

FILED  
HARRISBURG, PA

APR 30 2013

MARY E. MANDREA, CLERK  
Deputy Clerk

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF PENNSYLVANIA

Edwin Perea

Plaintiff

Civil Action – Law

v.

No. : ~~1-00-CV-~~ 1:13-CV-1158

Amazon.com Inc.

Defendant

Honorable Judge Jones

JURY TRIAL DEMANDED

**COMPLAINT**

NOW COMES the Plaintiff, Edwin Perea, by and through his attorneys, Charles E. Ganley, Esquire, and GANLEY LAW OFFICES, and hereby complains of the Defendant as follows:

**I. INTRODUCTION**

1.

This action is brought to remedy discrimination on the basis of National Origin in Violation of Title VII of the Civil Rights Act of 1964, 42 U.S.C. Section 2000e *et seq.*, (hereinafter Title VII) and discrimination based on ancestry in violation of Section 5(a) of the Pennsylvania Human Relations Act, 43 P.S. 951-963 (hereinafter PHRA).

## II. JURISDICTION and VENUE

2.

Plaintiff timely filed a Complaint with the Pennsylvania Human Relations Commission (PHRC) which was dually-filed with the Equal Employment Opportunity Commission (EEOC).

3.

More than one year has elapsed since the filing of his initial charge of discrimination and the Equal Employment Opportunity Commission (EEOC) has issued a notice, dated February 13, 2013, informing the Plaintiff of his right to sue the Defendant in either State or Federal Court. Said copy of the Equal Employment Opportunity Commission's Right to Sue Letter is marked as Exhibit "A", attached hereto and incorporated herein by reference.

4.

All unlawful employment practices alleged in this Complaint were committed in Cumberland County, Pennsylvania and, therefore, venue is proper in this Honorable Court.

5.

Amazon.com Inc., (hereinafter referred to as Defendant) employs more than fifteen (15) persons and is, therefore, an "employer" within the meaning of both Title VII and the PHRA.

### **III. PARTIES**

6.

The Plaintiff, Edwin Perea, (hereinafter Plaintiff) is a *sui juris* adult individual who maintains his residence at 1582 Holly Springs, Carlisle, Pennsylvania, 17013, in Cumberland County, Pennsylvania.

7.

Defendant is believed to be a Washington Corporation with its principal place of business believed to be at 410 Terry Avenue North Seattle, Washington 98109 and conducting business in Pennsylvania at Amazon.com Inc. 21 Roadway Drive, Carlisle, Pennsylvania 17015.

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### **IV. STATEMENT OF FACTS**

8.

Paragraphs 1 through 7 are incorporated herein by reference as if each had been set forth in full hereunder.

9.

Defendant operates a large distribution center and warehouse in Carlisle, Pennsylvania.

10.

Plaintiff started working with the Defendant on or about June 2008 as a picker/packer through a temporary employment agency.

11.

Thereafter, he was hired as a full time permanent employee on or about July 2010.

12.

His job duties as a picker/packer included lifting and packing orders manually or onto forklifts and clamp trucks and then transporting the product.

13.

Plaintiff was an “ambassador”, therefore he trained new employees in the picker/packer area.

14.

On August 18, 2011, after work, Plaintiff and some of his co-worker’s went to a Restaurant/Bar.

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15.

Thereafter, Plaintiff and his co-workers went to another location where they happened to meet, Ricky Scott, another co-worker.

16.

On August 19, 2011, Plaintiff was given a ride home by co-worker Ricky Scott.

17.

As Plaintiff was exiting the vehicle, Mr. Scott inexplicably commented: “you spics need to learn how to hold your liquor”.

18.

The building manager, Amanda Barbour, saw what was happening and told Mr. Scott she was going to call the police.

19.

Ms. Barber then attempted to get Mr. Scott's license plate number, Mr. Scott backed up, almost running into Ms. Barbour, and quickly sped away.

20.

Plaintiff did not go to work on August 19, 2011 and properly called off and was excused.

21.

Later that same day Plaintiff went to Defendant's location to pick up his check.

22.

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When he arrived he was inexplicitly met at the door by Defendant's Human Resources Director, Dan Lane, who told Plaintiff that he was not allowed into the building and was taken to the temporary employment agency building on site.

23.

Once there Mr. Lane asked Plaintiff to fill out an altercation report but, Plaintiff refused saying he was not hurt and that the incident did not happen at work.

24.

While Plaintiff was being interviewed about the incident, he told them about the eye witness, Ms. Barbour, but they did not write any of this information down.

25.

Plaintiff eventually filled out an incident report under the threat of being terminated from his job if he did not do so.

26.

During the meeting with the Human Resources Director and other Defendant Representatives via conference call, Plaintiff asked about his “background” such as: if he “owns a gun” or “hunts”, if he fights as an “MMA [Mixed Martial Arts] fighter”, what his hobbies are, and “where he is from”.

27.

Plaintiff had never previously received any performance reviews or write ups.

28.

As a result of the aforementioned events, Plaintiff who is Puerto Rican was terminated from his position with the Defendant while Mr. Scott, a Caucasian American was not.

29.

Mr. Scott, Caucasian believed to be of American National Origin and Ancestry, was allegedly treated more favorably than Mr. Perea and was not subject to termination of his employment an alteration, not at the workplace not in the course and scope of employment, and one in which both parties were admittedly involved.

30.

Plaintiff was told the sole reason he was terminated is because of the off premises, off the clock altercation he had with his co-worker, Mr. Scott.

### **COUNT I**

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### **DISCRIMINATION BASED UPON NATIONAL ORIGIN**

Paragraphs 9 through 30 are incorporated herein by reference as if each had been set forth in full hereunder.

31.

Title VII of the Civil Rights Act of 1964, 42 U.S.C. section 2000(e) et. Seq. prohibits discrimination in the hiring, promotion, discharge, pay, fringe benefits, job training, classification, referral, or other aspects of employment on the basis, *inter alia*, national origin 42 U.S.C. section 2000 et. Seq.

32.

In this case, Plaintiff who is of Puerto Rican National Origin and Ancestry was discriminated against in favor of a Caucasian American co-worker.

33.

Defendant terminated Plaintiff's employment based upon an altercation that took place outside of work, outside of Plaintiff's home.

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34.

Neither Employee was working at the time of the altercation.

35.

Said altercation did not take place on the premises of the Defendant.

36.

Yet for engaging in this same act, Plaintiff's employment was terminated while his White Caucasian co-worker remains employed by the Defendant.

37.

He was terminated despite no prior verbal or written warnings.

38.

There is no legal justification for this disparate treatment.

39.

Plaintiff was qualified for the position having effectively served as a trainer for new employees in the picker/packer section.

40.

Plaintiff sustained the ultimate adverse job action, i.e. termination from his job, as opposed to Mr. Scott, who continues his employment with Defendant.

41.

Mr. Scott, who is not in the protected class, was treated more favorable than was the Plaintiff.

42.

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It is on information and belief that Plaintiff was replaced by an individual not in the protected class.

43.

As a direct and proximate result of this illegal discriminatory conduct by the Defendant, Plaintiff has been harmed and damaged and has and will continue to lose benefits of employment such as lost earnings, lost employment benefits, and non-economic damages in the form of embarrassment and humiliation.

**COUNT II**

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**VIOLATION OF THE PENNSYLVANIA HUMAN RELATIONS ACT  
(State Claim) 43 P.S. § 951 *et. seq.*  
DISCRIMINATION BASED UPON ANCESTRY**

Paragraphs 9 through 43 are incorporated herein by reference as if each had been set forth in full hereunder.

44.

The Pennsylvania Human Relations Act, 43 P.S. § 955(a). Title VII of the Civil Rights Act of 1964, 42 U.S.C. section 2000(e) et. Sq. prohibits discrimination in the hiring, promotion, discharge, pay, fringe benefits, job training, classification, referral, or other aspects of employment on the basis, *inter alia*, national origin 42 U.S.C. section 2000 et. Seq.

45.

Plaintiff is of Puerto Rican Ancestry.

46.

Defendant violated the PHRA when it discriminated and discharged Plaintiff in favor of a Caucasian American co-worker.

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47.

There is no legal justification for this disparate treatment.

48.

As a direct and proximate result of this illegal discriminatory conduct by the Defendant, Plaintiff has been harmed and damaged and has and will continue to lose benefits of employment such as lost earnings, lost employment benefits, and non-economic damages in the form of embarrassment and humiliation.

#### PRAYER FOR RELIEF

WHEREFORE, the Plaintiff respectfully requests that this Honorable Court enter a judgment in the Plaintiff's favor and against the Defendants as follows:

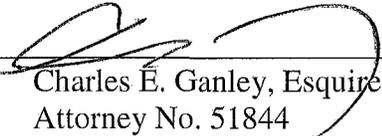
- A. Declare that the above conduct of the Defendants constitutes a discrimination based upon Plaintiff's national origin and specifically harassment under Title VII of the Civil Rights Act of 1964.
- B. Declare that the above alleged acts of Defendants constitute ancestry discrimination in violation of the Pennsylvania Human Relations Act.
- C. Award damages for all discriminatory acts, including back pay, and loss of employment opportunities for future pay. These damages shall be proven at trial.
- D. Award Plaintiff compensatory damages sustained as a result of emotional distress, including damages for mental anguish, emotional pain and suffering, and damages for physical pain and suffering and loss of enjoyment of life, as a result of the Defendant's acts. These damages shall be proven at the time of trial.
- E. Award Plaintiff punitive damages as a result of the outrageous and extreme conduct of Defendant.
- F. Award a reasonable attorney's fee and costs.
- G. Award other just and equitable relief as the court deems fit, including pre-judgment interest.

Respectfully submitted,

GANLEY LAW OFFICES

Date: 4.30.2013

By

  
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Charles E. Ganley, Esquire  
Attorney No. 51844  
1809 East Main Street  
Waynesboro, PA 17268  
(717) 765-8283  
Attorney for Plaintiff

**VERIFICATION**

I, Edwin Perea, state that I have reviewed the foregoing Complaint, and that the statements of fact contained therein are true to the best of my information, knowledge and belief. I understand that false statements herein are made subject to the penalties of 19 Pa. C.S. Section 4904, relating to unsworn falsification to authorities.

Date: 4/30/2013

  
Edwin Perea

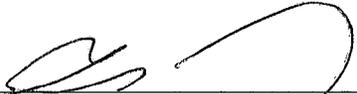
**CERTIFICATE OF SERVICE**

I, Charles E. Ganley, attorney for the Plaintiff, hereby certify that on this 30th day of April, 2013, I served a true copy of the foregoing *COMPLAINT*, upon the Defendant at the following address, by depositing same in the United States mail, First Class, postage prepaid:

Amazon.com  
21 Roadway Dr.  
Carlisle, PA 17015

Karen P. Gaster, Esq.  
Rubin, Fortunato & Harbison, P.C.  
10 South Leopard Road  
Paoli, PA 19301

Date: 4.30.2013

  
\_\_\_\_\_  
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Attorney for Plaintiff