

pd. 5023AA

ORIGINAL 12

UNITED STATES DISTRICT COURT
IN THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MIRNA E. SERRANO,
on behalf of herself and
all others similarly situated,

Plaintiff,

v

CINTAS CORPORATION,
an Ohio Corporation,

Defendant.

File No. **04 40132**
Hon. **PAUL V. GADOLA**

MAGISTRATE JUDGE SONEER

James K. Fett (P39461)
Nicholas Roumel (P37056)
Lawrence A. Fields (P66086)
Fett, Roumel & Fields, P.C.
805 East Main
Pinckney, MI 48169
(734) 954-0100
Attorneys for Plaintiff

William G. Tishkoff (P45165)
Tishkoff & Goudsmit PLLC
407 N Main St
Ann Arbor, MI 48104-1158
(734) 663-4077
Attorneys for Plaintiff

FILED

MAY 10 2004

CLERK'S OFFICE
U.S. DISTRICT COURT
ANN ARBOR, MI

COMPLAINT AND JURY DEMAND

Plaintiffs, through counsel, state the following complaint against Defendant:

NATURE OF CLAIM

1. This is a gender discrimination class action for declaratory and injunctive relief against Defendant to redress the violation of the rights of the Plaintiff and the class she represents under the Civil Rights of Act of 1964, 42 USC §2000(e) et seq., as amended in 1991 (hereafter "Title VII").

2. Plaintiff also seeks compensatory and punitive damages against Defendant to redress the violation of the rights of the Plaintiff and the class she represents under Title VII.

JURISDICTION AND PARTIES

3. The jurisdiction of this Court is invoked pursuant to 28 USC §1331, 1343 (a)(3), 1343(a)(4), 2201 and 2202 and Title VII.

4. Jurisdiction to grant injunctive and declaratory equitable relief as well as damages is invoked pursuant to 42 USC §2000(e) - (5)(f).

5. All or most of the events giving rise to this action occurred in the Eastern District of Michigan.

6. The amount in controversy exceeds \$75,000.00.

ADMINISTRATIVE PROCEEDINGS

7. Plaintiff filed an EEOC charge with the Equal Employment Opportunity Commission ("EEOC") alleging gender discrimination in hiring against Defendant on or about April 7, 2000.

8. Although Plaintiff repeatedly requested a right to sue letter from the EEOC, the EEOC has declined to issue the right to sue letter. See February 17, 2004 and May 6, 2004 letters to EEOC, collectively attached as Exhibit A.

DISCRIMINATION ALLEGATIONS

9. At all material times, Defendant was an employer covered by and within the meaning of Title VII of the Civil Rights Act of 1964 (Title VII), as amended.

10. Plaintiff is a female job applicant that applied 3 times for the position of Route Sales Driver/Services Sales Representative ("Driver") with Defendant between July 1999 through March

2000 at two of Defendant's facilities in Michigan: twice at Defendant's Westland facility and once at Defendant's Sterling Heights facility.

11. Defendant rejected Plaintiff's applications despite the fact that she was well qualified for the position.

12. Defendant hired males for the Driver position which Plaintiff applied for.

13. Defendant rejected Plaintiff's applications for the Driver position because of her gender.

14. Plaintiff filed a charge of gender discrimination with the EEOC on April 7, 2000.

15. The EEOC investigated Plaintiff's charge and on July 3, 2002 issued a determination that:

Evidence gathered during the course of the investigation reveals that there is reasonable cause to believe that the Charging Party's allegations are true. Furthermore, like and related and growing out of this investigation, there is reasonable cause to believe that the Respondent has discriminated against females as a class by failing to hire them as Route Sales Drivers/Services Sales Representatives in violation of Title VII of the Civil Rights Act of 1964, as amended.

16. As a result of Defendant's practice and policy of discriminating against women as a class by denying them employment as route Sales Drivers/Services Sales Representatives, Plaintiff and similarly situated females have been denied employment opportunities afforded to males.

CLASS ACTION ALLEGATIONS

17. Plaintiff restates and incorporates by reference the allegations contained in the previous paragraphs of this Complaint.

18. The class is defined as all women who:

- a. applied for Route Driver/Services Sales Representative positions in Michigan from July, 1999 through the date that judgment is entered herein; and
- b. were denied employment as Route Sales Drivers/Services Sales Representatives.

19. Plaintiff seeks to maintain this class, pursuant to Rules 23(b) and 23(c)(4), on the issues of whether Defendant engaged in unlawful discrimination and whether Defendant should be enjoined from continuing their discriminatory policies.

20. The class is comprised of over 100 persons who applied for driver positions in Michigan and therefore joinder of all members is impracticable.

21. Common questions of fact and law exist as to all members of the Class and predominate over any questions solely affecting individual members of the Class; among the questions of law and fact in common to the Class is whether Defendant violated Title VII by discriminating against the class members in hiring based on their gender and whether they will continue to do so.

22. Plaintiff's claim is typical of the claims of the members of the Class and she is an adequate representative of the Class.

23. Plaintiff and members of the Class have sustained damages because of Defendant's unlawful activities herein.

24. Plaintiff has retained counsel competent and experienced in gender discrimination litigation and intends to prosecute this action vigorously.

25. Plaintiff will fairly and adequately protect the interests of the Class.

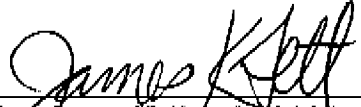
WHEREFORE, Plaintiff requests (1) class certification; (2) declaratory relief recognizing that Defendant has illegally discriminated against her and members of the class


based on their gender in violation of Title VII; (3) injunctive relief prohibiting the consideration of gender in hiring and ending the discriminatory policies described herein; (4) other equitable relief including, but not limited to, reinstatement; (5) judgment against Defendant in an amount in excess of \$75,000.00 for their economic and non-economic injuries; (6) an award of costs, interest and attorney fees pursuant to 42 U.S.C. §1988, and (7) punitive damages.

Respectfully submitted,

FETT, ROUMEL & FIELDS, P.C.

TISHKOFF & GOUDSMIT PLLC


By: James K. Fett (P39461)
Nicholas Roumel (P37056)
Lawrence A. Fields (P66084)
805 East Main
Pinckney, MI 48169
(734) 954-0100
Attorneys for Plaintiff


By: William G. Tishkoff (P45165) *by permission*
407 N Main St
Ann Arbor, MI 48104-1158
(734) 663-4077
Attorneys for Plaintiff

Dated 7 day of May, 2004


JURY DEMAND


NOW COMES the Plaintiff, through counsel, and hereby demands trial by jury in the above captioned matter.

Respectfully submitted,

FETT, ROUMEL & FIELDS, P.C.

TISHKOFF & GOUDSMIT, PLLC


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Attorneys for Plaintiff


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Ann Arbor, MI 48104-1158
(734) 663-4077
Attorneys for Plaintiff

Dated 7th day of May, 2004

TISHKOFF & GOUDSMIT PLLC

TRIAL ATTORNEYS AND COUNSELORS

407 NORTH MAIN STREET

ANN ARBOR, MICHIGAN 48104

TEL (734) 663-4077

FAX (734) 665-1613

www.tishkofflaw.com

WILLIAM G. TISHKOFF
A. POPPY GOUDSMIT

DANIEL TISHKOFF PH.D.
IT MANAGER/PARALEGAL

WRITER'S EMAIL: will@tishkofflaw.com

May 6, 2004

VIA FAX [313-226-2778] & U.S. MAIL

James R. Neely, Jr.
District Director
U.S. Equal Employment Opportunity Commission
Detroit District Office
477 Michigan Avenue, Room 865
Detroit, MI 48226-9704

Re: Charging Party: Mirna Serrano
Employer: Cintas
EEOC Charge #: 230A00845

Dear Mr. Neely:

By letter to you dated February 17, 2004, signed by my client, Mirna Serrano, Ms. Serrano confirmed her request for notice of right to sue by private action in court. The above letter stated, in pertinent part:

On or about January 22, 2002, the undersigned, William G. Tishkoff, Esq., appeared in the above-referenced matter on behalf of Charging Party Mirna Serrano. On July 3, 2002, you issued a Determination in the above-referenced matter, on behalf of the Commission, finding reasonable cause to believe that Ms. Serrano's allegations of discrimination are true and that Cintas discriminated against females as a class by failing to hire them as Route Sales Drivers/Services Sales Representatives in violation of Title VII. Women discriminated by Cintas as a class, in addition to Ms. Serrano, are identified in the proposed Conciliation Agreement issued along with the above Determination.¹ Since the above Determination, Ms. Serrano has not received an acceptable settlement offer from Cintas – indeed, Ms. Serrano has not received any settlement offer from Cintas – nor has Cintas made any offers of compensation or remediation with respect to the above class of women.

Ms. Serrano greatly appreciates the investigation and work performed by the EEOC on her behalf and on behalf of the class of women discriminated against by Cintas. However, please be advised that Ms. Serrano intends to initiate

¹ These women include, without limitation, the 61 women at the Cintas Westland facility, and the 51 women at the Cintas Madison Heights facility, identified in the EEOC's proposed Conciliation Agreement.

James R. Neely, Jr.

May 6, 2004

Page 2

a class action lawsuit in federal court, based on gender discrimination in violation of Title VII, *inter alia*, against Cintas, on Ms. Serrano's individual behalf and on behalf of the class of women discriminated against by Cintas. Ms. Serrano therefore respectfully requests that the EEOC issue her a notice of right to sue under Title VII, on Ms. Serrano's individual behalf and on behalf of the class of women discriminated against by Cintas. The original or a copy of the notice of right to sue for Ms. Serrano should be provided, at your earliest convenience, to the undersigned at the address indicated in the above letterhead.

Following the provision of the above letter I engaged in several of discussion with representatives of the EEOC, including EEOC attorney Gail D. Cober on a number of occasions and you and Ms. Cober on April 22, 2004. In all of these conferences with the EEOC, the EEOC acknowledged receipt of Ms. Serrano's request for notice of right to sue and I indicated that Ms. Serrano continues to request the issuance of notice of right to sue. Although I greatly respect the legal abilities and capabilities of you and Ms. Cober, Ms. Serrano intends to file a private lawsuit seeking class certification and her request for right to sue should be honored without delay.

Very truly yours,



William G. Tishkoff

WGT/dt

cc: Frances Angiano
Gail D. Cober, Esq.
Mirna Serrano

TISHKOFF & GOUDSMIT PLLC

TRIAL ATTORNEYS AND COUNSELORS

407 NORTH MAIN STREET

ANN ARBOR, MICHIGAN 48104

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WILLIAM G. TISHKOFF
A. POPPY GOUDSMIT

DANIEL TISHKOFF PH.D.
IT MANAGER/PARALEGAL

WRITER'S EMAIL: will@tishkofflaw.com

February 17, 2004

VIA FAX [313-226-2778] & U.S. MAIL

James R. Neely, Jr.
District Director
U.S. Equal Employment Opportunity Commission
Detroit District Office
477 Michigan Avenue, Room 865
Detroit, MI 48226-9704

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EEOC Charge #: 230A00845

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Ms. Serrano greatly appreciates the investigation and work performed by the EEOC on her behalf and on behalf of the class of women discriminated against by Cintas. However, please be advised that Ms. Serrano intends to initiate a class action lawsuit in federal court, based on gender discrimination in violation of Title VII, *inter alia*, against Cintas, on Ms. Serrano's individual behalf and on behalf of the class of women discriminated against by Cintas. Ms. Serrano therefore respectfully requests that the EEOC issue her a notice of right to sue under Title VII, on Ms. Serrano's individual behalf and on behalf of the class of women discriminated against by Cintas. The original or a copy of the notice of right to sue for Ms. Serrano should be

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James R. Neely, Jr.
February 17, 2004
Page 2

provided, at your earliest convenience, to the undersigned at the address indicated in the above letterhead.

We appreciate your time and consideration.

Very truly yours,



William G. Tishkoff

WGT/dt

Request for notice of right to sue authorized and confirmed by Mirna Serrano.



Mirna Serrano

Date: February 17, 2004

cc: Frances Angiano

Gadola / Scheer

04-40132

JS 44 11/99

CIVIL COVER SHEET COUNTY IN WHICH THIS ACTION AROSE: Wayne

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 use of the Clerk of Court for the purpose of initiating the civil docket sheet.

I. (a) PLAINTIFFS

Mirna Serrano
42480 Beechwood
Canton, MI 48188

DEFENDANTS

Cintas Corporation
39415 Webb Drive
Westland, MI 48185

ORIGINAL

(b) County of Residence of First Listed Wayne

County of Residence of First Listed Wayne

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

(c) Attorney's (Firm Name, Address, and Telephone Number)

James K. Fett, 805 E. Main St., Pinckney, MI 48169 734-954-0100 & William G. Tishkoff, 407 N. Main St., Ann Arbor, MI 48104 734-663-4077

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
- 3 Federal Question (U.S. Government Not a Party)
- 2 U.S. Government Defendant
- 4 Diversity (Indicate Citizenship of Parties in Item 111)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | | | | | |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| | PLA | DEF | | PLA | DEF |
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment and Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 180 Other Contract <input type="checkbox"/> 195 Contract Product Liability	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault Libel And Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL INJURY - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21: 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 680 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced & Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Com. mod. Illus./Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <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"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	LABOR	SOCIAL SECURITY
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 441 Voting <input checked="" type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 780 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 881 HIA (1385ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DWC/DIMW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))
			FEDERAL TAX SUITS	
			<input type="checkbox"/> 670 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 671 IRS-Third Party 26 USC 7609	

V. ORIGIN

(PLACE AN "X" IN ONE BOX ONLY)

- 1 Original Proceeding
- 2 Removed from State Court
- 3 Remanded from Appellate Court
- 4 Reinstated or Reopened
- 5 (specify)
- 6 Multi district Litigation
- 7 Judge from Magistrate

VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write brief statement of cause. Do not cite jurisdictional statutes unless diversity.)

Gender discrimination in hiring in violation of Title VII of the Civil Rights Act of 1964.

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

\$ DEMAND Over \$75,000

CHECK YES only if demanded in complaint: JURY DEMAND Yes No

VIII. RELATED CASE(S) INSTRUCTIONS: IF ANY

JUDGE

DOCKET NUMBER

DATE 5-6-04

SIGNATURE OF ATTORNEY OF RECORD

James K. Fett

PURSUANT TO LOCAL RULE 83.11

1. Is this a case that has been previously dismissed?

Yes
 No

If yes, give the following information:

Court: _____

Case No.: _____

Judge: _____

2. Other than stated above, are there any pending or previously discontinued or dismissed companion cases in this or any other court, including state court? (Companion cases are matters in which it appears substantially similar evidence will be offered or the same or related parties are present and the cases arise out of the same transaction or occurrence.)

Yes
 No

If yes, give the following information:

Court: _____

Case No.: _____

Judge: _____

Notes :
