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CYNTHIA P. SUAREZ,

Plaintiff,

v.

TEXAS LOTTERY COMMISSION,

Defendant.

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IN THE DISTRICT COURT OF

TRAVIS COUNTY, TEXAS

126 JUDICIAL DISTRICT

FILED

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*Hon. Rodriguez-Ramirez*

DISTRICT CLERK  
TRAVIS COUNTY, TEXAS

PLAINTIFF'S ORIGINAL PETITION

TO THE HONORABLE JUDGE OF THE COURT:

NOW COMES Cynthia P. Suarez, Plaintiff, complaining of Defendant, Texas Lottery Commission, and would show the Court the following:

I. NATURE OF THE CASE

1. Discovery is intended to be conducted under Level 2, Rule 190.3 of the Texas Rules of Civil Procedure.

2. Plaintiff, Cynthia P. Suarez, alleges that Defendant, Texas Lottery Commission, her former employer, unlawfully retaliated against her, in violation of Chapter 21 of the Texas Labor Code, by terminating her employment because of her opposition to national origin discrimination. Ms. Suarez also alleges that prior to discharging her, the Texas Lottery Commission discriminated against her because of her national origin in violation of Chapter 21 of the Texas Labor Code. Ms. Suarez seeks reinstatement and other injunctive relief, lost wages, compensatory damages and attorneys' fees to compensate her for Defendant's retaliatory and unlawful actions.

## II. JURISDICTION AND VENUE

3. Plaintiff Cynthia P. Suarez is an individual who resides in Williamson County, Texas.
4. Defendant Texas Lottery Commission is a state agency, which may be served with citation on its Acting Executive Director, Anthony J. Sadberry, at Defendant's offices at 611 East Sixth Street, Austin, Texas 78701.
5. Jurisdiction lies under Chapter 21 of the Texas Labor Code, §21.254.
6. Venue is proper in Travis County, Texas because the cause of action arose in Travis County.

## III. FACTUAL BACKGROUND

7. Cynthia Suarez, who is Hispanic, was hired as an Administrative Assistant in the Human Resources Department of the Texas Lottery Commission on January 20, 2004. During the course of her employment, she received two performance evaluations, one dated August 18, 2004 and the second dated May 15, 2005. Both of the evaluations rated Ms. Suarez as exceeding most of her performance standards and meeting the rest.
8. Despite Ms. Suarez's outstanding performance, the Director of the Human Resources Department ["HR Director"], who was Ms. Suarez's supervisor, often criticized, belittled and yelled at Ms. Suarez in a hostile and belligerent manner. The HR Director also failed to timely give Ms. Suarez a merit pay increase which she was due and refused to reclassify Ms. Suarez's position to a higher level although Ms. Suarez was performing higher level duties that were not part of her job description. Ms. Suarez learned that the HR Director had been similarly critical of and hostile to other Hispanic support staff members. Other Caucasian employees were not treated in this fashion. Ms. Suarez believed that she was being mistreated because of her national origin.

9. Ms. Suarez twice went to auditors in the Internal Auditor's office, which handled complaints of ethical violations and illegal conduct, to discuss how the HR Director treated her. Ms. Suarez told them that she believed the HR Director was prejudiced against her and had a record of mistreating other Hispanic administrative assistants. The auditors recommended that Ms. Suarez talk to Mike Fernandez, the Director of Administration, which included the Human Resources Department.

10. Ms. Suarez met with Mr. Fernandez on May 27, 2005, which was the Friday before the Memorial Day weekend. Ms. Suarez told Mr. Fernandez about the HR Director's behavior and conduct toward her. She told Mr. Fernandez that she believed the HR Director was prejudiced against her and had a track record of mistreating Hispanic administrative assistants.

11. Ms. Suarez was on vacation the following week. On the first day that she returned to work after speaking with Mr. Fernandez, Tuesday June 7, 2005, Ms. Suarez was called in to a meeting with Mr. Fernandez and a Human Resources staff member. The staff member told Ms. Suarez that her employment with the Texas Lottery Commission was terminated. Ms. Suarez had received no prior warning that her job was in jeopardy, and she was not told why she was fired. Ms. Suarez was informed that June 7th would be her last day in the office, but that she would be given one month of emergency leave until July 1, 2005. Mike Fernandez gave Ms. Suarez official notice of her discharge in a letter, dated June 7, 2005, in which he gave no reason for firing her other than that "it is in the best interest of the Texas Lottery Commission that your 'at will' employment be terminated . . . ."

#### IV. CAUSES OF ACTION

##### A. RETALIATION

12. Paragraphs 1-11 are incorporated herein by reference.

13. Defendant Texas Lottery Commission retaliated against Plaintiff Cynthia Suarez because she opposed discriminatory practices and complained about discrimination. Ms. Suarez, who had excellent performance evaluations and no disciplinary action against her, would not have been terminated if she had not complained to Mike Fernandez about mistreatment by her supervisor, which she reasonably believed and stated was caused by prejudice against Hispanics. This is an unlawful intentional employment practice in violation of the Chapter 21 of the Texas Labor Code, §21.055. All conditions precedent to an action under Chapter 21, §21.055, have been satisfied.

##### B. NATIONAL ORIGIN DISCRIMINATION

14. Paragraphs 1 - 13 are incorporated herein by reference.

15. Plaintiff Cynthia Suarez was harassed and denied a higher level position and raise because she is Hispanic. This discrimination in compensation and the terms and conditions of employment is an unlawful intentional employment practice by Defendant Texas Lottery Commission in violation of Chapter 21 of the Texas Labor Code, §21.051. All conditions precedent to an action under Chapter 21, §21.051, have been satisfied.

#### V. DAMAGES AND RELIEF SOUGHT

16. By reason of all of the above, Plaintiff Cynthia P. Suarez has suffered losses and damages in a sum within the jurisdictional limits of the Court, for which she sues.

17. Plaintiff seeks equitable relief, including reinstatement.

18. Plaintiff seeks lost past and future compensation.

19. Plaintiff suffered a high degree of mental pain and distress because of the termination of her employment and the discrimination she experienced, for which she seeks compensatory damages.

20. Plaintiff seeks pre-judgment and post-judgment interest, as provided or allowed by law.

21. Plaintiff seeks an award of reasonable attorneys' fees, expert fees and costs.

22. Plaintiff seeks additional legal or equitable relief that the Court deems just and proper.

#### VI. JURY DEMAND

23. Plaintiff requests trial by jury.

WHEREFORE, Plaintiff requests that Defendant be cited to appear and answer, and that on final hearing of the cause Plaintiff have judgment against Defendant for injunctive relief and damages in an amount in excess of the jurisdictional limits of the Court, together with pre-judgment and post-judgment interest as provided or authorized by law, attorneys' fees, expert fees, costs of Court and such further relief, at law or equity, to which Plaintiff is justly entitled.

Respectfully submitted,

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