



his charge, Perez alleged, *inter alia*, that he had been discriminated against and harassed based on national origin (Hispanic/Puerto Rican) by his supervisors and coworkers and that he was retaliated against because he engaged in activity protected under Title VII. Mr. Perez also alleged that similarly-situated employees also were discriminated against and harassed based on national origin. Pursuant to Section 706 of Title VII, the EEOC investigated the charge, found reasonable cause to believe that Perez and a class of similarly-situated individuals were discriminated against and harassed based on national origin, and that Perez was subjected to retaliation in violation of Title VII.

6. The EEOC attempted unsuccessfully to achieve through conciliation a voluntary resolution of the charge, and subsequently referred the matter to the Department of Justice.

7. All conditions precedent to the filing of suit have been performed or have occurred.

**FACTUAL ALLEGATIONS**

8. Perez was hired by RPA as a part-time utility worker in December 2005 and transferred to the maintenance department as a part-time maintenance worker in March 2006.

9. While employed as a part-time maintenance worker, Perez was directly supervised by Richard Knepp, who reported to Lawrence Lee.

10. From at least June 2007 to August 2008, when he was placed on full-time workers' compensation status, Perez was discriminated against and harassed based on national origin by coworkers and supervisors. The discrimination and harassment was regular and routine, and often occurred several times a week.

11. From at least June 2007 to at least August 2008, similarly-situated current and former RPA employees were also discriminated against and harassed based on national origin by

coworkers and supervisors. The discrimination and harassment was regular and routine, and often occurred several times a week.

12. From at least June 2007 to August 2008, Perez and similarly-situated employees were referred to by coworkers and supervisors as “spics,” “wetbacks,” “grease monkeys,” “cock roaches,” “dumb Puerto Ricans,” and the “N” word.

13. Derogatory and offensive comments continued against similarly-situated employees after Perez’s departure from RPA in August 2008. For example, in June 2012, a worker stated, “there are a bunch of Mexicans working there [RPA] now. Now we got a shit load of cockroaches working here now.”

14. Some other specific examples of the discrimination and harassment against Perez include the following: (a) In approximately June 2007, a coworker pointed his fingers at Perez in the shape of a gun and said “bang, I just killed your spic ass.” (b) In or around November 2007, this same coworker said to Perez, “All you fuckin’ spics should be tied behind cars and drag around by their fuckin’ necks.” (c) In approximately August 2007, a coworker stated to Perez, “all the Puerto Ricans should be hung and dragged by the neck so that everyone can see.” (d) In approximately March 2008, a coworker yelled at Perez, calling him a spic and threatening him physically. (e) During the relevant time period, a supervisor told Perez that “Hispanic women like to have sex in the garage and throw their condoms out.”

15. Some other specific examples of the discrimination and harassment against similarly-situated employees include the following: (a) In February 2008, a coworker stated to a similarly-situated employee that he was a “fuckin’ spic,” and that “she was going to call immigration to have him shipped back to Cuba, where there you can pick fruits and sell them by the highway, where you have your car pulled by horses.” (b) During the relevant time period, a

coworker stated to a similarly-situated employee, who was married to a Hispanic woman, that “while he is working his wife is having multiple sexual intercourse because those spics can’t keep their legs closed.” (c) During the relevant time period, a coworker stated to a similarly-situated employee that he was going to “kill you and your spic kid.” (d) During the relevant time period, a supervisor told a similarly-situated worker, “It’s the first of the month; the Puerto Ricans must be at the welfare office.” (e) During the relevant time period, a supervisor was present and laughed when a coworker stated “if you put spic lover with me, I am going to put him on the roof and throw him off the garage.”

16. During the relevant time period, Perez also was subjected to harassing conduct that resulted in physical harm to Perez and his property. For example, in June 2008, Perez severely injured his back after an incident in which he alleges that his coworkers placed cement in a garbage receptacle that he was scheduled to empty. Also, during the relevant time period, Perez’s car tires were slashed while he was on duty and parked in an RPA garage.

17. During the relevant time period, Perez and similarly-situated employees also were treated differently than coworkers of a different national origin. For example, Perez was denied three days of bereavement leave to attend his father’s funeral, as permitted under the collective bargaining agreement, while a white coworker was permitted such leave to attend his grandfather’s funeral.

18. On numerous occasions from June 2007 to at least August 2008, Perez and similarly-situated employees complained about national origin discrimination and harassment to several RPA supervisors, including Knepp and Lee.

19. Despite the repeated complaints by Perez and similarly-situated employees, RPA supervisors failed to sufficiently investigate the allegations and failed to take prompt and appropriate remedial action to prevent or correct further discrimination and harassment.

20. After Perez complained about national origin discrimination and harassment to RPA supervisors in late 2007, Perez was disciplined for “insubordination.” In the written reprimand, his supervisor explained that Perez was receiving discipline in response to his complaints of discrimination and harassment based on national origin – Hispanic/Puerto Rican – because such complaints were offensive to his coworkers. This written reprimand was considered by RPA supervisors in denying Perez a promotion from part-time to full-time status in 2007 and 2008.

21. Perez and similarly-situated employees suffered emotional distress as a result of the ongoing discrimination, harassment, and retaliation which they endured while employed by RPA.

## **TITLE VII VIOLATIONS**

### **COUNT I**

#### **Title VII, 42 U.S.C. § 2000e-2(a)** **Hostile Work Environment Based on National Origin** **Against Perez and Similarly-Situated Employees**

22. Plaintiff re-alleges and incorporates by reference the allegations set forth in paragraphs 1-21, above.

23. Perez and similarly-situated employees were discriminated against and harassed based on national origin by supervisors and coworkers.

24. The discriminatory statements, threats, and conduct were unwelcome, sufficiently severe or pervasive, detrimentally affected Perez and similarly-situated employees, were viewed

as subjectively hostile and abusive by Perez and similarly-situated employees, and would be viewed as objectively hostile and abusive to a reasonable person.

25. Perez and similarly-situated employees complained numerous times to RPA supervisors about the discrimination and harassment, and RPA had actual or constructive knowledge of the ongoing discrimination and harassment.

26. RPA failed to take prompt and appropriate remedial action to prevent or correct further discrimination and harassment of Perez and similarly-situated employees.

27. RPA discriminated against Perez and similarly-situated employees on the basis of national origin in violation of Section 703(a) of Title VII, 42 U.S.C. § 2000e-2(a).

COUNT II  
Title VII, 42 U.S. C. § 2000e-3(a)  
Retaliation Against Perez for Engaging in Protected Activity

28. Plaintiff re-alleges and incorporates by reference the allegations set forth in paragraphs 1-27, above.

29. Perez engaged in protected activity when he complained about discrimination and harassment based on national origin.

30. In retaliation for Perez's complaints, RPA disciplined him, and this written reprimand was considered in denying him a promotion.

31. There was a causal connection between Perez's complaints and the materially adverse actions taken against Perez by RPA.

32. The retaliation endured by Perez would dissuade a reasonable employee from making complaints of discrimination and harassment.

33. RPA retaliated against Perez for engaging in protected activity in violation of Section 704(a) of Title VII, 42 U.S.C. § 2000e-3(a).

### **PRAYER FOR RELIEF**

WHEREFORE, the United States prays that the Court grant the following relief:

- (a) Enjoin Defendant RPA from:
  - (i) subjecting employees to discrimination and harassment based on national origin; and
  - (ii) retaliating against employees who engage in activity protected under Title VII;
- (b) Order Defendant RPA to develop and implement appropriate and effective measures designed to prevent discrimination, harassment, and retaliation, including but not limited to policies and training for employees and managers;
- (c) Order Defendant RPA to develop appropriate and effective measures to receive complaints of discrimination, harassment, and retaliation as well as a process for investigating such complaints;
- (d) Award compensatory damages to Perez and similarly-situated employees to fully compensate them for their injuries caused by Defendant RPA's discriminatory, harassing, and retaliatory conduct, pursuant to and within the statutory limitations of Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981a; and
- (e) Award such additional relief as justice may require, together with the United States' costs and disbursements in this action.

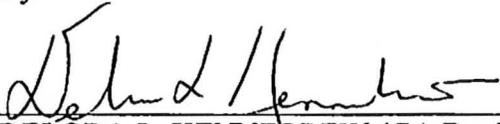
### **JURY DEMAND**

The United States hereby demands a trial by jury of all issues so triable pursuant to Rule 38 of the Federal Rules of Civil Procedure and Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981(a).

Dated: June 27, 2013

THOMAS E. PEREZ  
Assistant Attorney General  
Civil Rights Division

By:



DELORA L. KENNEBREW (GA Bar No. 414320)  
Chief  
Employment Litigation Section  
Civil Rights Division



LOUIS LOPEZ (DC Bar No. 461662)  
Deputy Chief  
LORI B. KISCH (DC Bar No. 491282)  
Senior Trial Attorney  
Employment Litigation Section  
Civil Rights Division  
United States Department of Justice  
601 D Street, NW  
Patrick Henry Building, Room 4924  
Washington, DC 20579  
(202) 305-4422  
(202) 514-1105 (fax)