

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

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U.S. DISTRICT COURT

EQUAL EMPLOYMENT OPPORTUNITY)
COMMISSION,)

Plaintiff,)

v.)

A.T.M.I. PRECAST, INC., and)
WAUBONSEE DEVELOPMENT COMPANY,)
INC.)

Defendants.)

016 7505
CIVIL ACTION NO. 7505

JUDGE LEINENWEBER

MAGISTRATE JUDGE BOBRICK
COMPLAINT

JURY TRIAL DEMAND

DOCKETED
SEP 28 2007

NATURE OF THE ACTION

This is an action under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e et seq. ("Title VII"), and Title I of the Civil Rights Act of 1991, 42 U.S.C. § 1981a, to correct unlawful employment practices on the basis of national origin and to provide appropriate relief to Jose Urbina, Augustin Gonzalez, David Marin and a class of employees who were adversely affected by such practices. The Commission alleges that Defendants discriminated against Jose Urbina, Augustin Gonzalez, David Marin, and other Hispanic employees on the basis of their national origin by subjecting them to disparate treatment as compared to non-Hispanic employees. The Commission further alleges that Defendants discriminated by taking adverse employment actions against them and otherwise retaliating against them because of their objections to practices made unlawful under Title VII.

JURISDICTION AND VENUE

1. This action is brought by the United States Equal Employment Opportunity

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Commission (the "EEOC") to enforce the provisions of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e et seq.

2. This action is authorized and instituted pursuant to § 706(f)(1), § 706(f)(3), and § 707(a) through (c) of Title VII, 42 U.S.C. §2000e-5(f)(1) §2000e-5(f)(3), and §2000e-6(a) through (c).

3. This court has jurisdiction of this action pursuant to 28 U.S.C. § 451, 28 U.S.C. § 1331, 28 U.S.C. § 1337, 28 U.S.C. § 1343, 28 U.S.C. § 1345, 42 U.S.C. § 2000e-5(f)(3) and 42 U.S.C. § 2000e-6(b).

4. The unlawful acts alleged below were and are now being committed within the jurisdiction of the United States District Court for the Northern District of Illinois.

PARTIES

5. Plaintiff, Equal Employment Opportunity Commission (the "Commission"), is an agency of the United States of America charged with the administration, interpretation and enforcement of Title VII, and is expressly authorized to bring this action by § 706(f)(1), § 707(a) and §707(c) of Title VII, 42 U.S.C. §2000e-5(f)(1), §2000e-6(a), and §2000e-6(c).

6. At all relevant times, Defendant A.T.M.I. Precast, Inc. (hereinafter "ATMI") has continuously been a corporation doing business in the State of Illinois, County of Cook, City of Aurora.

7. At all relevant times, Defendant Waubensee Development Company, Inc. (hereinafter "Waubensee") has continuously been a corporation doing business in the State of Illinois, County of Cook, City of Aurora.

8. At all relevant times, Defendant, ATMI has continuously had at least fifteen (15) employees.

9. At all relevant times, Defendant, Waubonsee has continuously had at least fifteen (15) employees.

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

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

STATEMENT OF CLAIMS

13. More than thirty (30) days prior to the institution of this lawsuit, Jose Urbina, Augustin Gonzalez and David Marin filed charges of discrimination with the Commission alleging violations of Title VII by Defendants (Charge numbers 210983415, 210983480, 210990373 and 210990373, respectively).

14. Pursuant to 42 U.S.C. § 2000e-5(f)(1), EEOC's representatives attempted to eliminate the unlawful employment practices alleged below and to effect voluntary compliance with Title VII prior to institution of this lawsuit, but EEOC was unable to secure a conciliation agreement acceptable to the Commission.

15. All conditions precedent to the institution of this lawsuit have been fulfilled.

16. From at least 1995 until the present, Defendants have engaged in a pattern and practice of unlawful employment practices at ATMI and Waubonsee in Aurora, Illinois in continuing violation of §703(a) and § 704 (a) of Title VII, 42 U.S.C. §§ 2000e-2(a) and 2000e-3(a). These unlawful employment practices include, but are not limited to:

(a) paying a lower salary to Jose Urbina, Augustin Gonzalez and David Marin, and a

class of Hispanic employees, who perform field work for ATMI, compared to non-Hispanics;

- (b) requiring Jose Urbina, Augustin Gonzalez and David Marin, and a class of Hispanic employees to be physically present at the plant on a daily basis to receive their field assignments which does not allow them to earn union wages until they go to their assignments, unlike comparable non-Hispanic employees;
- (c) failing to take immediate and appropriate corrective action in response to complaints or other notice of discrimination on the basis of national origin;
- (d) retaliating against Jose Urbina, and Augustin Gonzalez, for opposing practices made unlawful by Title VII;
- (e) refusing to hire and/or transfer a class of Hispanic ATMI employees to Waubensee in order to receive higher paying wages; and
- (f) causing a class of employees to resign their employment because of continued disparate treatment on the basis of their national origin, thus constructively discharging them.

17. The result of the practices complained of above has been to deprive Jose Urbina, Augustin Gonzalez, David Marin, and other Hispanic employees of equal employment opportunities and otherwise adversely affect their status as employees because of their national origin.

18. The unlawful employment practices complained of above were and are intentional.

19. The unlawful employment practices complained of in paragraph 16 were done with malice or with reckless indifference to the federally protected rights of Jose Urbina, Augustin Gonzalez and David Marin, and a class of Hispanic employees.

PRAYER FOR RELIEF

WHEREFORE, the Commission requests that this Court:

A. Grant a permanent injunction enjoining Defendants, their officers, successors, assigns, and all persons in active concert or participation with them, from engaging in any employment practices which discriminate on the basis of national origin or retaliation;

B. Order Defendants to institute and carry out policies, practices and programs which provide equal employment opportunities for its employees regardless of national origin and for individuals who have opposed practices made unlawful by Title VII, and which eradicate the effects of its unlawful employment practices;

C. Order Defendants to make whole Jose Urbina, Augustin Gonzalez and David Marin, and a class of Hispanic employees adversely affected by the unlawful practices alleged above by providing appropriate back pay with pre-judgment interest, in amounts to be determined at trial, and other affirmative relief necessary to eradicate the effects of the unlawful employment practices, including but not limited to rightful place reinstatement for a class of employees who were either discharged in retaliation for opposing practices made unlawful by Title VII or who were constructively discharged by Defendants;

D. Order Defendants to make whole Jose Urbina, Augustin Gonzalez, David Marin and a class of individuals by providing compensation for past and future pecuniary losses resulting from the unlawful employment practices described in paragraph 16, above, in amounts to be determined at trial;

E. Order Defendants to make whole Jose Urbina, Augustin Gonzalez, and David Marin and a class of individuals by providing compensation for past and future non-pecuniary losses resulting from the unlawful practices complained of in paragraph 16, above, including

emotional pain, humiliation, and inconvenience in amounts to be determined at trial;

E. Order defendants to pay punitive damages for its malicious and reckless conduct described in paragraph 16 above, in amounts to be determined at trial;

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

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 the Complaint.

DATED this 28th day of September, 2001.

Respectfully submitted,

Nicholas M. Inzeo
Acting Deputy General Counsel


Gwendolyn Young Reams
Associate General Counsel

Equal Employment Opportunity

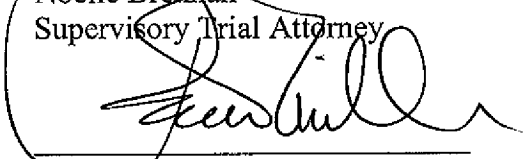
Commission
1801 "L" Street, N.W.
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Regional Attorney



Noelle Brennan
Supervisory Trial Attorney



Beth A. Miller
Trial Attorney

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Part I

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS

Civil Cover Sheet

This automated JS-44 conforms generally to the manual JS-44 approved by the Judicial Conference of the United States in September 1974. The data is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. The information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is authorized for use only in the Northern District of Illinois.

**Plaintiff(s): EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION**

**Defendant(s): A.T.M.I. PRECAST, INC., &
WAUBONSEE DEVELOPMENT COMPANY,
INC.**

County of Residence:

County of Residence:

Plaintiff's Atty: Beth A. Miller
Equal Employment Opportunity
Commission
500 W. Madison, Suite 2800
Chicago, IL 60661
312-353-7722

Defendant's Atty: Michael G. Cleveland, Esq.
Vedder Price Kaufman
Kammholz
222 N. LaSalle Street
Chicago, IL 60601-1003

BOCKETED
SEP 28 2001

II. Basis of Jurisdiction: 1. U.S. Gov't Plaintiff

III. Citizenship of Principle
Parties (Diversity Cases Only)

Plaintiff:- N/A
Defendant:- N/A

01C 7505
JUDGE LEINENWEBER
MAGISTRATE JUDGE BOBRICK

IV. Origin : 1. Original Proceeding

V. Nature of Suit: 442 Employment

VI. Cause of Action: Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e et seq. ("Title VII") and Title I of the Civil Rights Act of 1991, 42 U.S.C. § 1981a, to correct unlawful employment practices on the basis of national origin.

VII. Requested in Complaint

Class Action:
Dollar Demand:
Jury Demand: Yes

VIII. This case IS NOT a refiling of a previously dismissed case.

Signature:

Date:

9/28/01

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U.S. DISTRICT COURT

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Revised: 06/28/00

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS**

Eastern Division

JUDGE LEINENWEBER

In the Matter of

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
plaintiff,

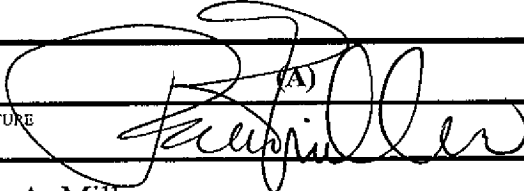
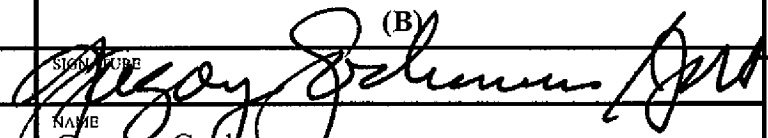
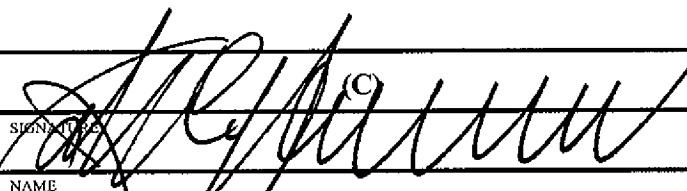
v.
**ATMI PRECAST, INC & WAUBONESEE
DEVELOPMENT CO., INC.** defendant,

01C 7505
Case Number:
MAGISTRATE JUDGE BOBRICK

APPEARANCES ARE HEREBY FILED BY THE UNDERSIGNED AS ATTORNEY(S) FOR

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

**DOCKETED
SEP 28 2001**

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NAME Beth A. Miller		NAME Gregory Gochanour	
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CITY/STATE/ZIP Chicago, IL 60661		CITY/STATE/ZIP Chicago, IL 60661	
TELEPHONE NUMBER (312) 353-7722		TELEPHONE NUMBER (312) 886-9124	
IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE) ARDC No. 06203264		IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE) ARDC No. 06210804	
MEMBER OF TRIAL BAR? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>		MEMBER OF TRIAL BAR? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>	
TRIAL ATTORNEY? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>		TRIAL ATTORNEY? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>	
		DESIGNATED AS LOCAL COUNSEL? YES <input type="checkbox"/> NO <input type="checkbox"/>	
SIGNATURE (C) 		SIGNATURE (D)	
NAME John C. Hendrickson		NAME	
FIRM Equal Employment Opportunity Commission		FIRM	
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TELEPHONE NUMBER (312) 353-8551		TELEPHONE NUMBER	
IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE) ARDC No. 01187589		IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE)	
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DESIGNATED AS LOCAL COUNSEL? YES <input type="checkbox"/> NO <input type="checkbox"/>		DESIGNATED AS LOCAL COUNSEL? YES <input type="checkbox"/> NO <input type="checkbox"/>	

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U.S. DISTRICT COURT

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