)(1) and (a)(2) of Title VII, 42 U.S.C. § 2000e-2(a)(1) and (a)(2).

8. Throughout his employment during the period 1996-1998, Defendant subjected Samuel Rodriguez to harassment because of his race, Hispanic, and/or national origin, Puerto Rican, in violation of Title VII.

9. Throughout his employment during the period 1996-1998, Defendant subjected Samuel Rodriguez to different terms and conditions of employment, such as lunch periods and breaks of shorter duration than White employees, inferior access to safety equipment as compared to White employees, more difficult and demanding job assignments than those given to White employees, and being denied access to a restroom used by White employees, because of his race, Hispanic, and/or his national origin, Puerto Rican, in violation of Title VII.

10. On or about March 10, 1998, Defendant discharged Samuel Rodriguez because of his race, Hispanic, and/or national origin, Puerto Rican, in violation of Title VII.

11. Throughout his employment during the period 1997-1999, Defendant subjected Roberto Reimundi to harassment because of his race, Hispanic, and/or national origin, Puerto Rican, in violation of Title VII.

12. Throughout his employment during the period 1997-1999, Defendant subjected Roberto Reimundi to different terms and conditions of employment, such as lunch periods and breaks of shorter duration than White employees, inferior access to safety equipment as compared to White employees, more difficult and demanding job assignments than those given to White employees, and being denied access to a restroom used by White employees, because of his race, Hispanic, and/or his national origin, Puerto Rican, in violation of Title VII.

13. On or about March 4, 1999, Defendant constructively discharged Roberto Reimundi because of his race, Hispanic, and/or national origin, Puerto Rican, in violation of Title VII. Throughout the course of Mr. Reimundi's employment, Defendant, acting with the intent to cause Mr. Reimundi's resignation, deliberately created working conditions that Mr. Reimundi reasonably viewed as intolerable and that compelled Mr. Reimundi to resign.

14. Throughout his employment in 1999, Defendant subjected Domingo Lugo to harassment because of his race, Hispanic, and/or national origin, Puerto Rican, in violation of Title VII.

15. Throughout his employment in 1999, Defendant subjected Domingo Lugo to different terms and conditions of employment, such as lunch periods and breaks of shorter duration than White employees, inferior access to safety equipment as compared to White employees, more difficult and demanding job assignments than those given to White employees, and being denied access to a restroom used by White employees, because of his race, Hispanic, and/or his national origin, Puerto Rican, in violation of Title VII.

16. On or about March 4, 1999, Defendant constructively discharged Domingo Lugo because of his race, Hispanic, and/or national origin, Puerto Rican, in violation of Title VII.

Throughout the course of Mr. Lugo's employment, Defendant, acting with the intent to cause Mr. Lugo's resignation, deliberately created working conditions that Mr. Lugo reasonably viewed as intolerable and that compelled Mr. Lugo to resign.

17. Throughout his employment in 1997, Defendant subjected Norberto Ramirez to harassment because of his race, Hispanic, and/or national origin, Puerto Rican, in violation of Title VII.

18. Throughout his employment in 1997, Defendant subjected Norberto Ramirez to different terms and conditions of employment, such as lunch periods and breaks of shorter duration than White employees, inferior access to safety equipment as compared to White employees, more difficult and demanding job assignments than those given to White employees, and being denied access to a restroom used by White employees, because of his race, Hispanic, and/or his national origin, Puerto Rican, in violation of Title VII.

19. On or about November 1997, Defendant discharged Norberto Ramirez because of his race, Hispanic, and/or national origin, Puerto Rican, in violation of Title VII.

20. Throughout his employment during the period 1997-1998, Defendant subjected Edwin Vasquez to harassment because of his race, Hispanic, and/or national origin, Puerto Rican, in violation of Title VII.

21. Throughout his employment during the period 1997-1998, Defendant subjected Edwin Vasquez to different terms and conditions of employment, such as lunch periods and breaks of shorter duration than White employees, inferior access to safety equipment as compared to White employees, more difficult and demanding job assignments than those given to White employees, and being denied access to a restroom used by White employees, because of his race, Hispanic, and/or

his national origin, Puerto Rican, in violation of Title VII.

22. On or about April 26, 1998, Defendant constructively discharged Edwin Vasquez because of his race, Hispanic, and/or national origin, Puerto Rican, in violation of Title VII. Throughout the course of Mr. Vasquez's employment, Defendant, acting with the intent to cause Mr. Vasquez's resignation, deliberately created working conditions that Mr. Vasquez reasonably viewed as intolerable and that compelled Mr. Vasquez to resign.

23. Throughout his employment in 1997, Defendant subjected Raul Silva to harassment because of his race, Hispanic, and/or national origin, Puerto Rican, in violation of Title VII.

24. Throughout his employment in 1997, Defendant subjected Raul Silva to different terms and conditions of employment, such as lunch periods and breaks of shorter duration than White employees, inferior access to safety equipment as compared to White employees, more difficult and demanding job assignments than those given to White employees, and being denied access to a restroom used by White employees, because of his race, Hispanic, and/or his national origin, Puerto Rican, in violation of Title VII.

25. On or about April 1997, Defendant constructively discharged Raul Silva because of his race, Hispanic, and/or national origin, Puerto Rican, in violation of Title VII. Throughout the course of Mr. Silva's employment, Defendant, acting with the intent to cause Mr. Silva's resignation, deliberately created working conditions that Mr. Silva reasonably viewed as intolerable and that compelled Mr. Silva to resign.

26. Throughout his employment in 1997, Defendant subjected German Lugo to harassment because of his race, Hispanic, and/or national origin, Puerto Rican, in violation of Title VII.

27. Throughout his employment in 1997, Defendant subjected German Lugo to different terms and conditions of employment, such as lunch periods and breaks of shorter duration than White employees, inferior access to safety equipment as compared to White employees, more difficult and demanding job assignments than those given to White employees, and being denied access to a restroom used by White employees, because of his race, Hispanic, and/or his national origin, Puerto Rican, in violation of Title VII.

28. On or about November 1997, Defendant constructively discharged German Lugo because of his race, Hispanic, and/or national origin, Puerto Rican, in violation of Title VII. Throughout the course of Mr. Lugo's employment, Defendant, acting with the intent to cause Mr. Lugo's resignation, deliberately created working conditions that Mr. Lugo reasonably viewed as intolerable and that compelled Mr. Lugo to resign.

29. Throughout his employment during the period 1996-1999, Defendant subjected Fidel Rosario to harassment because of his race, Hispanic, and/or national origin, Puerto Rican, in violation of Title VII.

30. Throughout his employment during the period 1996-1999, Defendant subjected Fidel Rosario to different terms and conditions of employment, such as lunch periods and breaks of shorter duration than White employees, inferior access to safety equipment as compared to White employees, more difficult and demanding job assignments than those given to White employees, and being denied access to a restroom used by White employees, because of his race, Hispanic, and/or his national origin, Puerto Rican, in violation of Title VII.

31. On or about August 8, 1999, Defendant constructively discharged Fidel Rosario because of his race, Hispanic, and/or national origin, Puerto Rican, in violation of Title VII.

Throughout the course of Mr. Rosario's employment, Defendant, acting with the intent to cause Mr. Rosario's resignation, deliberately created working conditions that Mr. Rosario reasonably viewed as intolerable and that compelled Mr. Rosario to resign.

32. Throughout his employment in 1998, Defendant subjected Samuel Rosario to harassment because of his race, Hispanic, and/or national origin, Puerto Rican, in violation of Title VII.

33. Throughout his employment in 1998, Defendant subjected Samuel Rosario to different terms and conditions of employment, such as lunch periods and breaks of shorter duration than White employees, inferior access to safety equipment as compared to White employees, more difficult and demanding job assignments than those given to White employees, and being denied access to a restroom used by White employees, because of his race, Hispanic, and/or his national origin, Puerto Rican, in violation of Title VII.

34. On or about July 26, 1998, Defendant discharged Samuel Rosario because of his race, Hispanic, and/or national origin, Puerto Rican, in violation of Title VII.

35. Throughout his employment during the period 1998-2000, Defendant subjected Michael Brock to harassment because of his race, Black, in violation of Title VII.

36. Throughout his employment during the period 1998-2000, Defendant subjected Michael Brock to different terms and conditions of employment, such as lunch periods and breaks of shorter duration than White employees, inferior access to safety equipment as compared to White employees, more difficult and demanding job assignments than those given to White employees, and being denied access to a restroom used by White employees, because of his race, Black, in violation of Title VII.

37. On or about January 2000, Defendant constructively discharged Michael Brock because of his race, Black, in violation of Title VII. Throughout the course of Mr. Brock's employment, Defendant, acting with the intent to cause Mr. Brock's resignation, deliberately created working conditions that Mr. Brock reasonably viewed as intolerable and that compelled Mr. Brock to resign.

38. During the period April 15, 1996 to present, Defendant subjected a class of presently unidentified, similarly-situated Hispanic, Puerto Rican, and Black employees to harassment, different terms and conditions of employment, discharge, and constructive discharge because of their race and/or national origin in violation of Title VII.

39. The harassment complained of in paragraphs 8, 11, 14, 17, 20, 23, 26, 29, 32, 35, and 38, above, created a hostile and abusive work environment on the basis of race and/or national origin and included, but is not limited to, the following unwelcome and offensive conduct: constant use of racial and national origin epithets and slurs, as well as other race and national origin-motivated comments; persistent, discriminatory use of hostile language and profane forms of address; physically threatening gestures and comments; and excessive, discriminatory monitoring of work.

40. The harassment complained of in paragraphs 8, 11, 14, 17, 20, 23, 26, 29, 32, 35, and 38, and described with greater particularity in paragraph 39, above, was perpetrated by Defendant through its proxy, Vice President and Plant Manager Francis P. Monaco, and other White employees. Defendant failed to take reasonable action to prevent the harassment complained of above, and failed to take prompt and reasonable corrective action upon notice of the harassment. Defendant also caused the harassment to culminate in tangible employment actions.

41. The effect of the practices complained of in paragraphs 7-40, above, has been to

deprive Samuel Rodriguez, Roberto Reimundi, Domingo Lugo, Norberto Ramirez, Edwin Vasquez, Raul Silva, German Lugo, Fidel Rosario, Samuel Rosario, Michael Brock, and other presently unidentified, similarly-situated Hispanic, Puerto Rican, and Black employees of equal employment opportunities and otherwise adversely affect their status as employees, because of their race and national origin.

42. The unlawful employment practices complained of in paragraphs 7-41, above, are part of a continuing course of race and national origin discrimination perpetrated against Hispanic, Puerto Rican, and Black employees by Defendant that has persisted since at least April 15, 1996.

43. The unlawful employment practices complained of in paragraphs 7-42, above, were and are intentional.

44. The unlawful employment practices complained of in paragraphs 7-42, above, were and are done with malice or with reckless indifference to the federally protected rights of Samuel Rodriguez, Roberto Reimundi, Domingo Lugo, Norberto Ramirez, Edwin Vasquez, Raul Silva, German Lugo, Fidel Rosario, Samuel Rosario, Michael Brock, and other presently unidentified, similarly-situated Hispanic, Puerto Rican, and Black employees.

PRAYER FOR RELIEF

Wherefore, the Commission 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 race and national origin discrimination, including racial and national origin-based harassment, discharge, constructive discharge, imposition of different terms and conditions of employment, and any other employment practice which discriminates on the basis of race or national origin.

B. Order Defendant to institute and carry out policies, practices, and programs which provide equal employment opportunities for Hispanic, Puerto Rican, and Black persons, and which eradicate the effects of its past and present unlawful employment practices.

C. Order Defendant to make whole Samuel Rodriguez, Roberto Reimundi, Domingo Lugo, Norberto Ramirez, Edwin Vasquez, Raul Silva, German Lugo, Fidel Rosario, Samuel Rosario, Michael Brock, and other presently unidentified, similarly-situated Hispanic, Puerto Rican, and Black employees by providing appropriate back pay with prejudgment interest, in amounts 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 and front pay.

D. Order Defendant to make whole Samuel Rodriguez, Roberto Reimundi, Domingo Lugo, Norberto Ramirez, Edwin Vasquez, Raul Silva, German Lugo, Fidel Rosario, Samuel Rosario, Michael Brock, and other presently unidentified, similarly-situated Hispanic, Puerto Rican, and Black employees by providing compensation for past and future pecuniary losses resulting from the unlawful employment practices described in paragraphs 7-44, above, in amounts to be determined at trial.

E. Order Defendant to make whole Samuel Rodriguez, Roberto Reimundi, Domingo Lugo, Norberto Ramirez, Edwin Vasquez, Raul Silva, German Lugo, Fidel Rosario, Samuel Rosario, Michael Brock, and other presently unidentified, similarly-situated Hispanic, Puerto Rican, and Black employees by providing compensation for past and future non-pecuniary losses resulting from the unlawful practices complained of in paragraphs 7-44, above, including emotional pain, suffering, inconvenience, mental anguish, loss of enjoyment of life, and other non-pecuniary losses, in amounts to be determined at trial.

F. Order Defendant to pay Samuel Rodriguez, Roberto Reimundi, Domingo Lugo, Norberto Ramirez, Edwin Vasquez, Raul Silva, German Lugo, Fidel Rosario, Samuel Rosario, Michael Brock, and other presently unidentified, similarly-situated Hispanic, Puerto Rican, and Black employees punitive damages for the malicious and reckless conduct described in paragraphs 7-44, 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.

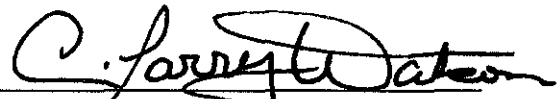
JURY TRIAL DEMAND

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

Respectfully submitted,

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