

1 Victor Viramontes (SBN 214158)
2 Martha L. Gómez (SBN 274024)
3 MEXICAN AMERICAN LEGAL DEFENSE
4 AND EDUCATIONAL FUND
5 634 S. Spring Street, 11th Floor
6 Los Angeles, CA 90014
7 Telephone: (213) 629-2512
8 Facsimile: (213) 629-0266
9 Email: vviramontes@maldef.org
10 mgomez@maldef.org

11 *Attorneys for Plaintiffs*

12 SUPERIOR COURT OF THE STATE OF CALIFORNIA
13 FOR THE COUNTY OF LOS ANGELES

14 IRMA ESPINOZA, an individual; JOSE
15 AGUILAR, an individual; ROBERTO CASTRO,
16 an individual; MARIA DUARTE, an individual;
17 ERIKA GALLO, an individual; ANA GOMEZ, an
18 individual; JUAN HERRERA, an individual;
19 ROSA MACIAS, an individual; MARIA
20 MARTINEZ, an individual; ROBERTO
21 MAYORGA, an individual; OLGA MENDOZA, an
22 individual person; EZEQUIEL MUNIZ, an
23 individual; CESAR PICHARDO, an individual;
24 ELVIRA SANCHEZ, an individual;

25 Plaintiffs,

26 vs.

27 GATE GOURMET, INC., and DOES 1 to 10,
28 inclusive,

Defendants.

CONFIRMED COPY
ORIGINAL FILED
Superior Court Of California
County Of Los Angeles

MAY 07 2015

Sherri R. Carter, Executive Officer/Clerk
By: Judi Lara, Deputy

Case No. **BC 5 8 1 1 2 1**

COMPLAINT FOR DAMAGES

- (1) Unlawful Workplace Language Policy [Cal. Gov. Code § 12951]
- (2) National Origin Discrimination [Cal. Gov. Code §§ 12900 *et seq.*]
- (3) Harassment [Cal. Gov. Code § 12940(j)]
- (4) Failure to Prevent Discrimination and Harassment [Cal. Gov. Code § 12940(k)]
- (5) Unfair and Unlawful Business Practices [Cal. Bus. & Prof. Code §§ 17200 *et seq.*]

DEMAND FOR JURY TRIAL

Judge:
Dept:

1 Plaintiffs Irma Espinoza, Jose Aguilar, Roberto Castro, Maria Duarte, Erika Gallo, Ana Gomez,
2 Juan Herrera, Rosa Macias, Maria Martinez, Roberto Mayorga, Olga Mendoza, Ezequiel Muniz, Cesar
3 Pichardo, and Elvira Sanchez (“Plaintiffs”) complain and allege as follows:

4 **INTRODUCTION**

5 1. This action is brought to remedy the unlawful discrimination that Plaintiffs experienced
6 as employees of Gate Gourmet, Inc. (“Gate Gourmet”).

7 2. Plaintiffs seek damages from Gate Gourmet for its violations under the Fair
8 Employment and Housing Act (“FEHA”), including (1) an unlawful workplace language policy, (2)
9 national origin discrimination, (3) harassment, (4) failure to prevent discrimination and harassment;
10 and for (5) unfair and unlawful business practices in violation of the California Business and
11 Professions Code §§ 17200 *et seq.*

12 **JURISDICTION AND VENUE**

13 3. Jurisdiction and venue are proper in this Court because all of the claims alleged here
14 arose in Los Angeles County, and Gate Gourmet, a corporation, does substantial business in California
15 and has a place of business in Los Angeles, California, in this District.

16 4. The amount in controversy is within the jurisdiction of this Court.

17 **PARTIES**

18 5. Plaintiff Jose Aguilar, a resident of Los Angeles County, is Latino and speaks Spanish
19 as his primary language. Gate Gourmet employed him in May 2014, and he is currently employed by
20 Gate Gourmet.

21 6. Plaintiff Roberto Castro, a resident of Los Angeles County, is Latino and speaks
22 Spanish as his primary language. Gate Gourmet employed him in May 2014, and he is currently
23 employed by Gate Gourmet.

24 7. Plaintiff Maria Duarte, a resident of Los Angeles County, is Latina and speaks Spanish
25 as her primary language. Gate Gourmet employed her in May 2014, and she is currently employed by
26 Gate Gourmet.

1 8. Plaintiff Irma Espinoza, a resident of Los Angeles County, is Latina and speaks Spanish
2 as her primary language. Gate Gourmet employed her in May 2014, and she is currently employed by
3 Gate Gourmet.

4 9. Plaintiff Erika Gallo, a resident of Los Angeles County, is Latina and speaks Spanish as
5 her primary language. Gate Gourmet employed her in May 2014, and she is currently employed by
6 Gate Gourmet.

7 10. Plaintiff Ana Gomez, a resident of Los Angeles County, is Latina and speaks Spanish as
8 her primary language. Gate Gourmet employed her in May 2014, and she is currently employed by
9 Gate Gourmet.

10 11. Plaintiff Juan Herrera, a resident of Los Angeles County, is Latino and speaks Spanish
11 as his primary language. Gate Gourmet employed him in May 2014, and he is currently employed by
12 Gate Gourmet.

13 12. Plaintiff Rosa Macias, a resident of Los Angeles County, is Latina and speaks Spanish
14 as her primary language. Gate Gourmet employed her in May 2014, and she is currently employed by
15 Gate Gourmet.

16 13. Plaintiff Maria Martinez, a resident of Los Angeles County, is Latina and speaks
17 Spanish as her primary language. Gate Gourmet employed her in May 2014, and she is currently
18 employed by Gate Gourmet.

19 14. Plaintiff Roberto Mayorga, a resident of Los Angeles County, is Latino and speaks
20 Spanish as his primary language. Gate Gourmet employed him in May 2014, and he is currently
21 employed by Gate Gourmet.

22 15. Plaintiff Olga Mendoza, a resident of Los Angeles County, is Latina and speaks Spanish
23 as her primary language. Gate Gourmet employed her in May 2014, and she is currently employed by
24 Gate Gourmet.

25 16. Plaintiff Ezequiel Muniz, a resident of Los Angeles County, is Latino. Gate Gourmet
26 employed him in May 2014, and he is currently employed by Gate Gourmet.

1 dispatch operators, among others. Collectively, Plaintiffs and other employees ensure that airplanes
2 are properly cleaned and restocked between flights. In order to complete their responsibilities
3 promptly and successfully, Plaintiffs and other employees communicate with each other throughout the
4 day, either in person or via radio. Plaintiffs' duties are routine and repetitive in nature.

5 26. Plaintiffs are all of Latino national origin.

6 27. All Plaintiffs speak Spanish as their native language.

7 28. Most Plaintiffs do not speak English and/or have limited proficiency in English. The
8 few Plaintiffs that are English proficient must speak Spanish to communicate with employees who
9 have limited English proficiency.

10 29. Prior to May 15, 2014, Plaintiffs worked for various contractors, including G2 Secure
11 Staff Services ("G2 Services") and World Service West ("World Services"), doing the same duties that
12 they now perform for Gate Gourmet. Under these previous employers, Plaintiffs successfully
13 completed the same job duties in Spanish, some for up to 10 years.

14 30. On information and belief, on May 15, 2015, Gate Gourmet became the new third party
15 contractor for Delta Airlines. At that point, Plaintiffs became new employees of Gate Gourmet, but in
16 practice their jobs remained the same.

17 31. Since about May 15, 2014, Gate Gourmet's swing shift¹ manager, Silvana Jahshan,
18 instituted an "English only" and "No Spanish" policy, prohibiting employees from speaking Spanish
19 and requiring employees to speak English during the swing shift. Gate Gourmet's policy prohibits
20 employees from speaking Spanish at all times. Gate Gourmet's language policy requires Plaintiffs and
21 employees who do not speak English to go without speaking during a workday. Gate Gourmet's
22 policy prohibits bilingual employees from speaking in Spanish to employees who only speak Spanish.

23 32. Gate Gourmet did not notify its employees of the consequence for violating the
24 language restriction.

25
26
27 ¹ The swing shift, also referred to as the evening shift, is approximately from 2 p.m. to 11 p.m. Some
28 morning and night shift employees, including but not limited to those who work overtime, overlap
with the swing shift.

1 33. In briefings, Ms. Jahshan cautioned all Plaintiffs to not speak Spanish and to only speak
2 English. Via the radio, Ms. Jahshan cautioned all Plaintiffs not to speak Spanish and to only speak
3 English.

4 34. Ms. Jahshan intimidated, harassed, and threatened Plaintiffs for speaking Spanish. Ms.
5 Jahshan monitored and scrutinized the work of Plaintiffs because of their Spanish language usage and
6 Latino national origin. Ms. Jahshan unfairly scrutinized and subjected Plaintiffs to unfair terms and
7 conditions because of their Latino national origin.

8 35. Plaintiffs who only speak Spanish are too afraid to speak whatsoever due to fear of
9 discrimination, harassment, humiliation, and discipline. Bilingual employees are afraid to
10 communicate with their colleagues who only speak Spanish due to fear of discrimination, harassment,
11 humiliation, and discipline.

12 36. Gate Gourmet does not have a legitimate business necessity for instituting an English
13 only policy during the swing shift.

14 37. Gate Gourmet did not impose any language restrictions on its morning or night shift
15 employees. Monolingual and bilingual Spanish speaking employees in the morning and night shift
16 successfully perform the same job duties as Plaintiffs in the swing shift while speaking Spanish. The
17 morning and night shift crews have the same duties as the Plaintiffs in the swing shift.

18 38. Even if Gate Gourmet could establish a legitimate business necessity for instituting an
19 English only policy, less discriminatory alternatives exist. The morning and night shift have a
20 bilingual dispatch that communicates to employees in English or Spanish, depending on that
21 employee's language ability. The swing shift could do the same, particularly as the dispatch workers
22 are already bilingual. Even if the dispatch workers were not bilingual, Gate Gourmet could easily hire
23 a bilingual dispatch worker.

24 39. Plaintiffs complained to Gate Gourmet's human resources and higher management
25 about Ms. Jahshan's discrimination, harassment, and the unlawful treatment that Plaintiffs suffered, but
26 they did not take any action whatsoever to correct the discrimination, harassment, and unlawful
27 treatment.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

SECOND CAUSE OF ACTION
National Origin Discrimination in
Violation of Cal. Gov. Code § 12900 *et seq.*

50. Plaintiffs reallege and incorporate by reference all previous allegations.

51. Plaintiffs are and were, at all material times, of Latino/Hispanic origin and therefore protected under FEHA.

52. Gate Gourmet, at all material times, is and was an employer subject to FEHA requirements and had a duty under FEHA to not discriminate against Plaintiffs based on their national origin.

53. In violation of their duty, Gate Gourmet intentionally discriminated against Plaintiffs because of their Latino national origin and treated Plaintiffs less favorably than similarly situated non-Latino employees. Gate Gourmet's unlawful employment practices also had a disparate impact on Plaintiffs.

54. As a result of Gate Gourmet's discrimination, Plaintiffs have suffered damages, including economic losses and emotional distress, in an amount to be determined at trial.

55. Gate Gourmet's actions were willful, malicious, fraudulent, and oppressive, and were committed with the wrongful intent to injure the Plaintiffs and in conscious disregard of Plaintiffs' rights.

THIRD CAUSE OF ACTION
Harassment in Violation of Cal. Gov. Code § 12940(j)

56. Plaintiffs reallege and incorporate by reference all previous allegations.

57. Gate Gourmet routinely subjected Plaintiffs to a pattern of abusive conduct because of their Latino national origin. Gate Gourmet engaged in the heightened scrutiny and threats described in preceding paragraphs with the intent of harassing Plaintiffs on account of their Latino national origin. Gate Gourmet's harassment of Plaintiffs was sufficiently pervasive and severe to alter the conditions of their employment.

58. As a result of Gate Gourmet's harassment, Plaintiffs have suffered damages, including economic losses and emotional distress, in an amount to be determined at trial.

1 68. Gate Gourmet's conduct as alleged here has been and continues to be deleterious to
2 Plaintiffs and to the general public.

3 69. Plaintiffs are "person[s]" within the meaning of Business and Professions Code §17201,
4 and therefore have standing to bring this suit for injunctive relief.

5 70. Beginning on or about May 15, 2014, Gate Gourmet committed unlawful acts as
6 defined by California Business and Professions Code §§17200 *et seq.* Gate Gourmet's unlawful and
7 unfair business practices include, but are not necessarily limited to, FEHA violations.

8 71. The victims of Gate Gourmet's unfair and/or unlawful business practices, include, but
9 are not limited to Plaintiffs, other employees, competing businesses in the State of California, and the
10 general public. By means of its unfair and unlawful practices, Gate Gourmet has gained an unfair
11 competitive advantage over other employers that act in compliance with FEHA.

12 72. Under Business and Professions Code § 17203, injunctive relief is necessary to prevent
13 Gate Gourmet from continuing to engage in unfair and unlawful business practices as alleged here.
14 Gate Gourmet has done, is doing, and will continue the above-described illegal and unfair acts unless
15 restrained or enjoined by this Court. Unless the relief prayed for below is granted, a multiplicity of
16 actions will result. Plaintiffs have no plain, speedy, or adequate remedy at law, in that pecuniary
17 compensation alone would not afford adequate and complete relief. The above-described acts will
18 continue to cause great and irreparable damage to Plaintiffs and the general public unless Defendants
19 are restrained from committing further illegal acts.

20 73. Monetary damages alone will not compel Gate Gourmet to cease from engaging in the
21 unfair and unlawful business practices described in this action. The benefit to the public good, as well
22 as to Plaintiffs, far outweighs any inconvenience to Gate Gourmet of ceasing to engage in these unfair
23 and unlawful business practices.

24 74. Business and Professions Code § 17203 also provides that the Court may restore to an
25 aggrieved party any money or property acquired by means of unlawful or unfair business practices.
26 Therefore, Plaintiffs request attorney's fees and costs pursuant to Code of Civil Procedure § 1021.5
27 upon proof that Plaintiffs seek to enforce important rights affecting the public interest. All remedies
28 are cumulative under Business and Professions Code § 17205.

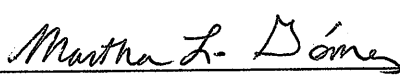
1 84. For reasonable attorneys' fees incurred in this action on those causes of action for which
2 such fees are recoverable under the law;

3 85. For costs of suit incurred in this action; and

4 86. For such other and further relief as the Court deems proper and just.

5
6 Dated: May 7, 2015

MEXICAN AMERICAN LEGAL DEFENSE AND
EDUCATION FUND, INC.

7
8 
9

Martha L. Gómez

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
Attorney for Plaintiffs