

EDWARDS, DEANDA & ARNETT

ATTORNEYS AT LAW

P. O. DRAWER 480

CORPUS CHRISTI, TEXAS 78403

12TH FLOOR WILSON BUILDING
TELEPHONE: (512) 582-2637

WILLIAM R. EDWARDS
JAMES DEANDA
LEE ARNETT
JOHN L. JOHNSON
VERNON I. LAY, JR.
DAVID L. PERRY

May 13, 1969

Mr. Mario G. Obledo
Mexican-American Legal Defense Fund
325 International Building
San Antonio, Texas 78205

File
Re: C.A. No. 67-C-106; Baudelio
Ramirez vs. Southwestern Oil
& Refining Company

Dear Mario:

As you know, we started the trial of the above case on May 8. The Judge granted a jury trial on the discrimination issues.

Friday morning, as we were in the process of putting on our case, the Defendant's attorney announced that the Defendant would promote Mr. Ramirez to the job for which he bid or let Ramirez remain in the job he had at the time of trial (Ramirez has received two promotions since suit was filed), leaving the election up to Ramirez. It was also announced that the Defendant would pay all back wages to date (amounting to \$2,300.00) plus attorney's fees (\$3,500.00) and court costs. There being nothing left to litigate, the trial came to an abrupt end.

Although I had not filed a class action for a variety of reasons, the Defendant further agreed to abolish its "laborer" classification (a department exclusively Mexican-American) and integrate the "laborer" department with its "yardmen" department (all Anglos). Although the work of the two departments was substantially the same, there was a wage differential ranging from 15¢ to 30¢ per hour.

Mr. Mario G. Obledo
May 13, 1969
Page 2

Since the court had overruled all motions to strike the Defendant's jury demand in this case, I had prepared a jury charge for submission to the jury on the issues raised under both subdivisions of Section 2000e-2(a).

I forward herewith the Pretrial Order filed in the case as well as the proposed Jury Charge. I had planned to make one additional requested charge relying on Jenkins vs. United Gas Corporation, 400 F2d 28 (1968), to the effect that the court (or jury) were not to determine merely which of the two employees merited the promotion, but rather the jury was to determine whether ethnic considerations played a part in denying Mr. Ramirez his promotion. The Judge had indicated he would give such charge but we never reached the ultimate stage.

Some of the comments made by Judge Seals afterward left me with the impression that he has some serious misgivings about his decision to grant a jury trial in these cases. I believe that he is following this course because of the decision Judge Noel of this district in another case in which Judge Noel decided a jury was appropriate. At this juncture he is granting jury trials in these cases when demanded by either party.

I still have another employment case concerning the same defendant (Obregon vs. Southwestern Oil & Refining Company) pending on this docket. I believe that the matter will be settled by an arrangement similar to the one made in this case (except that back wages in that case amount to \$4,500.00).

The defendant in this case raised one question on the charge which the court indicated it would rule on in my favor that bears mentioning. The defendant wanted the word "intentionally" inserted in the jury issues as well as in the definitions of applicable unlawful employment practices.

Mr. Mario G. Obledo

May 13, 1969

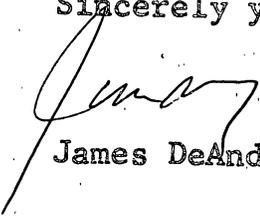
Page 3

It was my position that whatever course of conduct the defendant followed, it followed intentionally and that the intent issue was not raised by the evidence as the defendant did not claim it made any mistake or was unaware that Ramirez was a Mexican-American; nor was the defendant unaware of any of the facts involved in the case. I make mention of this because I felt that use of the word "intentionally" added an onerous burden to the plaintiff, especially in a jury trial, that simply did not belong there.

You might have someone review the charge and let me know of any criticisms that might be leveled at it.

I want to thank you for all of the help that your office and the New York office gave me in the preparation of the case. I will advise you on the status of the Obregon case as soon as the situation jells.

Sincerely yours,



James DeAnda

JD/go
Encl. 2

cc: NAACP Legal Defense & Educational Fund, Inc.
10 Columbus Circle
New York, New York 10019