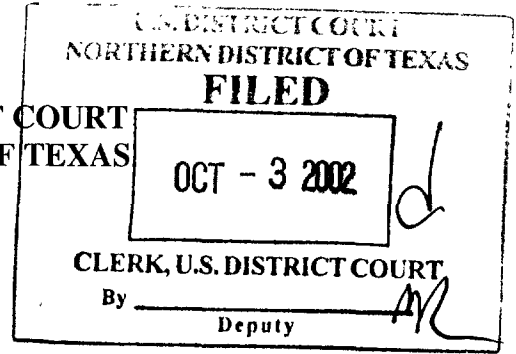


IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
SAN ANGELO DIVISION



EQUAL EMPLOYMENT OPPORTUNITY §
COMMISSION, §
Plaintiff, §
ERNEST GARCIA, §
Intervenor, §
v. §
UNITED PARCEL SERVICE, §
Defendant, §
INT'L BROTHERHOOD OF TEAMSTERS §
LOCAL 657, §
Defendant. §

Civil Action No. 6:01-CV-109-C

PLAINTIFF'S THIRD AMENDED COMPLAINT

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 bases of race, national origin, and retaliation, and to provide appropriate relief to Charging Parties Ernest Garcia ("Garcia"), Darrell Warrick ("Warrick"), Cherri Davis Romo ("Romo") and a class of other comparably aggrieved Hispanics, a class of Blacks, and a class of individuals who suffered retaliation, all of whom were adversely affected by such unlawful practices. This complaint alleges that Defendant United Parcel Service engaged in discriminatory employment practices by subjecting Garcia, Warrick, Romo, and other employees to a hostile work environment and disparate treatment by falsely accusing Garcia, Warrick, Romo and other employees of wrongdoing, issuing conflicting work orders in repeated attempts to anger and encourage insubordination, closely and unnecessarily scrutinizing work, and issuing groundless reprimands. This complaint further alleges that the harassment was carried out with the intent of forcing Hispanic and Black employees, and other

employees who made complaints of discrimination, opposed discriminatory treatment of co-workers, and/or participated in reporting or serving as witnesses to grievances of discrimination, to resign their positions. Garcia and other comparably aggrieved individuals were compelled to resign because of the intolerable work environment created by UPS supervisors. Warrick was refused rehire while similarly situated, non-Black employees were not. Romo opposed discriminatory treatment of co-workers, participated in reporting or serving as a witness to grievances of discrimination, and, as a result, was forced to resign her position. Moreover, Defendant United Parcel Service failed to preserve personnel records as required by law.

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 Texas, San Angelo Division and the United States District Court for the Western District of Texas, San Antonio 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 Sections 706(f)(1) and (3) of Title VII, 42 U.S.C. §2000e-5(f)(1) and (3).

4. At all relevant times, Defendant, United Parcel Service (“UPS”), has continuously been an Ohio corporation doing business in the State of Texas and has continuously had at least 15 employees.

5. At all relevant times, Defendant UPS 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 CLAIMS

6. More than thirty days prior to the institution of this lawsuit, Garcia filed a charge with the Commission alleging violations of Title VII. All conditions precedent to the institution of this lawsuit have been fulfilled.

7. More than thirty days prior to the institution of this lawsuit, Warrick filed a charge with the Commission alleging violations of Title VII. All conditions precedent to the institution of this lawsuit have been fulfilled.

8. More than thirty days prior to the institution of this lawsuit, Romo filed a charge with the Commission alleging violations of Title VII. All conditions precedent to the institution of this lawsuit have been fulfilled.

9. Since at least 1998, Defendant UPS has engaged in unlawful employment practices at its San Angelo, Texas, facility, and its San Antonio, Texas District Office, 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). These practices include the following:

- A. Defendant UPS maintained a hostile work environment in its San Angelo, Texas facility wherein Hispanic employees were falsely accused of wrongdoing, issued conflicting work orders in repeated attempts to anger and

encourage insubordination, subjected to unnecessary scrutiny of their work, and made the target of groundless reprimands with the intent of forcing the Hispanic employees to resign based on their national origin. Due to the harassment, several Hispanic employees were forced to resign;

- B. Defendant UPS maintained a hostile work environment in its San Angelo, Texas facility wherein Black employees were falsely accused of wrongdoing, issued conflicting work orders in repeated attempts to anger and encourage insubordination, subjected to unnecessary scrutiny of their work, and made the target of groundless reprimands with the intent of forcing the Black employees to resign based on their race. Due to the harassment, several Black employees were forced to resign;
- C. Defendant UPS subjected Hispanic employees to disparate treatment at its San Angelo, Texas facility by intentionally targeting the Hispanic employees for reprimands, extra job duties and false accusations of wrongdoing. Other similarly situated White employees, who were actually guilty of misconduct or infractions, were not disciplined, much less targeted for termination, or discharged, due to their poor work quality. The disparate treatment in the terms and conditions of their employment forced several Hispanic employees to resign;
- D. Defendant UPS subjected Black employees to disparate treatment at its San Angelo, Texas facility by intentionally targeting the Black employees for reprimands, extra job duties and false accusations of wrongdoing. Other similarly situated White employees, who were actually guilty of misconduct or infractions, were not disciplined, much less targeted for termination, or discharged, due to their poor work quality. The disparate treatment in the terms and conditions of their employment forced the Black employees to resign or resulted in their discharge and failure to rehire;
- E. Defendant UPS retaliated against several of its employees who brought allegations of discrimination, opposed discriminatory treatment of co-workers, and/or participated in reporting or serving as witnesses to grievances of discrimination by subjecting the employees to reprimands, extra job duties and false accusations of wrongdoing. Due to the harassment, these employees were forced to resign; and,
- F. Members of Defendant UPS management, at both its San Angelo, Texas facility and San Antonio, Texas District Office, allowed the discrimination complained of in paragraph 9(a)-(e) to go unaddressed despite repeated complaints by Garcia, Warrick, Romo and other class members.

10. The effect of the practices complained of in paragraph 9 above has been to deprive Garcia, a class of other comparably aggrieved Hispanic employees, Warrick, a class of other comparably aggrieved Black employees, and Romo and a class of other comparably aggrieved employees who were retaliated against after making allegations of discrimination, opposing discriminatory treatment of co-workers, and/or participating in reporting or serving as witnesses to grievances of discrimination, of equal employment opportunities and otherwise adversely affect their status as employees because of race, national origin, and/or in retaliation for opposition to discriminatory treatment.

11. Since at least 1998, Defendant UPS has failed, in violation of Section 709(c) of Title VII, 42 U.S.C. §2000e-8(c), to make and preserve records relevant to the determination of whether unlawful employment practices have been or are being committed and required by the Commission as necessary to the Commission's administration of Title VII.

12. The unlawful employment practices complained of in paragraph 9 above were and are intentional.

13. The unlawful employment practices complained of in paragraph 9 above were and are done with malice or with reckless indifference to the federally protected rights of Garcia, a class of other comparably aggrieved Hispanic employees, Warrick, a class of Black employees, and Romo and a class of employees who were retaliated against after making allegations of discrimination, opposing discriminatory treatment of co-workers, and/or participating in reporting or serving as witnesses to grievances of discrimination.

PRA YER FOR RELIEF

Wherefore, the Commission respectfully requests that this Court:

A. Grant a permanent injunction enjoining Defendant UPS, its officers, successors, assigns, and all persons in active concert or participation with it, from engaging in discriminatory employment practices which discriminate on the bases of race, national origin, and retaliation;

B. Order Defendant UPS to institute and carry out policies, practices, and programs which provide equal employment opportunities for Hispanics, African-Americans and employees who oppose discriminatory employment practices, and which eradicate the effects of its past and present unlawful employment practices;

C. Order Defendant UPS to make whole all individuals adversely affected by the unlawful practices described above, including Garcia, Warrick, Romo, and any other past or present Hispanic employee, Black employee, or employee who opposed discriminatory employment practices, who was subjected to the hostile work environment and/or disparate treatment caused by Defendant UPS and was compelled to resign, 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 its unlawful employment practices, including but not limited to reinstatement of Garcia, Warrick, Romo and other aggrieved individuals, or front pay in lieu thereof;

D. Order Defendant UPS to make whole Garcia, Warrick, Romo and any other past or present Hispanic employee, Black employee, or employee who opposed discriminatory employment practices who was subjected to the hostile work environment and/or disparate treatment because of Defendant UPS' discriminatory employment practices, by providing compensation for past and future pecuniary losses resulting from the unlawful employment practices described in paragraph 9 above, including, but not limited to job search expenses, relocation expenses, and medical expenses, in amounts to be determined at trial;

E. Order Defendant UPS to make whole Garcia, Warrick, Romo, and any other past or present Hispanic employee, Black employee, or employee who opposed discriminatory employment practices who was subjected to the hostile work environment and/or disparate treatment because of Defendant UPS' discriminatory employment practices, by providing compensation for past and future nonpecuniary losses resulting from the unlawful practices complained of in paragraph 9 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 Defendant UPS to pay punitive damages for its malicious and reckless conduct described in paragraph 9 above, in amounts to be determined at trial;

G. Order Defendant UPS to make and preserve all records, in accordance with the provisions of Section 709(c) of Title VII of the Civil Rights Act of 1964, 42 U.S.C. §2000e-8(c), relevant to the determination of whether unlawful employment practices have been or are being committed;

H. Grant such further relief as the Court deems necessary and proper in the public interest; and,

I. 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 complaint.

DATED: September 20, 2002

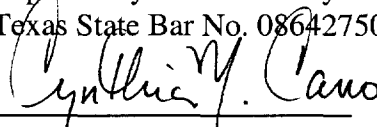
Respectfully submitted,

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ATTORNEYS FOR PLAINTIFF

CERTIFICATE OF SERVICE

I certify that a true copy of the foregoing **Plaintiff's Third Amended Complaint** has been sent via U.S. mail on this the 20th day of September, 2002, to:

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