

Andrew M. Altschul, OSB No. 98030
andrew@portlandemploymentlaw.com
ALTSCHUL LAW OFFICE, PC
117 SW Taylor Street, Suite 2600
Portland, OR 97204
Telephone: (503) 417-0444
Facsimile: (503) 417-0501

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Attorneys for Plaintiffs-Intervenors

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON

**EQUAL EMPLOYMENT OPPURTUNITY
COMMISSION,**

Plaintiff,

v.

VIDEO ONLY, INC.,

Defendant.

MICHAEL GONZALES, JAYSON LEWIS,

Plaintiffs-Intervenors,

v.

VIDEO ONLY, INC.,

Defendant.

Civil No. CV 06-1362-KI

COMPLAINT OF PLAINTIFFS-
INTERVENORS

JURY TRIAL DEMAND

I. NATURE OF THE ACTION

This action is filed in conjunction with the Complaint filed by the EEOC and in addition to the discrimination claims alleged by the EEOC adds additional federal and state law claims arising out of the same actions and occurrences.

II. JURISDICTION AND VENUE

1. This arises under Title VII of the Civil Rights Act of 1964, 42 USC § 2000e, *et seq* (“Title VII”), 42 USC §1981, the Civil Rights Act of 1991, the Fair Credit and Reporting Act, 15 USC § 1681 *et seq* (“FCRA”) and ORS 659A 030.

2. This court has federal question jurisdiction over the federal claims pursuant to 28 USC § 1331, 42 USC § 2000e-5(f)(1) (right to intervene), 42 USC § 1981 and 15 USC § 1681p.

3. This court has supplemental jurisdiction over the state law claims based on 28 USC § 1367(a) because the Intervenor’s claims arise from the same operative facts and involve similar issues of law as their federal claims.

4. Venue is proper in this court because the employment practices and conduct alleged to be unlawful were committed within the jurisdiction of the United States District Court for the District of Oregon.

III. PARTIES

5. At all times material to this action, Plaintiff-Intervenor Michael Gonzales (“Gonzales”) is a Hispanic residing in Beaverton, Oregon and an employee of Defendant Video Only, Inc (“Video Only”) at its Jantzen Beach location in Portland, Oregon.

6. At all times material to this action, Plaintiff-Intervenor Jayson Lewis (“Lewis”) is an African-American employee whose children are Jewish residing in Portland, Oregon and an

employee of Video Only at its Janzen Beach location in Portland, Oregon and/or its Beaverton, Oregon location.

7. At all times material to this action, Video Only has been a corporation continuously doing business in the State of Oregon and has employed more than 15 persons.

IV. ADMINISTRATIVE REMEDIES

8. Plaintiffs-Intervenors timely filed individual charges against Video Only alleging racial, national origin and religious discrimination as well as retaliation under Title VII and Oregon's equivalent laws, ORS 659A.030, with the Equal Employment Opportunity Commission ("EEOC"). The EEOC investigated the charges and issued determinations that there was reason to believe that violations had occurred against each Plaintiff-Intervenor. After a conciliation process did not resolve the claims, the EEOC filed suit on September 25, 2006.

V. FACTS

9. Lewis was hired as a salesperson at Video Only's Janzen Beach location in or about February, 2005.

10. Gonzales was hired as a salesperson at Video Only's Janzen Beach location in or about June, 2005.

11. Since the beginning of his employment at Video Only, Lewis was repeatedly harassed by management personnel and their subordinates because of his race and religion. Lewis was also subjected to retaliation from both management personnel and their subordinates for complaining about the on-going harassment. This retaliation continues to this day.

12. On or about November, 2005, after Lewis complained about the on-going harassment to corporate headquarters, Video Only hired a private investigator to investigate Lewis' background and character without notice or written authorization.

13. Since the beginning of his employment at Video Only, Gonzales was repeatedly harassed by management personnel and their subordinates because of his national origin and routinely subjected him to disparaging and derogatory remarks, jokes and other conduct because of the race, national origin, and/or religion of his co-workers. Gonzales was also subjected to retaliation from both management personnel and their subordinates for complaining about the on-going harassment. This retaliation continues to this day.

14. On or about November, 2005, after Gonzales complained about the on-going harassment to corporate headquarters, Video Only hired a private investigator to investigate Gonzales' background and character without notice or written authorization.

15. The effect of the practices complained of in paragraphs 11 through 14 have been to deprive Lewis and Gonzales of equal employment opportunities and otherwise adversely affect their status as employees, terms of conditions of employment and terms of conditions of their contractual relationship with Video Only.

VI. FIRST CLAIM FOR RELIEF

(Discrimination under Title VII and ORS 659A.030(b))

16. Plaintiffs-Intervenors reallege paragraphs 1-15.

17. By the conduct set forth above, Video Only committed unlawful discrimination in violation of Title VII and ORS 659A.030(b).

VII. SECOND CLAIM FOR RELIEF

(Retaliation under Title VII and ORS 659A.030(f))

18. Plaintiffs-Intervenors reallege paragraphs 1-17.

19. By the conduct set forth above, Video Only committed unlawful retaliation in violation of Title VII and ORS 659A.030(f).

VIII. THIRD CLAIM FOR RELIEF

(Violations of 42 USC § 1981)

20. Plaintiffs-Intervenors reallege paragraphs 1-19.

21. By the harassment and retaliation set forth above, Video Only has violated Plaintiffs-Intervenors right to “make and enforce contracts . . . as is enjoyed by white citizens.” 42 USC § 1981(a).

IX. FOURTH CLAIM FOR RELIEF

(Civil Liability for Willful Violation of FCRA, 15 USC §1681n)

22. Plaintiffs-Intervenors reallege paragraphs 1-21.

23. By the conduct alleged in paragraphs 12 and 14 Video Only willfully failed to comply with the permissible purposes and disclosure requirements of sections 604 and 606 of FCRA. 15 USC §§ 1681b and 1681d.

X. REQUESTS FOR RELIEF

24. Plaintiffs-Intervenors demand relief as follows:

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

b. Awarding Gonzales and Lewis all available damages under 42 USC § 2000e-5(g); 42 USC § 1981; 42 USC § 1981a, and ORS 659A.885 including, without limit, lost back and future wages and benefits, emotional distress, punitive damages, costs and reasonable attorneys fees in amounts to be determined at trial;

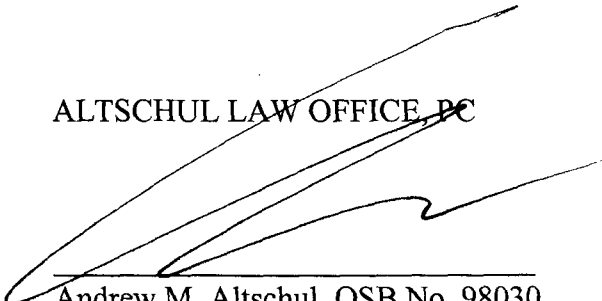
c. Awarding Gonzales and Lewis each \$1,000.00 plus punitive damages, costs and reasonable attorneys fees as authorized under 15 U.S.C. § 1681n in amounts to be determined at trial;

d. Awarding Gonzales and Lewis pre-judgment and post-judgment interest on all damages awarded; and

e. Awarding Gonzales and Lewis such other relief as this Court deems just and equitable.

DATED: November 2, 2006.

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