

FILED

00 APR 18 PM 4:12

[Handwritten initials]

BY: *B. Reed* DEPUTY

1 DAVID INGRAM PA # 14955
2 DANA JOHNSON # 187341
3 DANA CEPHAS #181847
4 U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
5 255 E. Temple Street, 4th Floor
6 Los Angeles, CA 90012
7 Telephone: (213) 894-1082

8 Attorneys for Plaintiff
9 U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

10 UNITED STATES DISTRICT COURT
11 SOUTHERN DISTRICT OF CALIFORNIA

12 U.S. EQUAL EMPLOYMENT)
13 OPPORTUNITY COMMISSION,)
14 Plaintiff,)
15 v.)
16 VULCAN MATERIALS CO., d/b/a)
17 CALMAT CO.,)
18 Defendant.)

19 CASE NO. **00CV 00779 B (NLS)**
20 COMPLAINT - CIVIL RIGHTS
21 EMPLOYMENT DISCRIMINATION
22 DEMAND FOR TRIAL BY JURY

23 NATURE OF THE CASE

24 This is an action under Title VII of the 1964 Civil Rights
25 Act as amended, to correct intentional and unlawful employment
26 practices on the basis of sex and to make whole Charging Party
27 Penny Adamo. The Commission alleges that Ms. Adamo was not hired
28 by Defendant Employer because of her sex (female), in violation
of Title VII, as amended, 42 U.S.C. Sections 2000-e et seq.
("Title VII") and the 1991 Civil Rights Act.

26 ///
27 ///
28 ///

CR

1 fifteen (15) employees.

2 8. At all relevant times since January 7, 1999, Defendant
3 Vulcan has continuously been and is now an employer engaged in an
4 industry affecting commerce within the meaning of Section 701(b),
5 (g) and (h) of Title VII.

6 9. Prior to institution of this lawsuit, all conditions
7 precedent were satisfied. The Commission's representatives
8 attempted to eliminate the unlawful employment practices
9 hereinafter alleged and to affect voluntary compliance with the
10 Act through informal methods of conciliation, conference and
11 persuasion within the meaning of Section 706(b) of Title VII, 42
12 U.S.C. Section 2000e-5(b).

13 CONDITIONS PRECEDENT

14 10. Since at least June 25, 1996, Defendant Employer has
15 engaged in unlawful employment practices in violation of Section
16 703 of Title VII, 42 U.S.C. Section 2000e-3. The unlawful
17 employment practices include Defendant's refusal to hire Ms.
18 Adamo since June 1996 as a Driver because of her sex. Ms. Adamo
19 possessed a Class "A" California Drivers License at the time of
20 her application to the Driver position.

21 11. The effect of the practices complained of above has
22 been to deprive Ms. Adamo of equal employment opportunities and
23 to otherwise adversely affect her status as an employee because
24 of her sex.

25 12. The unlawful employment practices complained of above
26 were and are intentional within the meaning of the 1991 Civil
27 Rights Act.

28 ///

1 13. Defendant has acted with malice or reckless
2 indifference to the federally protected rights of Ms. Adamo.

3
4 PRAYER OF RELIEF

5 Wherefore, the Commission respectfully requests that this
6 Court:

7 A. Grant declaratory relief that Defendant has violated
8 Title VII by failing and refusing to hire Ms. Adamo because of
9 her sex.

10 B. Grant a permanent injunction enjoining Defendant, its
11 officers, successors, assigns and all persons in active concert
12 or participation with it, from engaging in any employment
13 practices which discriminate on the basis of sex.

14 C. Order Defendant to institute and carry out policies,
15 practices and programs which provide equal employment
16 opportunities for females and which eradicate the effects of past
17 and present unlawful employment practices.

18 D. Grant a judgment requiring the Defendant to make Ms.
19 Adamo whole by paying to her appropriate back pay, interest, lost
20 benefits and compensatory and punitive damages in an amount to be
21 proven at trial.

22 E. Order Defendant to hire Ms. Adamo and provide her with
23 constructive seniority as if she had been hired on June 25, 1996,
24 for all purposes, including benefits, pension, and provisions of
25 the Defendant's collective bargaining agreement with Local 36 of
26 the International Brotherhood of Teamsters.

27 F. Grant such further relief as the Court deems necessary
28 and proper in the public interest.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

G. Award the Commission its costs in this action.

JURY TRIAL DEMAND

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


Respectfully submitted,

EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION

C. GREGORY STEWART
General Counsel

GWENDOLYN YOUNG REAMS
Associate General Counsel

Date: 4/18/00



DANA CEPHAS
TRIAL ATTORNEY

U.S. Equal Employment
Opportunity Commission
Los Angeles District Office
255 E. Temple St., 4th Flr.
Los Angeles, CA 90012

LOS ANGELES DISTRICT OFFICE
255 E. Temple Street, 4th Fl.
Los Angeles, CA 90012
(213) 894-1080

S:\Legal Unit\Vulcan\pleadings\complaint.wpd

1544
(Rev. 02/89)

CIVIL COVER SHEET

FILED
00 APR 18 PM 4:12
LEWIS & CLARK DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

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 courts. 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

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF
(EXCEPT IN U.S. PLAINTIFF CASES)

DEFENDANTS
VULCAN MATERIALS CO., d/b/a CALMAT CO.

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT
(IN U.S. PLAINTIFF CASES ONLY) **San Diego**

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

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)
Dana Cephas
U.S. Equal Employment Opportunity Commission
255 E. Temple St., 4th Fl.
Los Angeles, CA 90012

ATTORNEYS (IF KNOWN)
'00 CV 00779 B (NLS)

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

U.S. Government Plaintiff Federal Question (U.S. Government Not a Party)

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)
(For Diversity Cases Only)

	PT	DEF		PT	DEF
Citizen of This State	<input type="checkbox"/>	<input type="checkbox"/>	Incorporated or Principal Place of Business in This State	<input type="checkbox"/>	<input type="checkbox"/>
Citizen of Another State	<input type="checkbox"/>	<input type="checkbox"/>	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/>	<input type="checkbox"/>
Citizen or Subject of a Foreign Country	<input type="checkbox"/>	<input type="checkbox"/>	Foreign Nexus	<input type="checkbox"/>	<input type="checkbox"/>

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.)
Title VII of the 1964 Civil Rights Act, as amended, 42 U.S.C. § 2000-e et seq.: failure to hire/sex discrimination.

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

CONTRACT	TORTS	POSSESSORY/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Inheritance <input type="checkbox"/> Marine <input type="checkbox"/> Miller Act <input type="checkbox"/> Negotiable Instruments <input type="checkbox"/> 150 Recovery of Governmental Enforcement of Judgment <input type="checkbox"/> 151 Maritime Act <input type="checkbox"/> 152 Recovery of Deceased Student Loans (Bac'd. Veterans) <input type="checkbox"/> 153 Recovery of Government of Veterans Benefits <input type="checkbox"/> 160 Stockholders Suits <input type="checkbox"/> Other Contract <input type="checkbox"/> 181 General Product Liability	PERSONAL INJURY <input type="checkbox"/> 210 Assault <input type="checkbox"/> 215 Airplane Product Liability <input type="checkbox"/> 220 Assault, Libel & Slander <input type="checkbox"/> 230 Federal Employer's Liability <input type="checkbox"/> 240 Marine <input type="checkbox"/> 245 Motor Product Liability <input type="checkbox"/> 250 Motor Vehicle <input type="checkbox"/> 255 Motor Vehicle Product Liability <input type="checkbox"/> 260 Other Personal Injury	PERSONAL INJURY <input type="checkbox"/> 262 Personal Injury - Medical Malpractice <input type="checkbox"/> 265 Personal Injury - Product Liability <input type="checkbox"/> 268 Accrual Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 270 Other Fraud <input type="checkbox"/> 271 Truth in Lending <input type="checkbox"/> 280 Other Personal Property Damage <input type="checkbox"/> 285 Property Damage Product Liability	<input type="checkbox"/> 610 Agreements <input type="checkbox"/> 620 Other Fraud & Deceit <input type="checkbox"/> 625 Drug Related Science of Property 21 U.S.C.81 <input type="checkbox"/> 630 Labor Law <input type="checkbox"/> 640 ER & Trust <input type="checkbox"/> 645 Airline Bags <input type="checkbox"/> 650 Organizational Safety/Health <input type="checkbox"/> 655 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act 29 Labor/hrs. Related <input type="checkbox"/> 720 Labor Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 730 Railway Labor Act <input type="checkbox"/> 740 Other Labor Litigation <input type="checkbox"/> 750 Empl. Inv. Inv. <input type="checkbox"/> Suits/Act	<input type="checkbox"/> 621 Appeal 28 USC 128 <input type="checkbox"/> 625 Withdrawal 28 USC 127 PROPERTY RIGHTS <input type="checkbox"/> 629 Copyrights <input type="checkbox"/> 630 Patents <input type="checkbox"/> 642 Trademarks SOCIAL SECURITY <input type="checkbox"/> 661 SSA (1996) <input type="checkbox"/> 662 Social Long (P2) <input type="checkbox"/> 663 DISCOG/W (401)(G) <input type="checkbox"/> 664 ERB Title XVI <input type="checkbox"/> 665 RA (COLG)	<input type="checkbox"/> 400 State Supremacy <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 420 Banks and Banking <input type="checkbox"/> 430 Computer/ICC Remedies <input type="checkbox"/> 440 Depositions <input type="checkbox"/> 470 Bankruptcy Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 830 Securities/Covered Opinions Exchange <input type="checkbox"/> 871 Consumer Challenge 13 USC <input type="checkbox"/> 891 Antitrust Act <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 980 Constitutionality of State <input type="checkbox"/> 985 Other Statutory Actions
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rate Loan & Election <input type="checkbox"/> 240 Ten to Land <input type="checkbox"/> 245 Ten Product Liability <input type="checkbox"/> 250 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 401 Voting <input type="checkbox"/> 402 Employment 442 <input type="checkbox"/> 403 Housing/Accommodations <input type="checkbox"/> 404 Welfare <input type="checkbox"/> 405 Other Civil Rights	PERSONAL PETITIONS <input type="checkbox"/> 310 Motion in Vacate Sentence Malpractice <input type="checkbox"/> 320 General <input type="checkbox"/> 325 Death Penalty <input type="checkbox"/> 340 Mandamus & Other <input type="checkbox"/> 350 Civil Rights <input type="checkbox"/> 355 Prison Conditions			

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

Original Proceeding Removal from State Court Remanded from Appellate Court Reinstated or Reopened Transferred from another district (specify) Multidistrict Litigation Appeal to District Judge from Magistrate Judgment

VII. REQUESTED IN COMPLAINT: CHECK IF THIS IS A CLASS ACTION UNDER 23.23 **DEMAND \$** **SUBJECT TO PROOF** Check YES only if demanded in complaint: **JURY DEMAND: YES NO**

VIII. RELATED CASE(S) IF ANY (See Instructions): **JUDGE** **Docket Number**

DATE **4/17/00** SIGNATURE OF ATTORNEY OF RECORD **Dana Cephas**

90E-90F 01/00 d 10E-1 81119841118 00CV00779 B (NLS) FROM:EECC/LADO APR-18-00 15:53