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12  
13 IN THE UNITED STATES DISTRICT COURT  
14 FOR THE DISTRICT OF ARIZONA

15 EQUAL EMPLOYMENT ) Case No. CV06-1921-PHX-NVW  
16 OPPORTUNITY COMMISSION, )  
17 )  
18 Plaintiff, ) **AMENDED COMPLAINT**  
19 )  
20 v. ) (Jury Demand )  
21 )  
22 EAGLE PRODUCE, L.L.C., an )  
23 Arizona Limited Liability Company, )  
24 )  
25 Defendant. )  
26 )  
27 )  
28 )

29 NATURE OF THE ACTION

30 This is an action under the Equal Pay Act of 1963 and Title VII of the Civil  
31 Rights Act of 1964 and Title I of the Civil Rights Act of 1991 to restrain the  
32 unlawful payment of wages to employees of one sex at rates less than the rates  
33 paid to employees of the opposite sex, and to correct unlawful employment  
34 practices on the basis of sex. The Commission alleges that Eagle Produce  
35 L.L.C., paid its female Quality Control Inspector, Anita Guerreo, at wage rates  
36 which were less than the rates paid to its male employees performing  
37 substantially equal work, and otherwise discriminated against that female  
38 employee because of her sex.



1 6. At all relevant times, Defendant Employer has continuously been an  
2 employer engaged in an industry affecting commerce within the meaning of  
3 Sections 701(b), (g) and (h) of Title VII, 42 U.S.C. §§ 2000e(b), (g) and (h).

4 7. At all relevant times, Defendant Employer has continuously employed  
5 employees engaged in commerce or in the production of goods for commerce  
6 within the meaning of Sections 3(b), (i) and (j) of the FLSA, 29 U.S.C. §§ 203(b),  
7 (i) and (j) has continuously been an enterprise engaged in commerce or in the  
8 production of goods for commerce within the meaning of Sections 3(r) and (s) of  
9 the FLSA, 29 U.S.C. §§ 203(r) and (s) and, in that said enterprise has  
10 continuously been an enterprise whose annual gross volume of sales made or  
11 business done is not less than \$500,000.

#### 12 STATEMENT OF EPA CLAIMS

13 8. Since at least May, 2004, Defendant Employer violated Sections 6(d)(1)  
14 and 15(a)(2) of the FLSA, 29 U.S.C. §§ 206(d)(1) and 215(a)(2), by paying wages  
15 to Anita Guerrero in its Arizona facility, at rates less than the rates paid to a male  
16 employee in the same establishment for substantially equal work on jobs the  
17 performance of which requires equal skill, effort, and responsibility, and which are  
18 performed under similar working conditions.

19 9. As a result of the acts complained of above in paragraph 8, Defendant  
20 Employer unlawfully has withheld and is continuing to withhold the payment of  
21 wages due to Anita Guerrero.

22 10. The unlawful practices complained of in paragraph 8 above were willful.

#### 23 STATEMENT OF TITLE VII CLAIM

24 11. More than thirty days prior to the institution of this lawsuit, Anita Guerrero  
25 filed a charge with the Commission alleging violations of Title VII by Defendant  
26 employer. All conditions precedent to the institution of this lawsuit have been  
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1 fulfilled.

2 12. Since at least June 2003, Defendant employer has engaged in unlawful  
3 employment practices at its Yuma, Arizona site, in violation of Section 703(a) of  
4 Title VII, 42 U.S.C. § 2000e-2(a) by discriminating against Anita Guerrero with  
5 respect to her compensation because of her sex, female. This discrimination  
6 includes paying Ms. Guerrero less than a male employee for the same work.

7 13. The effect of the practices complained of in paragraph 9 above has been to  
8 deprive Anita Guerrero of equal employment opportunities and otherwise  
9 adversely affect her status as an employee because of her sex, female.

10 14. The unlawful employment practices complained of in paragraph 9 above  
11 were intentional.

12 15. The unlawful employment practices complained of in paragraph 9 above  
13 were done with malice or with reckless indifference to the federally protected  
14 rights of Anita Guerrero.

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#### PRAYER FOR RELIEF

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Wherefore, the Commission requests that this Court:

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- A. Grant a permanent injunction enjoining the Defendant employer, its officers, successors, assigns and all persons in active concert or participation with it, from (a) engaging in gender-based disparate compensation and in any other employment practice which discriminates on the basis of sex and (b) retaliating against employees because they oppose practices made unlawful by Title VII or participate in a proceeding pursuant to Title VII.
- B. Grant a permanent injunction enjoining the Defendant Employer, its officers, successors, assigns and all persons in active concert or participation with it, from discriminating within any of its establishments between employees on

1 the basis of sex, by paying wages to employees of one sex at rates less than the  
2 rates at which it pays wages to employees of the opposite sex for substantially  
3 equal work on jobs the performance of which requires equal skill, effort, and  
4 responsibility, and which are performed under similar working conditions.

5 C. Order Defendant Employer to institute and carry out policies, practices and  
6 programs which provide equal employment opportunities for women, and which  
7 eradicate the effects of its past and present unlawful employment practices.

8 D. Order Defendant employer to make whole Anita Guerrero by providing  
9 compensation for past and future nonpecuniary losses resulting from the unlawful  
10 practices complained of above in paragraph 9, including emotional pain,  
11 suffering, loss of enjoyment of life, and humiliation, in amounts to be determined  
12 at trial.

13 E. Order Defendant employer to pay Anita Guerrero punitive damages for its  
14 malicious and/or reckless conduct described in paragraph 9 above, in an amount  
15 to be determined at trial.

16 F. Grant a judgment requiring Defendant Employer to pay appropriate back  
17 wages in amounts to be determined at trial, an equal sum as liquidated damages,  
18 and prejudgment interest to Anita Guerrero whose wages were being unlawfully  
19 withheld as a result of the acts complained of above.

20 G. Grant such further relief as this Court deems necessary and proper in the  
21 public interest.

22 H. Award the Commission its costs of this action.

23 **JURY TRIAL DEMAND**

24 The Commission requests a jury trial on all questions of fact raised by this  
25 Complaint.  
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