

USDC SCAN INDEX SHEET



NMC 9/29/03 14:27

3:03-CV-01934 EEOC V. EARL SCHEIB INC

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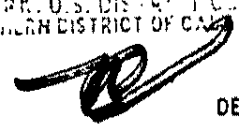
FILED

03 SEP 29 PM 1:15

CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

BY:

DEPUTY



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13 UNITED STATES DISTRICT COURT
14 SOUTHERN DISTRICT OF CALIFORNIA

15 EQUAL EMPLOYMENT
16 OPPORTUNITY COMMISSION,

17 Plaintiff,

18 v.

19 EARL SCHEIB, INC., d/b/a EARL
20 SCHEIB PAINT & BODY; DOES
21 1-6 Inclusive,

22 Defendants.

CASE NO. 03 ev 1934 BTM NLS

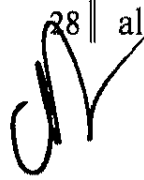
COMPLAINT- CIVIL RIGHTS
EMPLOYMENT
DISCRIMINATION
(42 U.S.C. §§ 2000e, et seq.)

JURY TRIAL DEMAND

ORIGINAL

23 NATURE OF THE ACTION

24 This is an action under Title VII of the Civil Rights Act of 1964, as
25 amended, and Title I of the Civil Rights Act of 1991 to correct unlawful
26 employment practices on the basis of race, Black, and retaliation. Plaintiff United
27 States Equal Employment Opportunity Commission ("Commission") alleges that
28 Defendant Earl Scheib, Inc., d/b/a Earl Scheib Paint & Body and Does 1-6
("Defendant") subjected Charging Parties Byron Richardson ("Richardson") and
Leroy Dee ("Dee"), and a class of similarly situated individuals ("class members")
to racial harassment and race based discrimination. The Commission further
alleges that Defendant retaliated against Richardson, Dee, and other similarly



1 | situated individuals in violation of Section 704(a) of Title VII for complaining
2 | about the racial discrimination and/or engaging in other protected activities.

3 | JURISDICTION AND VENUE

4 | 1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 451,
5 | 1331, 1337, 1343 and 1345.

6 | 2. This action is authorized and instituted pursuant to Section 706(f)(1)
7 | and (3) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §
8 | 2000e-5(f)(1) and (3) ("Title VII") and Section 102 of Title I of the Civil Rights
9 | Act of 1991, 42 U.S.C. § 1981a.

10 | 3. The employment practices alleged to be unlawful were committed
11 | within the jurisdiction of the United States District Court for the Southern District
12 | of California.

13 | PARTIES

14 | 4. Plaintiff, Equal Employment Opportunity Commission, is the federal
15 | agency charged with the administration, interpretation and enforcement of Title
16 | VII, and is expressly authorized to bring this action by Section 706(f)(1) and (3) of
17 | Title VII, 42 U.S.C. § 2000e-5(f)(1) and (3).

18 | 5. At all relevant times, Defendant was and is a California corporation
19 | continuously doing business within the jurisdiction of the United States District
20 | Court for the Southern District of California. At all relevant times, Defendant has
21 | continuously employed fifteen (15) or more persons.

22 | 6. At all relevant times, Defendant has continuously engaged in an
23 | industry affecting commerce within the meaning of Sections 701(b), (g) and (h) of
24 | Title VII, 42 U.S.C. §§ 2000e(b), (g) and (h).

25 | STATEMENT OF CLAIMS

26 |
27 | 7. More than thirty days prior to the institution of this lawsuit,
28 | Richardson and Dee filed charges with the Commission alleging violations of Title

1 VII by Defendant. The Commission investigated and issued Letters of
2 Determination finding that Richardson, Dee and a class of similarly situated
3 individuals were subjected to unlawful racial harassment and race discrimination.
4 The Commission also found that Richardson, Dee and a class of similarly situated
5 individuals were subjected to retaliation in violation of Title VII for complaining
6 about racial discrimination and/or engaging in other protected activities. All
7 conditions precedent to the institution of this lawsuit have been fulfilled.

8 8. Since at least March 1998, Defendant has engaged in unlawful
9 employment practices at its San Diego County locations, in violation of Section
10 703(a) of Title VII, 42 U.S.C. §2000e-2(a)(1) by subjecting Richardson, Dee and
11 other similarly situated individuals to a pattern of racial harassment, hostile work
12 environment, and race based discrimination. The racial harassment and race
13 based discrimination that Richardson, Dee and the other similarly situated
14 individuals were subjected to, includes but is not limited to, unwelcome
15 derogatory comments, unwarranted discipline resulting in humiliation, unequal
16 terms and conditions of employment, and discharge or in the alternative,
17 constructive discharge on the basis of race, Black.

18 9. Since at least July 3, 2001, the date on which Richardson and Dee
19 filed charges of discrimination, Defendant has engaged in unlawful employment
20 practices at its San Diego County locations, in violation of Section 704(a) of Title
21 VII, 42 U.S.C. §2000e-3(a) by subjecting Richardson, Dee and other similarly
22 situated employees to retaliation. The unlawful retaliatory acts that Richardson,
23 Dee and other similarly situated individuals were subjected to, includes but is not
24 limited to disparate discipline, unequal terms and conditions of employment, and
25 discharge, or in the alternative, constructive discharge.

26 10. The effect of the practice(s) complained of in paragraphs 8 and 9
27 above has been to deprive Richardson, Dee and other similarly situated individuals
28 of equal employment opportunities and otherwise adversely affect their status as

1 employees, because of their race, Black and/or because they engaged in activity
2 protected under Title VII.

3 11. The unlawful employment practices complained of in paragraphs 8
4 and 9 above were intentional.

5 12. The unlawful employment practices complained of in paragraphs 8
6 and 9 above were done with malice or with reckless indifference to the
7 federally protected rights of Richardson, Dee and other similarly situated
8 individuals.

9 13. As a direct and proximate result of Defendant's aforesaid acts
10 Richardson, Dee and other similarly situated employees have each suffered
11 emotional pain, suffering, inconvenience, loss of enjoyment of life, humiliation
12 and damages, according to proof.

13 14. As a direct and proximate result of Defendant's aforesaid acts,
14 Richardson, Dee and other similarly situated individuals suffered a loss of
15 earnings in an amount according to proof.

16 PRAYER FOR RELIEF

17 Wherefore, the Commission respectfully requests that this Court:

18 A. Grant a permanent injunction enjoining Defendant, their respective
19 officers, successors, assigns, agents, and all persons in active concert or
20 participation with them, from engaging in any employment practice which
21 discriminates on the basis of race;

22 B. Grant a permanent injunction enjoining Defendant, their respective
23 officers, successors, assigns, agents, and all persons in active concert or
24 participation with them, from retaliating against any employee who engages in any
25 protected activity under Title VII;

26 C. Order Defendant to institute and carry out policies, practices, and
27 programs which provide equal employment opportunities and a non-hostile work
28 environment for Blacks, and which eradicate the effects of its past and present

1 unlawful employment practices;

2 D. Order Defendants to make whole Richardson, Dee and other
3 similarly situated employees, by providing appropriate backpay with prejudgment
4 interest, and front pay in amounts to be determined at trial, and/or other
5 affirmative relief necessary to eradicate the effects of its unlawful employment
6 practices;

7 E. Order Defendants to make whole Richardson, Dee and other similarly
8 situated female employees by providing compensation for past and future non-
9 pecuniary losses resulting from the unlawful practices complained of in
10 paragraphs 9 and 10 above, including, but not limited to emotional pain, suffering,
11 inconvenience, loss of enjoyment of life, and humiliation, in amounts to be
12 determined at trial;

13 F. Order Defendants to pay Richardson, Dee and other similarly situated
14 employees punitive damages for its malicious and reckless conduct described in
15 paragraphs 9 and 10 above, in amounts to be determined at trial;

16 G. Grant such further relief as the Court deems necessary and proper in
17 the public interest; and

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

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1 JURY TRIAL DEMAND

2 The Commission requests a jury trial on all questions of fact raised by its
3 complaint.

4
5 Dated: September 29, 2003

6 Respectfully Submitted,

7
8 ERIC S. DREIBAND,
General Counsel

9 JAMES LEE,
10 Deputy General Counsel

11 GWENDOLYN YOUNG REAMS,
Associate General Counsel

12 U.S. EQUAL EMPLOYMENT
13 OPPORTUNITY COMMISSION
14 1801 "L" Street, N.W.
Washington, D.C. 20507

15 BY: 
16 _____

17 ANNA Y. PARK
Regional Attorney

18 CONNIE LIEM
Senior Trial Attorney

19 ELIZABETH ESPARZA-
20 CERVANTES
Trial Attorney

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CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE SECOND PAGE OF THIS FORM.)

I (a) PLAINTIFFS

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

03 SEP 29 PM 1:15
CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIF.

DEFENDANTS

EARL SCHEIB, INC., d/b/a EARL SCHEIB
SUIT & BODY; DOES 1-6 Inclusive

03 CV 1934 BTM NLS

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF

S.D.

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT

San Diego Co.

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)
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Connie K. Liem
Elizabeth Esparza-Cervantes

ATTORNEYS (IF KNOWN)
Andrew L. Satenberg (213) 312-4221
Manatt, Phelps & Phillips, LLP
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Los Angeles, CA 90064

II. BASIS OF JURISDICTION (PLACE AN X IN ONE BOX ONLY)

- XX U.S. Government Plaintiff
Federal Question (U.S. Government Not a Party)
2 U.S. Government Defendant
Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN X IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

- Citizen of This State
Citizen of Another State
Citizen or Subject of a Foreign Country
Incorporated or Principal Place of Business in This State
Incorporated and Principal Place of Business in Another State
Foreign Nation

IV. CAUSE OF ACTION (CITE THE US CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY). Action under Title VII of the Civil Rights Act of 1964, as amended, and Title I of the Civil Rights Act of 1991 to correct unlawful employment practices.

V. NATURE OF SUIT (PLACE AN X IN ONE BOX ONLY)

Table with 6 columns: CONTRACT, REAL PROPERTY, PERSONAL INJURY, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES.

VI. ORIGIN (PLACE AN X IN ONE BOX ONLY)

- XX Original Proceeding
2 Removal from State Court
3 Remanded from Appellate Court
4 Reinstated or Reopened
5 Transferred from another district (specify)
6 Multidistrict Litigation
7 Appeal to District Judge from Magistrate Judgment

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER f.r.e.p. 23
DEMAND \$ Permanent Injunction
JURY DEMAND: X YES [] NO

VIII. RELATED CASE(S) IF ANY (See Instructions):

DATE September 25, 2003

SIGNATURE OF ATTORNEY OF RECORD

JUDGE [] Docket Number []

ORIGINAL