

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

FILED-ED4

55 16 NY 81 NOV 80

CLERK
U.S. DISTRICT COURT

EQUAL EMPLOYMENT OPPORTUNITY)
COMMISSION,)

Plaintiff,)

v.)

CATERPILLAR, INC.)

Defendants.)

CIVIL ACTION NO.

03C 5637

COMPLAINT

DOCKETED
AUG 13 2003

JURY TRIAL DEMAND
JUDGE CONLON

NATURE OF THE ACTION

MAGISTRATE JUDGE NOLAN

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 race to provide appropriate relief to George Ervin, Stanly McCallum and Rickey McNeal who were adversely affected by such practices.

JURISDICTION AND VENUE

1. This action is brought by the United States Equal Employment Opportunity Commission 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, 1331, 1337, 1343, 1345, 42 U.S.C. §§ 2000e-5(f)(3), 2000e-6(a-c), and § 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981A.

1-1

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 ("EEOC" or 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 Caterpillar, Inc. has continuously been a corporation doing business in Will County, Illinois.

7. At all relevant times, Caterpillar, Inc. has continuously had at least fifteen (15) employees.

8. At all relevant times, Caterpillar, Inc. 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

9. More than thirty (30) days prior to the institution of this lawsuit, Stanley McCallum, Rickey McNeal and George Ervins filed charges of discrimination with the Commission alleging violations of Title VII by Caterpillar, Inc.

10. On about March 4, 2002, the EEOC issued Letters of Determination to Caterpillar, Inc. finding that Defendant had discriminated against McCallum, McNeal and Ervins.

11. 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 an acceptable conciliation agreement.

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

13. In 2000 and 2001, Defendant failed to use reasonable care to prevent and correct promptly acts of racial harassment against Ervins, McCallum and McNeal perpetrated by co-workers and a supervisor in continuing violation of §703(a) of Title VII, 42 U.S.C. § 2000e-2(a). These unlawful employment practices include, but are not limited to, failing to use reasonable care to prevent and correct promptly racially harassing behavior by co-workers, and also a supervisor's engaging in racial harassment and condoning racial harassment of Ervins, McCallum and McNeal by co-workers.

14. The result of the practices complained of in paragraph 13 has been to deprive Stanley McCallum, Rickey McNeal and George Ervins of equal employment opportunities and otherwise adversely affect their status as employees because of their race.

15. The unlawful employment practices complained of above were intentional.

16. The unlawful practices complained of above were done with malice or with reckless indifference to the federally protected rights of Ervins, McCallum and McNeal.

PRAYER FOR RELIEF

WHEREFORE, the Commission requests that this Court:

A. Grant a permanent injunction enjoining Defendant, its 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 race;

B. Order Defendant to institute and carry out policies, practices and programs which provide equal employment opportunities for its employees regardless of race, and which eradicate the effects of its unlawful employment practices;

C. Order Defendant to make whole Stanley McCallum, Rickey McNeal and George Ervins by providing compensation for non-pecuniary losses resulting from those unlawful employment practices including emotional pain, humiliation, and inconvenience in amounts to be determined at trial;

D. Order Defendant to pay Stanley McCallum, Rickey McNeal and George Ervins punitive damages for its malicious and reckless conduct in an amount to be determined at trial.

E. Prohibit Defendant from discriminating against any individual for engaging in protected activity under Title VII of the Civil Rights Act of 1964, or for opposing practices made unlawful by Title VII, or for participating in this law suit;

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

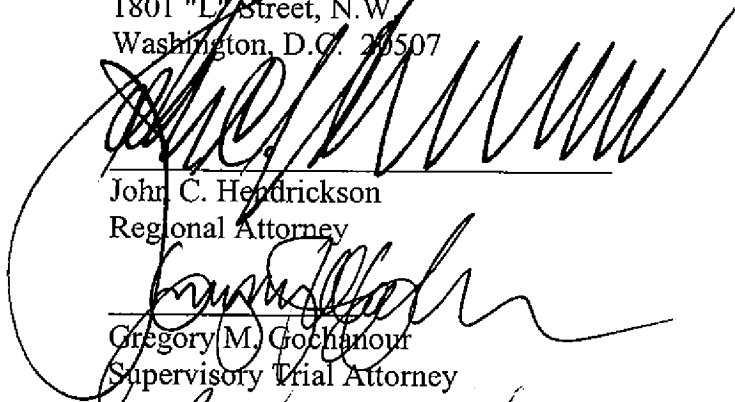
The Commission requests a jury trial on all questions of fact raised by the Complaint.

Respectfully submitted,

James Lee
Deputy General Counsel

Gwendolyn Young Reams
Associate General Counsel

Equal Employment Opportunity Commission
1801 "L" Street, N.W.
Washington, D.C. 20507



John C. Hendrickson
Regional Attorney

Gregory M. Gochanour
Supervisory Trial Attorney

Gordon Waldron
Senior Trial Attorney

Equal Employment Opportunity Commission
500 West Madison Street, Suite 2800
Chicago, Illinois 60661
(312) 353-7525

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS

Civil Cover Sheet

SEP 16 11 51 AM '03
CLERK
U.S. DISTRICT COURT

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): U.S. Equal Employment
Opportunity Commission**

Defendant(s): Caterpillar, Inc.

DOCKETED
AUG 13 2003

County of Residence:

County of Residence: Will

Plaintiff's Atty: Gordon G. Waldron
Equal Employment
Opportunity Commission
500 W. Madison St., Suite
2800 Chicago, Illinois 60661
(312) 353-7525

Defendant's Atty: Michael Warner
Seyfarth Shaw
55 East Monroe St., Suite
4200 Chicago, Illinois
60603-5803

DOC
AUG 13 2003

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

030 563 7

III. Citizenship of Principal
Parties (Diversity Cases Only)

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

JUDGE CONLON

IV. Origin : 1. Original Proceeding

MAGISTRATE JUDGE NOLAN

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 race.

VII. Requested in Complaint
Class Action:
Dollar Demand:
Jury Demand: Yes

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

Signature: Gordon G. Waldron 8/12/03

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS** FILED-004

In the Matter of

EASTERN DIVISION

SS 15 NY 81 907 80

U.S. Equal Employment Opportunity Commission,
v. Plaintiff,
Caterpillar, Inc. Defendant.

Case Number: **03C 5637**
DISTRICT COURT

DOCKETED

APPEARANCES ARE HEREBY FILED BY THE UNDERSIGNED AS ATTORNEY(S) FOR: **AUG 13 2003**

U.S. Equal Employment Opportunity Commission, Plaintiff

03C 5637

JUDGE CONLON

(A)		(B)	
SIGNATURE <i>Gordon G. Waldron</i>		SIGNATURE <i>Gregory M. Gochanour</i>	
NAME Gordon G. Waldron		NAME Gregory M. Gochanour	
FIRM Equal Employment Opportunity Commission		FIRM Equal Employment Opportunity Commission	
STREET ADDRESS 500 W. Madison St., Suite 2800		STREET ADDRESS 500 W. Madison St., Suite 2800	
CITY/STATE/ZIP Chicago, Illinois 60661		CITY/STATE/ZIP Chicago, Illinois 60661	
TELEPHONE NUMBER (312) 353-7525	FAX NUMBER (312) 353-8555	TELEPHONE NUMBER (312) 886-9124	FAX NUMBER (312) 353-8555
E-MAIL ADDRESS Gordon.Waldron@eoc.gov		E-MAIL ADDRESS Gregory.Gochanour@eoc.gov	
IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE) ARDC No. 02920646		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"/>	
(C)		(D)	
SIGNATURE <i>John C. Hendricks</i>		SIGNATURE	
NAME John C. Hendricks		NAME	
FIRM Equal Employment Opportunity Commission		FIRM	
STREET ADDRESS 500 W. Madison Street, Suite 2800		STREET ADDRESS	
CITY/STATE/ZIP Chicago, Illinois 60661		CITY/STATE/ZIP	
TELEPHONE NUMBER (312) 353-8551	FAX NUMBER (312) 353-8555	TELEPHONE NUMBER	FAX NUMBER
E-MAIL ADDRESS John.Hendrickson@eoc.gov		E-MAIL ADDRESS	
IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE) ARDC No. 01187589		IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE)	
MEMBER OF TRIAL BAR? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>		MEMBER OF TRIAL BAR? YES <input type="checkbox"/> NO <input type="checkbox"/>	
TRIAL ATTORNEY? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>		TRIAL ATTORNEY? YES <input type="checkbox"/> NO <input type="checkbox"/>	
DESIGNATED AS LOCAL COUNSEL? YES <input type="checkbox"/> NO <input type="checkbox"/>		DESIGNATED AS LOCAL COUNSEL? YES <input type="checkbox"/> NO <input type="checkbox"/>	

DOCKETED
AUG 13 2003

1-3