

# EXHIBIT A

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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON

ELIAS PEÑA, ISAAH HUTSON, and  
RAY ALANIS

Plaintiffs,

vs.

CLARK COUNTY, WASHINGTON,

Defendant.

Case No. 3:21-cv-5411-MJP

**FIRST AMENDED COMPLAINT  
DEMAND FOR JURY TRIAL**

Action Filed: June 1, 2021

Judge: Hon. Marsha J. Pechman

**INTRODUCTION**

Plaintiffs allege as follows:

1. On an almost weekly basis, Road Maintenance and Safety supervisors and employees in Clark County, Washington’s Department of Public Works direct anti-Latino remarks to Latino roads crew employees, and give non-Latino employees preferential treatment. These actions are racially discriminatory and create a hostile work environment for Latino employees. ELIAS PEÑA, ISAAH HUTSON, and RAY ALANIS (“Plaintiffs”) bring this civil rights action against CLARK COUNTY, WASHINGTON (“Defendant”) for violation of the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution and unlawful employment discrimination on the basis of race and national-origin in violation of Title VII, 42 U.S.C. § 1981, and the Washington Law Against Discrimination. U.S. Const. Amend. XIV; 42 U.S.C. § 2000e *et seq.*; 42 U.S.C. § 1981; RCW 49.60.180(3).

**JURISDICTION AND VENUE**

2. This Court has jurisdiction over this action under 28 U.S.C. §§ 1331, 1343(a), and

1 1367, as well as under 42 U.S.C. §§ 1983 and 1988. Under 28 U.S.C. § 1391(b), venue is proper  
2 because the Parties reside and are located in the Western District of Washington and the events  
3 giving rise to the claims occurred in this district.

4 **PARTIES**

5 **Plaintiffs**

6 3. Plaintiff ELIAS PEÑA is Latino/Hispanic. He resides in the Western District of  
7 Washington and is employed by Defendant.

8 4. Plaintiff ISAAH HUTSON is Latino/Hispanic. He resides in the Western District  
9 of Washington and is employed by Defendant.

10 5. Plaintiff RAY ALANIS is Latino/Hispanic. He resides in the Western District of  
11 Washington and is employed by Defendant.

12 **Defendant**

13 6. Defendant CLARK COUNTY, WASHINGTON (“Defendant” or “County”) is a  
14 political subdivision of the State of Washington. Through its Public Works Department,  
15 Defendant is responsible for building and maintaining infrastructure in the County. The Roads  
16 Maintenance and Safety Division (“Roads Division”) is a subdivision of the Public Works  
17 Department. Plaintiffs work in the Roads Division.

18 **FACTUAL ALLEGATIONS**

19 7. Since at least 2016, Defendant has employed Plaintiffs Elias Peña and Isaiah  
20 Hutson in the Roads Division. Plaintiff Ray Alanis began working in the Roads Division with  
21 Plaintiffs Peña and Hutson in or around mid-2018.

22 8. Roads Division supervisors and employees subject Plaintiffs to anti-Latino and  
23 other racist remarks and conduct, including racial jokes and insults about Latinos and immigrants.  
24 These remarks are oppressive, offensive and create an environment that make it more difficult for  
25 Plaintiffs to do their jobs. For example, Roads Division supervisors and employees have referred  
26 to Latinos as “beaners,” “spics,” and “a cancer.”

27 9. Some anti-Latino remarks and insults have been intertwined with threats of  
28 violence against Latinos and immigrants. Plaintiffs are afraid to work with some Roads Division

1 supervisors and employees who make anti-Latino insults and remarks.

2 10. Roads Division supervisors overly-scrutinize Plaintiffs' work and deny Plaintiffs  
3 compensation and opportunities for additional work because Plaintiffs are Latino. Plaintiffs' non-  
4 Latino colleagues are not subject to the same treatment. Plaintiffs have also had to file  
5 grievances to obtain the same pay non-Latino employees are paid for doing the same or similar  
6 work.

7 11. Roads Division supervisors impose different and stricter time requirements on  
8 Plaintiffs than they do on Plaintiffs' non-Latino counterparts – usually giving non-Latino  
9 employees more time to complete required tasks.

10 12. Roads Division supervisors and employees refer to Plaintiffs as the “landscaping  
11 crew,”<sup>1</sup> “Manuel labor crew,”<sup>2</sup> the “brown crew,” and that Plaintiffs work for their “White slave  
12 master” because they are Latino. These comments belittle and embarrass Plaintiffs in front of  
13 their colleagues because Plaintiffs are Latino and the comments are anti-Latino and directed at the  
14 Plaintiffs.

15 13. Roads Division employees make racial remarks, display derogatory images, and  
16 write insulting messages in public areas that humiliate or demean Latino employees, including  
17 Plaintiffs.

18 14. Plaintiffs' work environment is hostile and abusive.

19 15. Plaintiffs have reported Roads Division supervisors' and employees' anti-Latino  
20 and other derogatory speech and conduct to County supervisors and its human resources  
21 department. However, Defendant has failed to investigate Plaintiffs' complaints, or otherwise  
22 dismisses Plaintiffs' reports about discrimination. Defendant has failed to take reasonably  
23 adequate measures to remedy or eliminate the anti-Latino hostile work environment.

24 16. Roads Division supervisors denied Plaintiff Peña the same process and benefits  
25 afforded to non-Latino employees, such as an opportunity to quarantine after he was exposed to  
26 another Clark County employee who was diagnosed with COVID-19.

27 \_\_\_\_\_  
28 <sup>1</sup> Based on a stereotype that all Latinos are gardeners.

<sup>2</sup> Replacing “manual” with the Spanish name “Manuel.”

1 17. As a result of Roads Divisions supervisors' and employees' anti-Latino remarks,  
2 conduct, and insults, Defendant's inadequate response to Plaintiffs' complaints, and disparate  
3 treatment, Plaintiffs suffer emotional and economic harm.

4 18. Plaintiffs timely exhausted their administrative remedies by cross-filing formal  
5 complaints against Defendant with the Equal Employment Opportunity Commission and the  
6 Washington State Commission for Human Rights.

7 19. Plaintiffs timely exhausted their administrative remedies by submitting the Clark  
8 County Tort Claim Form to Clark County Office of Risk Management.

9 **FIRST CAUSE OF ACTION**

10 **Hostile Work Environment**

11 **Title VII**

12 20. Plaintiffs re-allege and incorporate by reference the allegations set forth in all prior  
13 paragraphs of this Complaint.

14 21. Defendant subjects Plaintiffs to a pattern of discriminatory harassment in the  
15 Roads Division that is sufficiently severe or pervasive to alter the conditions of Plaintiffs'  
16 employment.

17 22. Defendant's employees direct anti-Latino/Hispanic insults, jokes, and comments  
18 to Plaintiffs because of Plaintiffs' race and national-origin.

19 23. Defendant and its supervisors and employees create and perpetrate a racially-  
20 motivated pattern of discriminatory harassment against Plaintiffs that involves interfering with  
21 their work and unjustifiably harming their reputations among Roads Division employees, which  
22 makes Plaintiffs' jobs harder.

23 24. Defendant and its supervisors and employees subject Plaintiffs to a pattern of  
24 discriminatory harassment that has lasted more than three years.

25 25. Reasonable employees in Plaintiffs' position would believe that Plaintiffs' work  
26 environment is abusive and/or hostile.

27 26. Plaintiffs believe that their work environment is abusive and/or hostile.

28 27. Defendant's management, which has notice of the discriminatory conduct and

1 environment, fails to undertake prompt, effective remedial action reasonably calculated to end  
2 harassing conduct against Plaintiffs.

3 28. Plaintiffs complained to Defendant's management and managers about workplace  
4 discrimination.

5 29. As a result of Defendant's maintenance of a hostile work environment, Plaintiffs  
6 suffer harm, including economic losses and emotional distress, in an amount to be determined at  
7 trial.

8 **SECOND CAUSE OF ACTION**

9 **Hostile Work Environment**

10 **42 U.S.C. § 1981**

11 30. Plaintiffs re-allege and incorporate by reference the allegations set forth in all prior  
12 paragraphs of this Complaint.

13 31. Defendant subjects Plaintiffs to a pattern of discriminatory harassment in the  
14 Roads Division that is sufficiently severe or pervasive to alter the conditions of Plaintiffs'  
15 employment.

16 32. Defendant's employees direct anti-Latino/Hispanic insults, jokes, and comments  
17 to Plaintiffs because of Plaintiffs' race and national-origin.

18 33. Defendant and its supervisors and employees create and perpetrate a racially-  
19 motivated pattern of discriminatory harassment against Plaintiffs that involves interfering with  
20 their work and unjustifiably harming their reputations among Roads Division employees, which  
21 makes Plaintiffs' jobs harder.

22 34. Defendant and its supervisors and employees subject Plaintiffs to a pattern of  
23 discriminatory harassment that has lasted more than three years.

24 35. Reasonable employees in Plaintiffs' position would believe that Plaintiffs' work  
25 environment is abusive and/or hostile.

26 36. Plaintiffs believe that their work environment is abusive and/or hostile.

27 37. Defendant's management, which has notice of the discriminatory conduct and  
28 environment, fails to undertake prompt, effective remedial action reasonably calculated to end

1 harassing conduct against Plaintiffs.

2 38. Plaintiffs complained to Defendant's management and managers about workplace  
3 discrimination.

4 39. As a result of Defendant's maintenance of a hostile work environment, Plaintiffs  
5 suffer harm, including economic losses and emotional distress, in an amount to be determined at  
6 trial.

7 **THIRD CAUSE OF ACTION**

8 **Disparate Treatment**

9 **Title VII**

10 40. Plaintiffs re-allege and incorporate by reference the allegations set forth in all prior  
11 paragraphs of this Complaint.

12 41. Defendant subjected Plaintiff Peña to a pattern of disparate treatment and adverse  
13 action in the Roads Division on account of his race and national origin that materially affects the  
14 compensation, terms, conditions, or privileges of his employment.

15 42. Defendant's employees denied Plaintiff Peña training, and opportunities for  
16 additional pay because he is Latino/Hispanic.

17 43. Defendant denied Plaintiff Peña the same process and benefits afforded to non-  
18 Latino employees when Plaintiff was exposed to another Clark County employee who was  
19 diagnosed with COVID-19.

20 44. Plaintiff Peña's race and/or national origin were the sole and/or motivating factor  
21 for Defendant to subject Plaintiff Peña to disparate treatment.

22 45. Defendant would not subject Plaintiff Peña to disparate treatment if Plaintiff Peña  
23 were not Latino/Hispanic.

24 46. Defendant's conduct was not motivated by a lawful reason.

25 47. As a result of Defendant's disparate treatment, Plaintiff Peña suffered harm,  
26 including economic losses and emotional distress, in an amount to be determined at trial.

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**FOURTH CAUSE OF ACTION**

**Disparate Treatment**

**42 U.S.C. § 1981**

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4 48. Plaintiffs re-allege and incorporate by reference the allegations set forth in all prior  
5 paragraphs of this Complaint.

6 49. Defendant subjected Plaintiff Peña to a pattern of disparate treatment and adverse  
7 action in the Roads Division on account of his race and national-origin that materially affects the  
8 compensation, terms, conditions, or privileges of his employment.

9 50. Defendant’s employees denied Plaintiff Peña training, and opportunities for  
10 additional pay because he is Latino/Hispanic and his national-origin.

11 51. Defendant denied Plaintiff Peña the same process and benefits afforded to non-  
12 Latino employees when Plaintiff was exposed to another Clark County employee who was  
13 diagnosed with COVID-19.

14 52. Plaintiff Peña’s race and/or national-origin were the sole and/or motivating factor  
15 for Defendant to subject Plaintiff Peña to disparate treatment.

16 53. Defendant would not subject Plaintiff Peña to disparate treatment if Plaintiff Peña  
17 were not Latino/Hispanic.

18 54. Defendant’s conduct was not motivated by a lawful reason.

19 55. As a result of Defendant’s disparate treatment, Plaintiff Peña suffered harm,  
20 including economic losses and emotional distress, in an amount to be determined at trial.

**FIFTH CAUSE OF ACTION**

**Denial of Equal Protection Under the Law**

**FOURTEENTH AMENDMENT TO THE UNITED STATES CONSTITUTION**

**42 U.S.C. § 1983**

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25 56. Plaintiffs re-allege and incorporate by reference the allegations set forth in all prior  
26 paragraphs of this Complaint.

27 57. The Fourteenth Amendment to the United States Constitution guarantees all  
28 persons equal treatment under the law. “The Equal Protection Clause . . . is essentially a direction



1 that all persons similarly situated should be treated alike.” *City of Cleburne v. Cleburne Living*  
2 *Center, Inc.*, 473 U.S. 432, 439 (1985).

3 58. At all relevant times, Defendant and its supervisors, officials, and managers acted  
4 under color of state law.

5 59. Defendant denies and authorizes its supervisors, officials, and managers to deny  
6 Plaintiffs equal protection and treats them and other Latino employees differently than similarly  
7 situated non-Latino employees because Plaintiffs are Latino. Defendant and its supervisors,  
8 officials, and managers deprive Plaintiffs’ opportunities for extra work and overtime, require  
9 Plaintiffs to file grievances for earned pay, and have provided similarly situated non-Latino  
10 employees additional time to complete job-related requirements.

11 60. Defendant cannot justify creating this classification that singles out Plaintiffs and  
12 other Latino employees and subjects them to different treatment because they are Latino.

13 61. Defendant intentionally discriminates against Plaintiffs when Defendant enforces  
14 its official practice, policy, and/or custom that treats Latinos differently than similarly situated  
15 non-Latino employees.

16 62. There is no substantial governmental interest, rational basis, or compelling  
17 governmental interest for Defendant’s official practice, policy, and/or custom that authorizes it  
18 and its agents to treat Plaintiffs and Latino employees differently than similarly situated non-  
19 Latino employees

20 63. Defendant and its supervisors, officials, and managers maintain an official  
21 practice, policy, and/or custom of depriving Latinos of their constitutional right to equal  
22 protection because Defendant is deliberately indifferent to the discriminatory conduct of non-  
23 Latino employees by not reprimanding harassers or putting an end to the hostile work  
24 environment.

25 64. As a result of Defendant’s official practice, policy, and/or custom that denies  
26 Latino employees’ equal protection, Plaintiffs suffer harm, including economic losses and  
27 emotional distress, in an amount to be determined at trial.

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**SIXTH CAUSE OF ACTION**

**Hostile Work Environment**

**WASHINGTON LAW AGAINST DISCRIMINATION**

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4 65. Plaintiffs re-allege and incorporate by reference the allegations set forth in all prior  
5 paragraphs of this Complaint.

6 66. Defendant subjects Plaintiffs to a pattern of discriminatory harassment in the  
7 Roads Division that is sufficiently severe or pervasive to alter the conditions of Plaintiffs’  
8 employment.

9 67. Defendant’s employees direct unwelcomed anti-Latino/Hispanic insults, jokes,  
10 and comments to Plaintiffs because of Plaintiffs’ race and national-origin.

11 68. Defendant and its supervisors and employees create and perpetrate a racially-  
12 motivated pattern of discriminatory harassment against Plaintiffs that involves interfering with  
13 their work and unjustifiably harming their reputations among Roads Division employees, which  
14 makes Plaintiffs’ jobs harder.

15 69. Defendant and its supervisors and employees subject Plaintiffs to a pattern of  
16 discriminatory harassment that has lasted more than three years.

17 70. Reasonable employees in Plaintiffs’ position would believe that Plaintiffs’ work  
18 environment is abusive and/or hostile.

19 71. Plaintiffs believe that their work environment is abusive and/or hostile.

20 72. Defendant’s management, who has notice of the discriminatory conduct and  
21 environment, fails to undertake, or ineffectually undertakes, prompt, effective remedial action  
22 reasonably calculated to end harassing conduct against Plaintiffs.

23 73. Plaintiffs complained to Defendant’s management and managers about workplace  
24 discrimination.

25 74. As a result of Defendant’s maintenance of a hostile work environment, Plaintiffs  
26 suffer harm, including economic losses and emotional distress, in an amount to be determined at  
27 trial.

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**SEVENTH CAUSE OF ACTION**

**Disparate Treatment**

**WASHINGTON LAW AGAINST DISCRIMINATION**

75. Plaintiffs re-allege and incorporate by reference the allegations set forth in all prior paragraphs of this Complaint.

76. Defendant took adverse employment action against Plaintiff Peña on account of his race and national-origin that materially affected the compensation, terms, conditions, or privileges of his employment.

77. Defendant denied Plaintiff Peña pay, training, and opportunities for additional pay because he is Latino/Hispanic.

78. Defendant denied Plaintiff Peña the same process and benefits afforded to non-Latino employees when Plaintiff was exposed to another Clark County employee who was diagnosed with COVID-19.

79. Plaintiff's race and/or national-origin were the sole and/or a substantial factor for Clark County's reasons to subject Plaintiff to disparate treatment.

80. Defendant would not have subjected Plaintiff Peña to disparate treatment if he were not Latino/Hispanic.

81. Defendant's conduct was not motivated by a lawful reason.

82. As a result of Defendant's disparate treatment, Plaintiff Peña suffered harm, including economic losses and emotional distress, in an amount to be determined at trial.

**JURY DEMAND**

83. Plaintiffs demand a trial by jury.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs respectfully pray that this Court enter Judgment granting Plaintiffs:

1. General damages, including compensatory damages according to proof;
2. Punitive damages according to proof;
3. The costs of the suit;

- 1           4.       Reasonable attorneys' fees and expenses of this litigation, including under 42
- 2 U.S.C § 1988;
- 3           5.       Interest at the maximum legal rate for all sums awarded; and
- 4           6.       Such other and further relief as the Court may deem just and proper.

5  
6 Dated: August \_\_, 2021

Respectfully submitted,

7  
8           BRESKIN, JOHNSON, TOWNSEND PLLC

9           s/  
10          Roger M. Townsend, WSBA No. 25525  
11          1000 Second Avenue, Suite 3670  
12          Seattle, WA 98104  
13          Telephone: (206) 652-8660  
14          Facsimile: (206) 652-8290  
15          rtownsend@bjtlegal.com

16                   MEXICAN AMERICAN LEGAL DEFENSE AND  
17                   EDUCATIONAL FUND

18           Belinda Escobosa Helzer\* (State Bar No. 214178)  
19           Tanya Pellegrini\* (State Bar No. 285186)  
20           Andres Holguin-Flores\* (State Bar No. 305860)  
21           MEXICAN AMERICAN LEGAL DEFENSE  
22           AND EDUCATIONAL FUND  
23           634 S. Spring St., 11<sup>th</sup> Floor  
24           Los Angeles, CA 90014  
25           Telephone: (213) 629-2512  
26           Facsimile: (213) 629-0266

27           *Attorneys for Plaintiffs*  
28           Elias Peña, Isaiah Hutson, and Ray Alanis  
            \* *Admitted pro hac vice*

# EXHIBIT A

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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON

ELIAS PEÑA, ISAAH HUTSON, and  
RAY ALANIS

Plaintiffs,

vs.

CLARK COUNTY, WASHINGTON,

Defendant.

Case No. 3:21-cv-5411-MJP

**FIRST AMENDED COMPLAINT  
DEMAND FOR JURY TRIAL**

Action Filed: June 1, 2021

Judge: Hon. Marsha J. Pechman

**INTRODUCTION**

Plaintiffs allege as follows:

1. On an almost weekly basis, Road Maintenance and Safety supervisors and employees in Clark County, Washington’s Department of Public Works direct anti-Latino remarks to Latino roads crew employees, and give non-Latino employees preferential treatment. These actions are racially discriminatory and create a hostile work environment for Latino employees. ELIAS PEÑA, ISAAH HUTSON, and RAY ALANIS (“Plaintiffs”) bring this civil rights action against CLARK COUNTY, WASHINGTON (“Defendant”) for violation of the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution and unlawful employment discrimination on the basis of race and national-origin in violation of Title VII, 42 U.S.C. § 1981, and the Washington Law Against Discrimination. U.S. Const. Amend. XIV; 42 U.S.C. § 2000e *et seq.*; 42 U.S.C. § 1981; RCW 49.60.180(3).

**JURISDICTION AND VENUE**

2. This Court has jurisdiction over this action under 28 U.S.C. §§ 1331, 1343(a), and

1 1367, as well as under 42 U.S.C. §§ 1983 and 1988. Under 28 U.S.C. § 1391(b), venue is proper  
2 because the Parties reside and are located in the Western District of Washington and the events  
3 giving rise to the claims occurred in this district.

4 **PARTIES**

5 **Plaintiffs**

6 3. Plaintiff ELIAS PEÑA is Latino/Hispanic. He resides in the Western District of  
7 Washington and is employed by Defendant.

8 4. Plaintiff ISAAH HUTSON is Latino/Hispanic. He resides in the Western District  
9 of Washington and is employed by Defendant.

10 5. Plaintiff RAY ALANIS is Latino/Hispanic. He resides in the Western District of  
11 Washington and is employed by Defendant.

12 **Defendant**

13 6. Defendant CLARK COUNTY, WASHINGTON (“Defendant” or “County”) is a  
14 political subdivision of the State of Washington. Through its Public Works Department,  
15 Defendant is responsible for building and maintaining infrastructure in the County. The Roads  
16 Maintenance and Safety Division (“Roads Division”) is a subdivision of the Public Works  
17 Department. Plaintiffs work in the Roads Division.

18 **FACTUAL ALLEGATIONS**

19 7. Since at least 2016, Defendant has employed Plaintiffs Elias Peña and Isaiah  
20 Hutson in the Roads Division. Plaintiff Ray Alanis began working in the Roads Division with  
21 Plaintiffs Peña and Hutson in or around mid-2018.

22 8. Roads Division supervisors and employees subject Plaintiffs to anti-Latino and  
23 other racist remarks and conduct, including racial jokes and insults about Latinos and immigrants.  
24 These remarks are oppressive, offensive and create an environment that make it more difficult for  
25 Plaintiffs to do their jobs. For example, Roads Division supervisors and employees have referred  
26 to Latinos as “beaners,” “spics,” and “a cancer.”

27 9. Some anti-Latino remarks and insults have been intertwined with threats of  
28 violence against Latinos and immigrants. Plaintiffs are afraid to work with some Roads Division

1 supervisors and employees who make anti-Latino insults and remarks.

2 10. Roads Division supervisors overly-scrutinize Plaintiffs' work and deny Plaintiffs  
3 compensation and opportunities for additional work because Plaintiffs are Latino. Plaintiffs' non-  
4 Latino colleagues are not subject to the same treatment. Plaintiffs have also had to file  
5 grievances to obtain the same pay non-Latino employees are paid for doing the same or similar  
6 work.

7 11. Roads Division supervisors impose different and stricter time requirements on  
8 Plaintiffs than they do on Plaintiffs' non-Latino counterparts – usually giving non-Latino  
9 employees more time to complete required tasks.

10 12. Roads Division supervisors and employees refer to Plaintiffs as the “landscaping  
11 crew,”<sup>1</sup> “Manuel labor crew,”<sup>2</sup> the “brown crew,” and that Plaintiffs work for their “White slave  
12 master” because they are Latino. These comments belittle and embarrass Plaintiffs in front of  
13 their colleagues because Plaintiffs are Latino and the comments are anti-Latino and directed at the  
14 Plaintiffs.

15 13. Roads Division employees make racial remarks, display derogatory images, and  
16 write insulting messages in public areas that humiliate or demean Latino employees, including  
17 Plaintiffs.

18 14. Plaintiffs' work environment is hostile and abusive.

19 15. Plaintiffs have reported Roads Division supervisors' and employees' anti-Latino  
20 and other derogatory speech and conduct to County supervisors and its human resources  
21 department. However, Defendant has failed to investigate Plaintiffs' complaints, or otherwise  
22 dismisses Plaintiffs' reports about discrimination. Defendant has failed to take reasonably  
23 adequate measures to remedy or eliminate the anti-Latino hostile work environment.

24 16. Roads Division supervisors denied Plaintiff Peña the same process and benefits  
25 afforded to non-Latino employees, such as an opportunity to quarantine after he was exposed to  
26 another Clark County employee who was diagnosed with COVID-19.

27 \_\_\_\_\_  
28 <sup>1</sup> Based on a stereotype that all Latinos are gardeners.

<sup>2</sup> Replacing “manual” with the Spanish name “Manuel.”



1 17. As a result of Roads Divisions supervisors’ and employees’ anti-Latino remarks,  
2 conduct, and insults, Defendant’s inadequate response to Plaintiffs’ complaints, and disparate  
3 treatment, Plaintiffs suffer emotional and economic harm.

4 18. Plaintiffs timely exhausted their administrative remedies by cross-filing formal  
5 complaints against Defendant with the Equal Employment Opportunity Commission and the  
6 Washington State Commission for Human Rights.

7 19. Plaintiffs timely exhausted their administrative remedies by submitting the Clark  
8 County Tort Claim Form to Clark County Office of Risk Management.

9 **FIRST CAUSE OF ACTION**

10 **Hostile Work Environment**

11 **Title VII**

12 20. Plaintiffs re-allege and incorporate by reference the allegations set forth in all prior  
13 paragraphs of this Complaint.

14 21. Defendant subjects Plaintiffs to a pattern of discriminatory harassment in the  
15 Roads Division that is sufficiently severe or pervasive to alter the conditions of Plaintiffs’  
16 employment.

17 22. Defendant’s employees direct anti-Latino/Hispanic insults, jokes, and comments  
18 to Plaintiffs because of Plaintiffs’ race and national-origin.

19 23. Defendant and its supervisors and employees create and perpetrate a racially-  
20 motivated pattern of discriminatory harassment against Plaintiffs that involves interfering with  
21 their work and unjustifiably harming their reputations among Roads Division employees, which  
22 makes Plaintiffs’ jobs harder.

23 24. Defendant and its supervisors and employees subject Plaintiffs to a pattern of  
24 discriminatory harassment that has lasted more than three years.

25 25. Reasonable employees in Plaintiffs’ position would believe that Plaintiffs’ work  
26 environment is abusive and/or hostile.

27 26. Plaintiffs believe that their work environment is abusive and/or hostile.

28 27. Defendant’s management, which has notice of the discriminatory conduct and

1 environment, fails to undertake prompt, effective remedial action reasonably calculated to end  
2 harassing conduct against Plaintiffs.

3 28. Plaintiffs complained to Defendant's management and managers about workplace  
4 discrimination.

5 29. As a result of Defendant's maintenance of a hostile work environment, Plaintiffs  
6 suffer harm, including economic losses and emotional distress, in an amount to be determined at  
7 trial.

8 **SECOND CAUSE OF ACTION**

9 **Hostile Work Environment**

10 **42 U.S.C. § 1981**

11 30. Plaintiffs re-allege and incorporate by reference the allegations set forth in all prior  
12 paragraphs of this Complaint.

13 31. Defendant subjects Plaintiffs to a pattern of discriminatory harassment in the  
14 Roads Division that is sufficiently severe or pervasive to alter the conditions of Plaintiffs'  
15 employment.

16 32. Defendant's employees direct anti-Latino/Hispanic insults, jokes, and comments  
17 to Plaintiffs because of Plaintiffs' race and national-origin.

18 33. Defendant and its supervisors and employees create and perpetrate a racially-  
19 motivated pattern of discriminatory harassment against Plaintiffs that involves interfering with  
20 their work and unjustifiably harming their reputations among Roads Division employees, which  
21 makes Plaintiffs' jobs harder.

22 34. Defendant and its supervisors and employees subject Plaintiffs to a pattern of  
23 discriminatory harassment that has lasted more than three years.

24 35. Reasonable employees in Plaintiffs' position would believe that Plaintiffs' work  
25 environment is abusive and/or hostile.

26 36. Plaintiffs believe that their work environment is abusive and/or hostile.

27 37. Defendant's management, which has notice of the discriminatory conduct and  
28 environment, fails to undertake prompt, effective remedial action reasonably calculated to end

1 harassing conduct against Plaintiffs.

2 38. Plaintiffs complained to Defendant's management and managers about workplace  
3 discrimination.

4 39. As a result of Defendant's maintenance of a hostile work environment, Plaintiffs  
5 suffer harm, including economic losses and emotional distress, in an amount to be determined at  
6 trial.

7 **THIRD CAUSE OF ACTION**

8 **Disparate Treatment**

9 **Title VII**

10 40. Plaintiffs re-allege and incorporate by reference the allegations set forth in all prior  
11 paragraphs of this Complaint.

12 41. Defendant subjected Plaintiff Peña to a pattern of disparate treatment and adverse  
13 action in the Roads Division on account of his race and national origin that materially affects the  
14 compensation, terms, conditions, or privileges of his employment.

15 42. Defendant's employees denied Plaintiff Peña training, and opportunities for  
16 additional pay because he is Latino/Hispanic.

17 43. Defendant denied Plaintiff Peña the same process and benefits afforded to non-  
18 Latino employees when Plaintiff was exposed to another Clark County employee who was  
19 diagnosed with COVID-19.

20 44. Plaintiff Peña's race and/or national origin were the sole and/or motivating factor  
21 for Defendant to subject Plaintiff Peña to disparate treatment.

22 45. Defendant would not subject Plaintiff Peña to disparate treatment if Plaintiff Peña  
23 were not Latino/Hispanic.

24 46. Defendant's conduct was not motivated by a lawful reason.

25 47. As a result of Defendant's disparate treatment, Plaintiff Peña suffered harm,  
26 including economic losses and emotional distress, in an amount to be determined at trial.

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**FOURTH CAUSE OF ACTION**

**Disparate Treatment**

**42 U.S.C. § 1981**

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4 48. Plaintiffs re-allege and incorporate by reference the allegations set forth in all prior  
5 paragraphs of this Complaint.

6 49. Defendant subjected Plaintiff Peña to a pattern of disparate treatment and adverse  
7 action in the Roads Division on account of his race and national-origin that materially affects the  
8 compensation, terms, conditions, or privileges of his employment.

9 50. Defendant’s employees denied Plaintiff Peña training, and opportunities for  
10 additional pay because he is Latino/Hispanic and his national-origin.

11 51. Defendant denied Plaintiff Peña the same process and benefits afforded to non-  
12 Latino employees when Plaintiff was exposed to another Clark County employee who was  
13 diagnosed with COVID-19.

14 52. Plaintiff Peña’s race and/or national-origin were the sole and/or motivating factor  
15 for Defendant to subject Plaintiff Peña to disparate treatment.

16 53. Defendant would not subject Plaintiff Peña to disparate treatment if Plaintiff Peña  
17 were not Latino/Hispanic.

18 54. Defendant’s conduct was not motivated by a lawful reason.

19 55. As a result of Defendant’s disparate treatment, Plaintiff Peña suffered harm,  
20 including economic losses and emotional distress, in an amount to be determined at trial.

**FIFTH CAUSE OF ACTION**

**Denial of Equal Protection Under the Law**

**FOURTEENTH AMENDMENT TO THE UNITED STATES CONSTITUTION**

**42 U.S.C. § 1983**

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25 56. Plaintiffs re-allege and incorporate by reference the allegations set forth in all prior  
26 paragraphs of this Complaint.

27 57. The Fourteenth Amendment to the United States Constitution guarantees all  
28 persons equal treatment under the law. “The Equal Protection Clause . . . is essentially a direction

1 that all persons similarly situated should be treated alike.” *City of Cleburne v. Cleburne Living*  
2 *Center, Inc.*, 473 U.S. 432, 439 (1985).

3 58. At all relevant times, Defendant and its supervisors, officials, and managers acted  
4 under color of state law.

5 59. Defendant denies and authorizes its supervisors, officials, and managers to deny  
6 Plaintiffs equal protection and treats them and other Latino employees differently than similarly  
7 situated non-Latino employees because Plaintiffs are Latino. Defendant and its supervisors,  
8 officials, and managers deprive Plaintiffs’ opportunities for extra work and overtime, require  
9 Plaintiffs to file grievances for earned pay, and have provided similarly situated non-Latino  
10 employees additional time to complete job-related requirements.

11 60. Defendant cannot justify creating this classification that singles out Plaintiffs and  
12 other Latino employees and subjects them to different treatment because they are Latino.

13 61. Defendant intentionally discriminates against Plaintiffs when Defendant enforces  
14 its official practice, policy, and/or custom that treats Latinos differently than similarly situated  
15 non-Latino employees.

16 62. There is no substantial governmental interest, rational basis, or compelling  
17 governmental interest for Defendant’s official practice, policy, and/or custom that authorizes it  
18 and its agents to treat Plaintiffs and Latino employees differently than similarly situated non-  
19 Latino employees

20 63. Defendant and its supervisors, officials, and managers maintain an official  
21 practice, policy, and/or custom of depriving Latinos of their constitutional right to equal  
22 protection because Defendant is deliberately indifferent to the discriminatory conduct of non-  
23 Latino employees by not reprimanding harassers or putting an end to the hostile work  
24 environment.

25 64. As a result of Defendant’s official practice, policy, and/or custom that denies  
26 Latino employees’ equal protection, Plaintiffs suffer harm, including economic losses and  
27 emotional distress, in an amount to be determined at trial.

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**SIXTH CAUSE OF ACTION**

**Hostile Work Environment**

**WASHINGTON LAW AGAINST DISCRIMINATION**

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4 65. Plaintiffs re-allege and incorporate by reference the allegations set forth in all prior  
5 paragraphs of this Complaint.

6 66. Defendant subjects Plaintiffs to a pattern of discriminatory harassment in the  
7 Roads Division that is sufficiently severe or pervasive to alter the conditions of Plaintiffs'  
8 employment.

9 67. Defendant's employees direct unwelcomed anti-Latino/Hispanic insults, jokes,  
10 and comments to Plaintiffs because of Plaintiffs' race and national-origin.

11 68. Defendant and its supervisors and employees create and perpetrate a racially-  
12 motivated pattern of discriminatory harassment against Plaintiffs that involves interfering with  
13 their work and unjustifiably harming their reputations among Roads Division employees, which  
14 makes Plaintiffs' jobs harder.

15 69. Defendant and its supervisors and employees subject Plaintiffs to a pattern of  
16 discriminatory harassment that has lasted more than three years.

17 70. Reasonable employees in Plaintiffs' position would believe that Plaintiffs' work  
18 environment is abusive and/or hostile.

19 71. Plaintiffs believe that their work environment is abusive and/or hostile.

20 72. Defendant's management, who has notice of the discriminatory conduct and  
21 environment, fails to undertake, or ineffectually undertakes, prompt, effective remedial action  
22 reasonably calculated to end harassing conduct against Plaintiffs.

23 73. Plaintiffs complained to Defendant's management and managers about workplace  
24 discrimination.

25 74. As a result of Defendant's maintenance of a hostile work environment, Plaintiffs  
26 suffer harm, including economic losses and emotional distress, in an amount to be determined at  
27 trial.

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**SEVENTH CAUSE OF ACTION**

**Disparate Treatment**

**WASHINGTON LAW AGAINST DISCRIMINATION**

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4 75. Plaintiffs re-allege and incorporate by reference the allegations set forth in all prior  
5 paragraphs of this Complaint.

6 76. Defendant took adverse employment action against Plaintiff Peña on account of  
7 his race and national-origin that materially affected the compensation, terms, conditions, or  
8 privileges of his employment.

9 77. Defendant denied Plaintiff Peña pay, training, and opportunities for additional pay  
10 because he is Latino/Hispanic.

11 78. Defendant denied Plaintiff Peña the same process and benefits afforded to non-  
12 Latino employees when Plaintiff was exposed to another Clark County employee who was  
13 diagnosed with COVID-19.

14 79. Plaintiff's race and/or national-origin were the sole and/or a substantial factor for  
15 Clark County's reasons to subject Plaintiff to disparate treatment.

16 80. Defendant would not have subjected Plaintiff Peña to disparate treatment if he  
17 were not Latino/Hispanic.

18 81. Defendant's conduct was not motivated by a lawful reason.

19 82. As a result of Defendant's disparate treatment, Plaintiff Peña suffered harm,  
20 including economic losses and emotional distress, in an amount to be determined at trial.

**JURY DEMAND**

21  
22 83. Plaintiffs demand a trial by jury.

**PRAYER FOR RELIEF**

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24 WHEREFORE, Plaintiffs respectfully pray that this Court enter Judgment granting  
25 Plaintiffs:

- 26 1. General damages, including compensatory damages according to proof;  
27 2. Punitive damages according to proof;  
28 3. The costs of the suit;

1           4.       Reasonable attorneys' fees and expenses of this litigation, including under 42  
2 U.S.C § 1988;

3           5.       Interest at the maximum legal rate for all sums awarded; and

4           6.       Such other and further relief as the Court may deem just and proper.

5

6 Dated: August \_\_, 2021

Respectfully submitted,

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BRESKIN, JOHNSON, TOWNSEND PLLC

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s/\_\_\_\_\_

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Roger M. Townsend, WSBA No. 25525

10

1000 Second Avenue, Suite 3670

11

Seattle, WA 98104

12

Telephone: (206) 652-8660

13

Facsimile: (206) 652-8290

14

rtownsend@bjtlegal.com

15

MEXICAN AMERICAN LEGAL DEFENSE AND  
EDUCATIONAL FUND

16

Belinda Escobosa Helzer\* (State Bar No. 214178)

17

Tanya Pellegrini\* (State Bar No. 285186)

18

Andres Holguin-Flores\* (State Bar No. 305860)

19

MEXICAN AMERICAN LEGAL DEFENSE  
AND EDUCATIONAL FUND

20

634 S. Spring St., 11<sup>th</sup> Floor

21

Los Angeles, CA 90014

22

Telephone: (213) 629-2512

23

Facsimile: (213) 629-0266

24

*Attorneys for Plaintiffs*

25

Elias Peña, Isaiah Hutson, and Ray Alanis

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*\* Admitted pro hac vice*

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