

1 WILLIAM R. TAMAYO -- #084965 (CA)
2 JONATHAN T. PECK -- #12303 (VA)
3 CINDY O'HARA -- #114555 (CA)
4 EQUAL EMPLOYMENT OPPORTUNITY
5 COMMISSION
6 San Francisco District Office
7 350 The Embarcadero, Suite 500
8 San Francisco, California 94105
9 Telephone: (415) 625-5653
10 Facsimile: (415) 625-5657
11 cindy.ohara@eeoc.gov

12 Attorneys for Plaintiff EEOC

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RIGHTS OF WORKING
CLASS AND DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
[Handwritten signatures]

13 UNITED STATES DISTRICT COURT
14 NORTHERN DISTRICT OF CALIFORNIA

HRL

CV 13 4507

15 EQUAL EMPLOYMENT OPPORTUNITY
16 COMMISSION,

Civil Action No.

17 Plaintiff,

COMPLAINT

18 v.

Civil Rights - Employment
Discrimination

19 **PETERS' BAKERY,**

DEMAND FOR JURY TRIAL

20 Defendant.

21 NATURE OF THE ACTION

22 This action is brought pursuant to Title VII of the Civil Rights Act of 1964 and
23 Title I of the Civil Rights Act of 1991 to correct unlawful employment practices on the
24 basis of race/national origin and retaliation, and to provide appropriate relief to
25 Marcela Ramirez, a Hispanic employee who was adversely affected by such practices.
26 Defendant Peters' Bakery subjected Ms. Ramirez to unlawful discrimination based on
27 her race/national origin and to unlawful retaliation after she engaged in the protected
28 activity of filing charges of discrimination with Plaintiff Equal Employment
Opportunity Commission.

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JURISDICTION AND VENUE

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2 1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 451, 1331,
3 1337, 1343 and 1345. This action is authorized and instituted pursuant to Section
4 706(f)(1) and (3) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §
5 2000e-5(f)(1) and (3) ("Title VII") and Section 102 of the Civil Rights Act of 1991, 42
6 U.S.C. § 1981a.

7 2. The unlawful employment practices alleged herein were committed in the
8 State of California, in the County of Santa Clara. Venue is therefore proper in the
9 United States District Court for the Northern District of California.

10 **INTRADISTRICT ASSIGNMENT**

11 3. This action is appropriate for assignment to San Jose Division of this court
12 as the violations alleged in this complaint took place in Santa Clara County.

13 **PARTIES**

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

18 5. The EEOC is informed and believes that Defendant Peters' Bakery,
19 ("Defendant") is a partnership, doing business in the State of California, and has
20 continuously had at least 15 employees.

21 6. At all relevant times, Defendant has continuously been an employer
22 engaged in an industry affecting commerce, within the meaning of Section 701(b), (g)
23 and (h) of Title VII, 42 U.S.C. § 2000-e(b), (g) and (h).

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1 STATEMENT OF CLAIMS

2 FIRST CLAIM FOR RELIEF

3 **Violation of Title VII of Civil Rights Act Based on Race/National Origin**

4 7. More than thirty days prior to the institution of this lawsuit, Charging
5 Party Marcela Ramirez ("Charging Party") filed charges with Plaintiff Commission
6 alleging violations of Title VII by Defendant. All conditions precedent to the institution
7 of this lawsuit have been fulfilled.

8 8. Since at least December 2010, Defendant has engaged in unlawful practices
9 of discrimination in violation Section 703(a) of Title VII, 42 U.S.C. §2000e-2(a)(1) by
10 subjecting Charging Party to harassment and discharge based on her race/national
11 origin. Charging Party, who was employed by Defendant, was subjected to
12 race/national origin discrimination by Defendant's majority-owner, Charles "Chuck"
13 Peters ("Peters"), which included but was not limited to, repeated offensive and
14 derogatory remarks, epithets and jokes about Charging Party's race/national origin,
15 including but not limited to "Mexicans like you would rather lie than tell the truth," and
16 "I never trusted your kind of people."

17 In addition to the above discriminatory harassment, Defendant discharged
18 Charging Party from employment due to her race/national origin.

19 9. The effect of the actions complained of in paragraph 8 above has been to
20 deprive Charging Party of equal employment opportunities and otherwise adversely
21 affect her status as an employee because of her race/national origin.

22 10. The unlawful employment practices complained of in paragraph 8 above
23 were intentional.

24 11. The unlawful employment practices complained of in paragraph 8 above
25 were done with malice or with reckless indifference to the federally protected rights of
26 Charging Party.

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1 **SECOND CLAIM FOR RELIEF**

2 **Violation of Title VII of Civil Rights Act Based on Retaliation**

3 12. Plaintiff Commission hereby incorporates the allegations of paragraphs 1
4 through 8 above as though fully set forth herein.

5 13. In addition to the above-referenced discrimination, Defendant engaged in
6 unlawful employment practices in violation of Section 704(a) of Title VII, 42 U.S.C.
7 §2000-e-3(a) by subjecting Charging Party to retaliation after she engaged in the
8 protected activity of filing charges of discrimination against Defendant with Plaintiff
9 Commission. In retaliation for Charging Party engaging in such protected activity,
10 Defendant took retaliatory adverse action against Charging Party, including but not
11 limited to filing a retaliatory civil defamation claim against Charging Party; refusing to
12 pay Charging Party's back wages and benefits following her reinstatement to
13 employment despite a labor arbitrator's order to do so; subjecting Charging Party to
14 retaliatory disciplinary action; and circulating copies of Charging Party's charges of
15 discrimination to her coworkers, thereby attempting to isolate Charging Party and chill
16 other employees from supporting her in her discrimination complaints.

17 14. The effect of the actions complained of in paragraph 13 above has been to
18 deprive Charging Party of equal employment opportunities and otherwise adversely
19 affect her status as an employee because of her protected activity.

20 15. The unlawful employment practices complained of in paragraph 13 above
21 were intentional.

22 16. The unlawful employment practices complained of in paragraph 13 above
23 were done with malice or with reckless indifference to the federally protected rights of
24 Charging Party.

25 **PRAYER FOR RELIEF**

26 Wherefore, the Commission respectfully requests that this Court:

27 A. Grant a permanent injunction enjoining Defendant, its officers, successors,
28 assigns, and all persons acting in concert or participation with it, from engaging in

1 discrimination based on race/national origin and retaliation against its employees.

2 B. Order Defendant to institute and carry out policies, practices, and
3 programs which prohibit race/national origin discrimination, including harassment,
4 and retaliation, and which eradicate the effects of its unlawful employment practices.

5 C. Order Defendant to make whole Charging Party by providing appropriate
6 back pay and benefits with prejudgment interest, and other affirmative relief necessary
7 to eradicate the effects of its unlawful employment practices, in amounts to be
8 determined at trial.

9 D. Order Defendant to make whole Charging Party by providing
10 compensation for past and future pecuniary losses resulting from the unlawful
11 employment practices complained of above, including but not limited to such out-of-
12 pocket expenses as medical care necessitated by Defendant's unlawful conduct, in
13 amounts to be determined at trial.

14 E. Order Defendant to make whole Charging Party by providing
15 compensation for past and future nonpecuniary losses resulting from the unlawful
16 practices complained of above including, but not limited to emotional pain and
17 suffering, inconvenience, loss of enjoyment of life and humiliation, in amounts to be
18 determined at trial.

19 F. Order Defendant to pay Charging Party punitive damages for the
20 malicious and reckless conduct described above, in amounts to be determined at trial.

21 G. Grant such further relief as the Court may deem just and proper in the
22 public interest.

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H. Award the Commission its costs of this action.

DEMAND FOR JURY TRIAL

Pursuant to the provisions of Federal Rule of Civil Procedure 38(b), Plaintiff hereby demands a jury trial.

P. David Lopez
General Counsel

JAMES L. LEE
Deputy General Counsel

GWENDOLYN YOUNG REAMS
Associate General Counsel

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION
Office of the General Counsel
Washington, DC 20507

Dated: September 30, 2013

/S/ William R. Tamayo
WILLIAM R. TAMAYO
Regional Attorney

Dated: September 30, 2013

Jonathan T. Peck
JONATHAN PECK
Supervisory Trial Attorney

Dated: September 30, 2013

Cindy O'Hara
CINDY O'HARA
Senior Trial Attorney

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CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DEFENDANTS
PETERS' BAKERY

(b) County of Residence of First Listed Plaintiff
(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant Santa Clara County
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

(c) Attorneys (Firm Name, Address, and Telephone Number)
Cindy O'Hara, Senior Trial Attorney
Equal Employment Opportunity Commission -San Francisco District Office
350 The Embarcadero, Suite 500
San Francisco, California 94105

Attorneys (If Known)

HRL

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
- 2 U.S. Government Defendant
- 3 Federal Question (U.S. Government Not a Party)
- 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | | | | | |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| | PTF | DEF | | PTF | DEF |
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE	LABOR	PROPERTY RIGHTS	OTHER
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY	CIVIL RIGHTS	PERSONAL PETITIONS	IMMIGRATION	ADULTERATION SUITS	
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input checked="" type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities Employment <input type="checkbox"/> 446 Amer. w/Disabilities Other <input type="checkbox"/> 448 Education	Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	<input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding
- 2 Removed from State Court
- 3 Remanded from Appellate Court
- 4 Reinstated or Reopened
- 5 Transferred from Another District (specify)
- 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e et seq.
Brief description of cause:
National Origin/Race Discrimination and Retaliation

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ CHECK YES only if demanded in complaint: JURY DEMAND: X Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE DOCKET NUMBER

IX. DIVISIONAL ASSIGNMENT (Civil L.R. 3-2)

(Place an "X" in One Box Only) SAN FRANCISCO/OAKLAND SAN JOSE EUREKA

DATE SIGNATURE OF ATTORNEY OF RECORD

September 30, 2013

[Handwritten Signature]