

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH DAKOTA  
SOUTHERN DIVISION

**FILED**

SEP 27 1999

*[Signature]*  
CLERK

EQUAL EMPLOYMENT OPPORTUNITY )  
COMMISSION, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
JOHN MORRELL & CO., )  
 )  
Defendant. )

*CIV 99-4174*

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**COMPLAINT AND JURY TRIAL DEMAND**

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NATURE OF THE ACTION

This action arises under Title VII of the Civil Rights Act of 1964 and Title I of the Civil Rights Act of 1991 to correct unlawful employment practices on the basis of national origin and to provide appropriate relief to Jose Haro ("Haro"), who was adversely affected by such practices. As alleged with greater particularity below, the Commission alleges that Jose L. Haro("Haro"), a Mexican American, was subjected to an ethnically hostile work environment because of his nationality and that John Morrell and Co. ("Defendant" or "Employer") failed to take appropriate remedial corrective actions.

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), and Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981A.

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

#### 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 has continuously been a Delaware corporation authorized to do business in the State of South Dakota 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 Sections 701(b), (g) and (h) of Title VII, 42 U.S.C. §§ 2000e(b), (g) and (h).

#### STATEMENT OF FACTS

6. More than thirty days prior to the institution of this lawsuit, Haro 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 August of 1994, Defendant has engaged in unlawful employment practices at its Sioux Falls, South Dakota facility, in violation of Section 703(a) of Title VII, 42

U.S.C. §

2000e-2(a), and Section 704(a) of Title VII, 42 U.S.C. § 2000e-3(a).

8. Haro began working for Defendant on or about May 16, 1994. Initially, Haro worked on the second floor of the meat processing plant.

9. Beginning in or about August of 1994, Haro was transferred to the first floor of the meat processing plant where he was subjected to a racially and ethnically hostile work environment. Specifically, Haro contends that non-Hispanic coworkers began making derogatory remarks to him, including calling him a “fucking Mexican” and a “dirty Mexican.” In addition Haro alleged that non-Hispanic coworkers threw pieces of meat at him.

10. Haro complained to Defendant’s managers on at least three occasions, and the Employer failed to take any corrective actions.

11. On or about May 11, 1995, Allen Johnson (“Johnson”), a non-Hispanic, threw three pieces of meat at Haro, striking him in the back. According to Haro, one piece of meat was the size of a baseball. In addition to throwing meat at him, Haro contends that Johnson called him derogatory names such as “dirty Mexican.”

12. Haro became frustrated and punched Johnson in the face.

13. On May 26, 1995, both Johnson and Haro were terminated for the altercation. They were terminated for violation of Company work rule Number 20, for provoking a fight or fighting on company premises.

14. On July 12, 1995, Johnson was reinstated to employment.

STATEMENT OF CLAIM

15. The effect of the practices complained of in paragraphs 8-15 above, has been to deprive Haro of equal terms and conditions of employment and otherwise adversely affect Haro's status as an employee because of his national origin, in violation of Section 703(a) of Title VII, 42. U.S.C. § 2000e-2(a).

16. The unlawful employment practices complained of in paragraphs 8-15 were intentional.

17. The unlawful employment practices complained of in paragraphs 8-15 were done with malice or with reckless indifference to the federally protected rights of Haro.

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 national origin or ethnic harassment, and any other discriminatory employment practice.

B. Institute and carry out policies, practices, and programs that proscribe workplace racial and ethnic harassment, that provide equal employment opportunities for Mexican Americans, and that eradicate the effects of its past and present unlawful employment practices.

C. Order Defendant to institute and carry out policies, practices, and programs that proscribe retaliation against those who complain about discriminatory employment practices, and that eradicate the effects of its past and present unlawful employment practices.

D. Order Defendant to make Haro whole, by providing compensation for past and future pecuniary and non-pecuniary losses resulting from the unlawful employment practices

described herein, in amounts to be determined at trial.

E. Order Defendant to provide Haro compensation for past and future non-pecuniary losses resulting from the unlawful practices complained of above, including physical and emotional pain and suffering, inconvenience, loss of enjoyment of life, and medical expenses, in amounts to be determined at trial.

F. Order Defendant to pay Haro punitive damages for its malicious and reckless conduct described in paragraphs 8-15 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 this complaint.

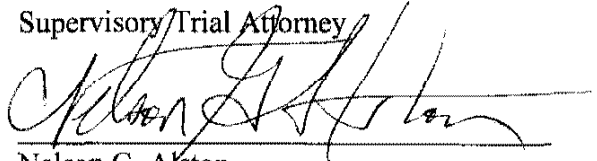
Dated this 23<sup>rd</sup> day of September, 1999.

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**PLEASE NOTE:**

**It is sufficient for purposes of service on the EEOC that pleadings, notices, and any other court document be served upon the Trial Attorney. Therefore, duplicate service is not required on the General Counsel or Deputy General Counsel located in Washington, D.C.**