

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

EQUAL EMPLOYMENT OPPORTUNITY)	
COMMISSION,)	
)	
Plaintiff,)	Civil Action No. 1:01CV2235
)	
v.)	Judge O'Malley
)	
AMERICAN METAL COATINGS, INC.)	<u>AMENDED COMPLAINT AND</u>
and DINO LAND PROPERTIES, INC.,)	<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, 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, Diego Quintero, Emmett Capito, III and other presently unidentified Hispanic, Puerto Rican, and Black employees who were adversely affected by such practices.

As alleged with greater particularity in paragraphs 9-52, below, the United States Equal Employment Opportunity Commission (“the Commission”) alleges that the Defendants American Metal Coatings, Inc. and Dino Land Properties, Inc. have 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 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., 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 American Metal Coatings, Inc. 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).

6. At all relevant times, Defendant Dino Land Properties , Inc., an Ohio corporation, has continuously been doing business in the State of Ohio and the City of Cleveland and has operated, in conjunction with Defendant American Metal Coatings , Inc., as an integrated enterprise/single “employer” within the meaning of Title VII. At all relevant times, Defendants have maintained interrelated operations, common management and directors, centralized control of labor relations and personnel, and common ownership and financial control.

7. At all relevant times, Defendant Dino Land Properties , Inc. 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

8. 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 American Metal Coatings, Inc. All conditions precedent to the institution of this lawsuit have been fulfilled.

9. Since at least April 15, 1996, Defendants have engaged in unlawful employment practices at their 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).

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

11. Throughout his employment during the period 1996-1998, Defendants subjected Samuel Rodriguez to different terms and conditions of employment, such as lunch periods of shorter duration and breaks of shorter duration and less frequency 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.

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

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

14. Throughout his employment during the period 1997-1999, Defendants subjected Roberto Reimundi to different terms and conditions of employment, such as lunch periods of shorter duration and breaks of shorter duration and less frequency 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.

15. On or about March 4, 1999, Defendants 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, Defendants, 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.

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

17. Throughout his employment in 1999, Defendants subjected Domingo Lugo to different terms and conditions of employment, such as lunch periods of shorter duration and breaks of shorter duration and less frequency 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.

18. On or about March 4, 1999, Defendants 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, Defendants, 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.

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

20. Throughout his employment in 1997, Defendants subjected Norberto Ramirez to different terms and conditions of employment, such as lunch periods of shorter duration and breaks of shorter duration and less frequency 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.

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

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

23. Throughout his employment during the period 1997-1998, Defendants subjected Edwin Vasquez to different terms and conditions of employment, such as lunch periods of shorter duration and breaks of shorter duration and less frequency 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.

24. On or about April 26, 1998, Defendants 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, Defendants, 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.

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

26. Throughout his employment in 1997, Defendants subjected Raul Silva to different terms and conditions of employment, such as lunch periods of shorter duration and breaks of shorter duration and

less frequency 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.

27. On or about April 1997, Defendants 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, Defendants, 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.

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

29. Throughout his employment in 1997, Defendants subjected German Lugo to different terms and conditions of employment, such as lunch periods of shorter duration and breaks of shorter duration and less frequency 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.

30. On or about November 1997, Defendants 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, Defendants, 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.

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

32. Throughout his employment during the period 1996-1999, Defendants subjected Fidel Rosario to different terms and conditions of employment, such as lunch periods of shorter duration and breaks of shorter duration and less frequency 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.

33. On or about August 8, 1999, Defendants 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, Defendants, 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.

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

35. Throughout his employment in 1998, Defendants subjected Samuel Rosario to different terms and conditions of employment, such as breaks of shorter duration and less frequency 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.

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

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

38. Throughout his employment during the period 1998-2000, Defendants subjected Michael Brock to different terms and conditions of employment, such as lunch periods of shorter duration and breaks of shorter duration and less frequency 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.

39. On or about January 2000, Defendants constructively discharged Michael Brock because of his race, Black, in violation of Title VII. Throughout the course of Mr. Brock's employment, Defendants, 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.

40. Throughout his employment during the period 1998-2000, Defendants subjected Diego Quintero to harassment because of his race, Hispanic, in violation of Title VII.

41. Throughout his employment Defendants subjected Diego Quintero to different terms and conditions of employment, such as breaks of shorter duration and less frequency than White employees, inferior access to safety equipment as compared to White employees, and being denied access to a restroom used by White employees, because of his race, Hispanic, in violation of Title VII.

42. On or about May 2000, Defendants constructively discharged Diego Quintero because of his race, Hispanic, in violation of Title VII. Throughout the course of Mr. Quintero's employment, Defendants, acting with the intent to cause Mr. Quintero's resignation, deliberately created working conditions that Mr. Quintero reasonably viewed as intolerable and that compelled Mr. Quintero to resign.

43. Throughout his employment during the period March 2000-July 2000, Defendants subjected Emmett Capito, III to harassment because of his race, Black, in violation of Title VII.

44. The harassment of Capito alleged above culminated in suspension because of his race, Black, in violation of Title VII.

45. On or about July 2000, Defendants constructively discharged Emmett Capito, III because of his race, Black, in violation of Title VII. Throughout the course of Mr. Capito's employment, Defendants, acting with the intent to cause Mr. Capito's resignation, deliberately created working conditions that Mr. Capito reasonably viewed as intolerable and that compelled Mr. Capito to resign.

46. During the period April 15, 1996 to present, Defendants 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.

47. The harassment complained of in paragraphs 10, 13, 16, 19, 22, 25, 28, 31, 34, 37, 40, 43, and 46, 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.

48. The harassment complained of in paragraphs 10, 13, 16, 19, 22, 25, 28, 31, 34, 37, 40, 43, and 46, and described with greater particularity in paragraph 47, above, was perpetrated by Defendants through their alter ego/proxy, Vice President and Plant Manager Francis P. Monaco; Ronald Raymond; Lou Monaco; and other White employees. Defendants 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. Defendants also caused the harassment to culminate in tangible employment actions, such as discharge, constructive discharge, and disciplinary action and other discriminatory terms and conditions of employment such as those alleged in the preceding paragraphs.

49. The effect of the practices complained of in paragraphs 9-48, 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, Diego Quintero, Emmett Capito, III 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.

50. The unlawful employment practices complained of in paragraphs 9-49, above, are part of a continuing course of race and national origin discrimination perpetrated against Hispanic, Puerto Rican, and Black employees by Defendants that has persisted since at least April 15, 1996.

51. The unlawful employment practices complained of in paragraphs 9-50, above, were and are intentional.

52. The unlawful employment practices complained of in paragraphs 9-51, 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, Diego Quintero, Emmett Capito, III 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 Defendants, their officers, successors, assigns, and all persons in active concert or participation with them, 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 Defendants 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 their past and present unlawful employment practices.
- C. Order Defendants to make whole Samuel Rodriguez, Roberto Reimundi, Domingo Lugo, Norberto Ramirez, Edwin Vasquez, Raul Silva, German Lugo, Fidel Rosario, Samuel Rosario, Michael Brock, Diego Quintero, Emmett Capito, III 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 their unlawful employment practices, including but not limited to reinstatement and front pay.
- D. Order Defendants to make whole Samuel Rodriguez, Roberto Reimundi, Domingo Lugo,

Norberto Ramirez, Edwin Vasquez, Raul Silva, German Lugo, Fidel Rosario, Samuel Rosario, Michael Brock, Diego Quintero, Emmett Capito, III 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 9-52, above, in amounts to be determined at trial.

E. Order Defendants to make whole Samuel Rodriguez, Roberto Reimundi, Domingo Lugo, Norberto Ramirez, Edwin Vasquez, Raul Silva, German Lugo, Fidel Rosario, Samuel Rosario, Michael Brock, Diego Quintero, Emmett Capito, III 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 9-52, 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 Defendants to pay Samuel Rodriguez, Roberto Reimundi, Domingo Lugo, Norberto Ramirez, Edwin Vasquez, Raul Silva, German Lugo, Fidel Rosario, Samuel Rosario, Michael Brock, Diego Quintero, Emmett Capito, III and other presently unidentified, similarly-situated Hispanic, Puerto Rican, and Black employees punitive damages for the malicious and reckless conduct described in paragraphs 9-52, 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 amended complaint.

Respectfully submitted,

GWENDOLYN YOUNG REAMS
Associate General Counsel

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION
1801 L Street, N.W.
Washington, DC 20507

s/ C. Larry Watson
C. LARRY WATSON (Reg. No. 0031443)
Regional Attorney
Telephone number: (216) 522-7455
Facsimile number: (216) 522-7430
E-mail address: C.Larry.Watson@eeoc.gov

s/ Lawrence Mays
LAWRENCE MAYS (Reg. No. 0038288)
Supervisory Trial Attorney
Telephone number: (216) 522-4796
Facsimile number: (216) 522-7430
E-mail address: Lawrence.Mays@eeoc.gov

s/ Ronald L. Phillips
RONALD L. PHILLIPS (Reg. No. 0070263)
Trial Attorney
Telephone number: (216) 522-7451
Facsimile number: (216) 522-7430
E-Mail address: RON.Phillips@eeoc.gov

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION
Cleveland District Office
1660 West Second Street, Suite 850
Cleveland, Ohio 44113