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9 ATTORNEYS FOR PLAINTIFF

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11  
12 IN THE UNITED STATES DISTRICT COURT  
13 FOR THE DISTRICT OF OREGON

14  
15 EQUAL EMPLOYMENT OPPORTUNITY  
16 COMMISSION

17 Plaintiff,

18 v.

19 VIDEO ONLY, INC.

20 Defendants.

CIVIL ACTION NO.

CV '06 - 1362, KI

COMPLAINT

JURY TRIAL DEMAND

21 NATURE OF THE ACTION

22 This is an action under Title VII of the Civil Rights Act of 1964 and Title I of the Civil  
23 Rights Act of 1991 to correct unlawful employment practices on the basis of race, national origin  
24 and retaliation and to provide appropriate relief to Jayson Lewis and Michael Gonzales. The  
25

Equal Employment Opportunity Commission alleges that defendant subjected Mr. Lewis and

COMPLAINT- Page 1 of 5

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1 Mr. Gonzales to harassment based on race, national origin, and religion and then retaliated  
2 against Mr. Lewis and Mr. Gonzales for complaining about the harassment. Plaintiff seeks  
3 monetary relief, including nonpecuniary compensatory and punitive damages, and injunctive  
4 relief, on behalf of Mr. Lewis and Mr. Gonzales.

#### 5 JURISDICTION AND VENUE

6 1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§451, 1331, 1337,  
7 1343 and 1345. This action is authorized and instituted pursuant to sections 706(f)(1) and (3) of  
8 Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. sections 2000e-5(f)(1) and (3)  
9 ("Title VII"), and Section 102 of the Civil Rights Act of 1991, 42 U.S.C. §1981a.

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

#### 12 PARTIES

13 3. Plaintiff, the Equal Employment Opportunity Commission (the "Commission"), is  
14 the agency of the United States of America charged with the administration, interpretation and  
15 enforcement of Title VII, and is expressly authorized to bring this action by Section 706(f)(1) of  
16 Title VII, 42 U.S.C. §2000e-5(f)(1).

17 4. At all relevant times, defendant Video Only, Inc. has been a corporation  
18 continuously doing business in the State of Idaho and has continuously had at least 15  
19 employees.

20 5. At all relevant times, defendant Video Only, Inc. has continuously been an  
21 employer engaged in an industry affecting commerce within the meaning of Sections 701(b), (g)  
22 and (h) of Title VII, 42 U.S.C. §§2000e-(b), (g) and (h).

STATEMENT OF CLAIMS

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2           6.       More than thirty days prior to the institution of this lawsuit, Mr. Lewis and Mr.  
3 Gonzales filed charges with the Commission alleging violations of Title VII by Video Only, Inc.  
4 All conditions precedent to the institution of this lawsuit have been fulfilled.

5           7.       From at least February 2005, defendant engaged in unlawful employment  
6 practices at its Jantzen Beach location in Portland, Oregon store in violation of §§ 703(a) and  
7 704(a) of Title VII, 42 U.S.C. §§ 2000e-2(a) and -3(a). Defendant engaged in these unlawful  
8 practices by subjecting Mr. Lewis and Mr. Gonzales to repeated racial, national origin and  
9 religious harassment and by retaliating against Mr. Lewis and Mr. Gonzales for their complaints  
10 regarding the harassment.

11           8.       The effect of the practices complained of in paragraph 7 above has been to  
12 deprive Mr. Lewis and Mr. Gonzales of equal employment opportunities and otherwise adversely  
13 affect his status as an employee.

14           9.       The unlawful employment practices complained of in paragraph 7 above were  
15 intentional.

16           10.      The unlawful employment practices complained of in paragraph 7 above were  
17 done with malice or with reckless indifference to the federally protected rights of Mr. Lewis and  
18 Mr. Gonzales.

PRAYER FOR RELIEF

19           Wherefore, the Commission respectfully requests that this Court:

20           A.       Grant a permanent injunction enjoining defendant, its officers, successors, agents,  
21 assigns, and all persons in active concert or participation with it, from engaging in any retaliatory  
22 employment practices.

1 B. Order defendant to institute and carry out policies, practices, and programs which  
2 provide equal employment opportunities for all employees, and which eradicate the effects of its  
3 past and present unlawful employment practices.

4 C. Order defendant to make whole Mr. Lewis and Mr. Gonzales by providing  
5 compensation for past and future pecuniary losses resulting from the unlawful employment  
6 practices described in paragraph 7 above, including past and future out-of-pocket expenses, in  
7 amounts to be determined at trial.

8 D. Order defendant to make whole Mr. Lewis and Mr. Gonzales by providing  
9 compensation for past and future nonpecuniary losses resulting from the unlawful practices  
10 complained of in paragraph 7 above, including without limitation emotional pain, suffering, and  
11 loss of enjoyment of life, in amounts to be determined at trial.

12 E. Order defendant to pay Mr. Lewis and Mr. Gonzales punitive damages for its  
13 malicious and reckless conduct described in paragraph 7 above, in amounts to be determined at  
14 trial.

15 F. Grant such further relief as the Court deems necessary and proper in the public  
16 interest.

17 G. Award the Commission its costs of this action.

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JURY TRIAL DEMAND

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

DATED this 22nd day of September, 2006.

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