

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED
DEC 30 2002
Phil Lombardi, Clerk
U.S. District Court

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,

Plaintiff,

v.

JOHN PICKLE COMPANY, INC.

Defendant.

CIVIL ACTION NO.

02C V 979K (C)
COMPLAINT

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 race and to make whole Jonathan P. Moraes and a class of at least 51 other similarly situated individuals. The Equal Employment Opportunity Commission alleges that the defendant, John Pickle Company, Inc., violated Title VII by subjecting Jonathan P. Moraes and similarly situated individuals to disparate treatment based upon their race, Asian, and their national origin, East Indian. The discrimination included disparate terms and conditions of employment, payment of unequal wages, and subjecting the East Indian workers to harassment creating a hostile work environment.

JURISDICTION AND VENUE

1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. Sections 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, ("Title VII"), 42 U.S.C. Section 2000e-5(f)(1) and (3) and Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981A.

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2. The employment practices alleged to be unlawful were committed within the jurisdiction of the United States District Court for the Northern District of Oklahoma.

PARTIES

3. Plaintiff, Equal Employment Opportunity Commission (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 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 John Pickle Company, Inc., has been and is now doing business in the State of Oklahoma and the City of Tulsa, and has continuously had at least fifteen 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. Section 2000e-(b), (g) and (h).

STATEMENT OF CLAIMS

6. More than thirty days prior to the institution of this lawsuit, Jonathan P. Moraes and 51 other charging parties filed a charge with the Commission alleging violations of Title VII by the defendant. All conditions precedent to the institution of this lawsuit have been fulfilled.

7. Since at least September 2001, the defendant has engaged in unlawful employment practices at its Tulsa facility, in violation of Section 703(a) of Title VII, 42 U.S.C. Section 2000e-2(a) and Title I of the Civil Rights Act of 1991. Specifically, Jonathan P. Moraes and similarly situated individuals, all of the Asian race and East Indian national origin, were subjected to disparate treatment including, but not limited to being paid lower wages than non-Asians and non-East

Indians; disparate terms and conditions of employment such as being required to sleep and eat on the work site property, being restricted with regard to freedom to leave the work site while similar working conditions and restrictions were not imposed upon non-Asian and non-East Indian workers; and they were subjected to harassment and intimidation creating a hostile work environment.

8. The effect of the practices complained of above has been to deprive John Moraes and a class of similarly situated Asian/East Indian workers of equal employment opportunities and has otherwise adversely affected their status as employees.

9. The unlawful employment practices complained of in paragraphs 7 and 8, above, were intentional.

10. The unlawful employment practices complained of in paragraphs 7 and 8, above, were committed with malice or with reckless indifference to the federally protected rights of John Moraes and similarly situated individuals.

PRAYER FOR RELIEF

Wherefore, the Commission respectfully requests that this Court:

A. Grant a permanent injunction enjoining the defendant, John Pickle Company, Inc., its officers, successors, assigns, and all persons in active concert or participation with it from engaging in any employment practice which discriminates on the basis of race or national origin.

B. Order the defendant to institute and carry out policies, practices, and programs which provide equal employment opportunities for John Moraes and similarly situated individuals and which eradicate the effects of its past and present unlawful employment practices.

C. Order the defendant to make whole John Moraes and similarly situated individuals by providing appropriate back pay with prejudgment interest, in amounts to be proved at trial, and other affirmative relief necessary to eradicate the effects of its unlawful employment practices, including but not limited to rightful-place reinstatement if desired by the aggrieved parties.

D. Order the defendant to make whole John Moraes and similarly situated individuals by providing compensation for past and future pecuniary losses resulting from the unlawful employment practices described in paragraphs 7 and 8, above, in amounts to be determined at trial.

E. Order the defendant to make whole John Moraes and similarly situated individuals by providing compensation for past and future non-pecuniary losses resulting from the unlawful employment practices described in paragraphs 7 and 8, above, including but not limited to emotional pain, suffering, inconvenience, loss of enjoyment of life and humiliation, in amounts to be determined at trial.

F. Order the defendant to pay John Moraes and similarly situated individuals punitive damages for its malicious or reckless conduct as described in paragraphs 7 and 8, above, in amounts to be determined at trial.

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

H. Award the Commission its costs in this action.

Respectfully submitted,

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