

Lee C. Dudley, OSB No. 130609
lee@nexuspdx.com
Pro Publica, LLP
5488 SW Alger Avenue, Suite I-9
Beaverton, OR 97005
Telephone: 503-804-3800
Fax: 503-804-3800
Attorneys for Plaintiff

UNITED STATES DISTRICT COURT

DISTRICT OF OREGON, MEDFORD DIVISION

ROBERTO GARCIA-VALLEJOS,

Plaintiff,

v.

MEDFORD FINANCIAL SERVICES, INC.,
an Oregon Corporation,

Defendant.

Case No. _____

COMPLAINT
(Title VII of the Civil Rights Act
of 1964, Unlawful
Discrimination)

JURY TRIAL BY DEMAND

Plaintiff alleges:

I. INTRODUCTION

Plaintiff Roberto Garcia-Vallejos brings this action against his employer, Defendant Medford Financial Services, Inc. under Title VII of the Civil Rights Acts of 1964. Defendant unlawfully discriminated against Mr. Garcia-Vallejos based on his national origin and took an adverse employment action against him when it demoted him from the position of Customer Service Manager to Collections Assistant.

II. JURISDICTION AND VENUE

1. This is an action for violations of the Civil Rights Act of 1964, Title VII, 42 U.S.C.A. § 2000e-2(a) (2011). This court has jurisdiction over Plaintiff's federal and statutory claims under 28 U.S.C. § 1331. Defendant's acts occurred in the District of Oregon, and at all material times the parties resided or did business in the state of Oregon.

2. Venue is proper in that the claims alleged herein arose in Oregon.

III. PARTIES

3. Plaintiff Roberto Garcia-Vallejo ("Mr. Garcia-Vallejos") is a citizen of the United States and a resident of the state of Oregon. Plaintiff is a fourteen-year employee of Medford Financial Services. He was born in Nicaragua, speaks English fluently, with only a slightly detectable Spanish accent.

4. Defendant Medford Financial Services, Inc. ("Medford Financial") is a for-profit Oregon corporation offering investment, accounting, tax preparation, collection and other financial-related services to private individuals and businesses. Medford Financial employs between 40 - 50 individuals.

IV. PROCEDURAL ACTIONS

5. Mr. Garcia-Vallejos sought relief by timely filing for a "right to sue" letter from the Equal Employment Opportunity Commission (EEOC) under Title VII of the

Civil Rights Act of 1964. He filed his complaint with the EEOC on June 8, 2011 and received a “right to sue” letter on August 23.

V. GENERAL ALLEGATIONS

6. Mr. Garcia-Vallejos, as a member of a recognized minority group, is a member of a protected class as defined by Title VII of the Civil Rights Act of 1964.

7. Mr. Garcia-Vallejos began with Medford Financial in 1997 as a data entry clerk. He received consistent, positive evaluations for his work and in 2005 was encouraged to apply for the Customer Relations Manager position by Jean Gillies, then-Office Manager at Medford Financial Services. In November 2005, Mr. Garcia-Vallejos was promoted to the position of Customer Relations Manager which raised his pay to \$49,500 annually with full benefits. He successfully worked in this position and continued to receive positive work evaluations from his supervisor, Jean Gillies. Therefore, Mr. Garcia-Vallejos was qualified for his position as Customer Service Manager.

8. When Mr. Garcia-Vallejos began to report to a new supervisor, Carl Landry, everything changed. Another employee, Jeanette Steager, overheard Landry speak to the Human Resources Director, Amy Nelson. He said to Nelson, “Why do we have a foreigner working the front desk, for Christ’s sake? Customers are going to associate us with outsourcing, as if we’re some low-rent business like all those customer service centers in India!”

9. On June 1, 2011 Mr. Garcia-Vallejos received an emergency phone call at work from his mother in Nicaragua. Mr. Garcia-Vallejos’ mother only speaks Spanish.

He quickly spoke with his mother about the family emergency and went back to work. The same day, Landry verbally reprimanded Mr. Garcia-Vallejos for speaking Spanish while at work. Three witnesses, James Larsen, Catherine Nealy, and Stephen Leeds, heard Landry's statement: "We simply cannot tolerate this -- I don't care what the emergency was -- if you're in this office, you speak English. That's the language we speak in this country. Those clients probably think that the next thing they know all their affairs and money will be in Pakistan, handled by people working for a dollar a day. Please do not ever speak Spanish in this office again."

10. Two days later, on June 3, 2011, Landry demoted Mr. Garcia-Vallejos without providing any paperwork explaining why. Landry reassigned him to the lower position of Collections Assistant. When informed by HR of his reassignment, the reasons given Mr. Garcia-Vallejos were that it was for "performance issues" and that he was "better suited" to the Collections Assistant position. This demotion reduced his annual salary to \$29,000 with full benefits, a reduction in pay of \$20,500 annually. Mr. Garcia-Vallejos's replacement was a white female. These facts illustrate that he experienced an adverse employment action. These facts, additionally, give rise to an inference of unlawful discrimination.

11. The offensive and racially-charged comments made by Landry to the HR Director, the verbal reprimand for speaking Spanish, and the demotion with its significant reduction in pay all took a substantial toll on Mr. Garcia-Vallejos.

VI. CLAIMS

FIRST CLAIM FOR RELIEF (The Civil Rights Act of 1964, Title VII)

12. Mr. Garcia-Vallejos realleges paragraphs 1 through 11.

13. Medford Financial violated Title VII of the Civil Rights Act of 1964, 42 U.S.C.A. § 2000e-5 by discriminating against him based on his national origin:

a. Mr. Garcia-Vallejos, as a non-native English speaker and a Nicaraguan by birth, belongs to a protected class.

b. Mr. Garcia-Vallejos, as demonstrated by his positive work evaluations during five years in the Customer Relations Manager position, is qualified for this position;

c. Mr. Garcia-Vallejos suffered an adverse employment action when Medford Financial demoted him from his position as Customer Relations Manager to Collections Assistant costing him \$20,500 in reduced annual salary;

d. The statements made by Landry directly to Mr. Garcia-Vallejos in the presence of witnesses, the statements overheard and communicated to the HR Director, the HR director's failure to counsel Landry against racial animus, and the failure of the HR Director to counsel against making adverse employment decisions based on racial animus give rise to the inference of intentional and unlawful discrimination based on national origin;

14. Unless Mr. Garcia-Vallejos is reinstated with back pay, Defendant Medford Financial will continue to be in breach of Title VII of the Civil Rights Act of 1964 and may continue to engage in unlawful discrimination in the future.

15. There exists an actual controversy between the parties regarding

Defendant Medford Financial's discriminatory acts. Therefore, Mr. Garcia-Vallejos is entitled to declaratory relief that Defendant Medford Financial's discriminatory statements and acts are unlawful under Title VII of the Civil Rights Act of 1964.

VII. REQUESTED RELIEF

WHEREFORE, Plaintiff respectfully prays for judgment against the Defendant and requests the Court grant relief as follows:

1. A jury trial to determine the factual questions raised herein;
2. That the Court assume jurisdiction over Plaintiff's claims;
3. That the court enter an Order that declares that the discriminatory practices of Defendant violate the Civil Rights Act of 1964, Title VII;
4. That the Court enter an Order that enjoins the Defendant from all practices complained about herein and imposes affirmative injunctive relief requiring Defendant, its partners, agents, employees and assigns, and all other persons in active concert or participation with it, to take affirmative action to halt discrimination with regard to race, color, sex, religion, or national origin;
5. Mr. Garcia-Vallejos prays for reinstatement as Manager of Customer Relations;
6. Mr. Garcia-Vallejos prays for placement under a different supervisor within Medford Financial;
7. Mr. Garcia-Vallejos prays for compensatory and punitive damages in amounts to be determined at trial;
8. Mr. Garcia-Vallejos prays for reasonable attorney fees and costs pursuant to 42 U.S.C.A. § 2000e-5(g)(2)(B)(i);

9. All such other relief as the interest of justice requires.

DATED this 7th day of October, 2011.

LEE C. DUDLEY, OSB NO. 130609
503-804-3800
Attorney for Plaintiff