FILED
2003 SEP 30 PM 12: 12
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF OHIO
CLEVELAND

SEP 30 2003

**UNITED STATES DISTRICT COURT**
**NORTHERN DISTRICT OF OHIO**
**EASTERN DIVISION**

| | | |
|---|---|---|
| **EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,** | ) | |
| **Plaintiff,** | ) | **Civil Action No.** 1:03CV2023 |
| | ) | **Judge** JUDGE O'MALLEY |
| **v.** | ) | |
| **S & Z TOOL & DIE CO., INC.,** | ) | **COMPLAINT AND JURY TRIAL DEMAND** |
| **Defendant.** | ) | |

MAG. JUDGE PERELMAN

NATURE OF THE ACTION

This is an action under Title VII of the Civil Rights Act of 1964 ("Title VII") and Title I of the Civil Rights Act of 1991 to correct unlawful employment practices on the basis of sex and race, and to provide appropriate relief to Charging Party Molly Baron-Prodan and a class of other, similarly situated female and Black applicants for employment. As alleged with greater particularity in paragraphs 7-21, below, the United States Equal Employment Opportunity Commission ("the Commission") alleges that the Defendant S & Z Tool & Die Co., Inc. ("S & Z Tool") has engaged in a pattern or practice of refusing to hire female applicants for employment because of their sex and Black applicants because of their race in violation of Title VII. The Commission further alleges that

Defendant S & Z Tool has failed to preserve personnel and employment records in violation of Title VII and the Commission's Regulations implementing Title VII.

JURISDICTION AND VENUE

1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 451, 1331, 1337, 1343 and 1345. This action is authorized and instituted pursuant to Section 706(f)(1) and (3) of Title VII of the Civil Rights Act of 1964, as amended ("Title VII"), 42 U.S.C. § 2000e-5(f)(1) and (3), Section 707 of Title VII, 42 U.S.C. § 2000e-6, Section 709(c) of Title VII, 42 U.S.C. § 2000e-8(c), and Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981a.

2. The employment practices alleged to be unlawful were and are now being committed within the jurisdiction of the United States District Court for the Northern District of Ohio, Eastern Division.

PARTIES

3. Plaintiff, the United States Equal Employment Opportunity Commission (the "Commission"), is the 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 Section 706(f)(1) and (3) of Title VII, 42 U.S.C. § 2000e-5(f)(1) and (3), Section 707 of Title VII, 42 U.S.C. § 2000e-6, and Section 709(c) of Title VII, 42 U.S.C. § 2000e-8(c).

4. At all relevant times, Defendant S & Z Tool & Die Co., Inc. ("S & Z Tool"), an Ohio corporation, has continuously been doing business in the State of Ohio and the City of Cleveland, and has continuously had at least 15 employees.

5. At all relevant times, Defendant S & Z Tool has continuously been an employer engaged in an industry affecting commerce within the meaning of Section 701(b), (g) and (h) of Title

VII, 42 U.S.C. § 2000e(b), (g) and (h).

STATEMENT OF CLAIMS

6. More than thirty days prior to the institution of this lawsuit, Molly Baron-Prodan (formerly "Baron-Hriscu") filed a charge of discrimination with the Commission alleging violations of Title VII by Defendant S & Z Tool. All conditions precedent to the institution of this lawsuit have been fulfilled.

7. Since at least January 1, 1991, Defendant S & Z Tool has engaged in a pattern or practice of unlawful employment practices at its Cleveland, Ohio facility in violation of Section 703(a)(1) and (a)(2) of Title VII, 42 U.S.C. § 2000e-2(a)(1) and (a)(2).

8. Since at least January 1, 1991, Defendant S & Z Tool has engaged in a pattern or practice of refusing to hire female job applicants for non-clerical entry-level positions, including but not limited to laborer positions, or for semi-skilled positions, including but not limited to machine operator positions, because of their sex, female, in violation of Title VII.

9. On or about August 15, 1999, Defendant S & Z Tool refused to hire Molly Baron-Prodan because of her sex, female, in violation of Title VII.

10. On or about August 22, 2000, Defendant S & Z Tool refused to hire Rebecka Reed because of her sex, female, in violation of Title VII.

11. On or about August 24, 2000, Defendant S & Z Tool refused to hire Carmen Maria Vazquez because of her sex, female, in violation of Title VII.

12. On or about June 21, 2000, Defendant S & Z Tool refused to hire June Copeland because of her sex, female, in violation of Title VII.

13. On or about September 10, 2000, Defendant S & Z Tool refused to hire Christina Rowe because of her sex, female, in violation of Title VII.

14. On or about January 3, 2000, Defendant S & Z Tool refused to hire Sherrie Ramos because of her sex, female, in violation of Title VII.

15. On or about June 29, 2000, Defendant S & Z Tool refused to hire Barbara Perry because of her sex, female, in violation of Title VII.

16. Since at least January 1, 1991, Defendant S & Z Tool has engaged in a pattern or practice of refusing to hire a class of presently unidentified female job applicants for non-clerical entry-level positions, including but not limited to laborer positions, or for semi-skilled positions, including but not limited to machine operator positions, because of their sex, female, in violation of Title VII.

17. Since at least January 1, 1991, Defendant S & Z Tool has engaged in a pattern or practice of refusing to hire a class of presently unidentified Black job applicants for non-clerical entry-level positions, including but not limited to laborer positions, or for semi-skilled positions, including but not limited to machine operator positions, because of their race, Black, in violation of Title VII.

18. Since at least January 1, 1999, Defendant S & Z Tool has failed to preserve personnel and employment records that it has made or kept for at least one year from the date of making of the records and/or personnel action involved, and has failed to preserve such relevant records until final disposition of a charge of discrimination in violation of Title VII and the Commission's Regulations set forth at 29 C.F.R. § 1602.14

19. The effect of the practices complained of in paragraphs 7-18, above, has been to

deprive Molly Baron-Prodan, Rebecka Reed, Carmen Maria Vazquez, June Copeland, Christina Rowe, Sherrie Ramos, Barbara Perry, a class of presently unidentified, similarly-situated female job applicants, and a class of presently unidentified, similarly-situated Black job applicants of equal employment opportunities and otherwise adversely affect their status as employees because of their sex and/or race.

20. The unlawful employment practices complained of in paragraphs 7-19, above, were and are intentional.

21. The unlawful employment practices complained of in paragraphs 7-20, above, were and are done with malice or with reckless indifference to the federally protected rights of Molly Baron-Prodan, Rebecka Reed, Carmen Maria Vazquez, June Copeland, Christina Rowe, Sherrie Ramos, Barbara Perry, a class of presently unidentified, similarly-situated female job applicants, and a class of presently unidentified, similarly-situated Black job applicants.

PRAYER FOR RELIEF

Wherefore, the Commission respectfully requests that this Court:

A. Grant a permanent injunction enjoining Defendant, its officers, successors, assigns, and all persons in active concert or participation with it, from engaging in sex and race discrimination, including sex or race-based denial of hire and any other employment practice which discriminates on the basis of sex or race.

B. Order Defendant to institute and carry out policies, practices, and programs which provide equal employment opportunities for female and Black persons, and which eradicate the effects of its past and present unlawful employment practices.

C. Order Defendant to make whole Molly Baron-Prodan, Rebecka Reed, Carmen Maria

Vazquez, June Copeland, Christina Rowe, Sherrie Ramos, Barbara Perry and a class of presently unidentified, similarly-situated female and/or Black job applicants by providing appropriate back pay with prejudgment interest, in amounts to be determined at trial, and other affirmative relief necessary to eradicate the effects of its unlawful employment practices, including but not limited to instatement and front pay.

D. Order Defendant to make whole Molly Baron-Prodan, Rebecka Reed, Carmen Maria Vazquez, June Copeland, Christina Rowe, Sherrie Ramos, Barbara Perry and a class of presently unidentified, similarly-situated female and/or Black job applicants by providing compensation for past and future pecuniary losses resulting from the unlawful employment practices described in paragraphs 7-21, above, including medical expenses and job search expenses, in amounts to be determined at trial.

E. Order Defendant to make whole Molly Baron-Prodan, Rebecka Reed, Carmen Maria Vazquez, June Copeland, Christina Rowe, Sherrie Ramos, Barbara Perry and a class of presently unidentified, similarly-situated female and/or Black job applicants by providing compensation for past and future non-pecuniary losses resulting from the unlawful practices complained of in paragraphs 7-21, above, including emotional pain, suffering, inconvenience, mental anguish, loss of enjoyment of life, and other non-pecuniary losses, in amounts to be determined at trial.

F. Order Defendant to pay Molly Baron-Prodan, Rebecka Reed, Carmen Maria Vazquez, June Copeland, Christina Rowe, Sherrie Ramos, Barbara Perry and a class of presently unidentified, similarly-situated female and/or Black job applicants punitive damages for the malicious and reckless conduct described in paragraphs 7-21, above, in amounts to be determined at trial.

G. Order Defendant to preserve personnel and employment records in compliance with

the requirements of Title VII and the Commission's Regulations.

H. Grant such further relief as the Court deems necessary and proper in the public interest.

I. Award the Commission its costs of this action.

JURY TRIAL DEMAND

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

Respectfully submitted,

ERIC S. DRIEBAND
General Counsel

JAMES L. LEE
Deputy General Counsel

GWENDOLYN YOUNG REAMS
Associate General Counsel

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EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION
Cleveland District Office
1660 West Second Street, Suite 850
Cleveland, Ohio 44113

JS 44 (Rev. 3/99)

# 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 REVERSE OF THE FORM.)

**I. (a) PLAINTIFFS**

2003 SEP 30 PM 12: 12

Equal Employment Opportunity Commission

(b) County of Residence of First Listed Plaintiff _____
(EXCEPT IN U.S. PLAINTIFF CASES)

**DEFENDANTS**

S & Z Tool and Die Company

1:03CV2023

County of Residence of First Listed Defendant Cuyahoga
(IN U.S. PLAINTIFF CASES ONLY)

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

(c) Attorney's (Firm Name, Address, and Telephone Number)
Jeffrey A. Stern
EEOC - Cleveland District Office
1660 West 2nd Street, Suite 850
Cleveland, Ohio 44113-1454

Attorneys (If Known)

JUDGE O'MALLEY

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

- [X] 1 U.S. Government Plaintiff
- [ ] 2 U.S. Government Defendant
- [ ] 3 Federal Question (U.S. Government Not a Party)
- [ ] 4 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)

| | PTF | DEF | | PTF | DEF |
|---|---|---|---|---|---|
| Citizen of This State | [ ] 1 | [ ] 1 | Incorporated *or* Principal Place of Business In This State | [ ] 4 | [ ] 4 |
| Citizen of Another State | [ ] 2 | [ ] 2 | Incorporated *and* Principal Place of Business In Another State | [ ] 5 | [ ] 5 |
| Citizen or Subject of a Foreign Country | [ ] 3 | [ ] 3 | Foreign Nation | [ ] 6 | [ ] 6 |

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

**CONTRACT**
- [ ] 110 Insurance
- [ ] 120 Marine
- [ ] 130 Miller Act
- [ ] 140 Negotiable Instrument
- [ ] 150 Recovery of Overpayment & Enforcement of Judgment
- [ ] 151 Medicare Act
- [ ] 152 Recovery of Defaulted Student Loans (Excl. Veterans)
- [ ] 153 Recovery of Overpayment of Veteran's Benefits
- [ ] 160 Stockholders' Suits
- [ ] 190 Other Contract
- [ ] 195 Contract Product Liability

**TORTS**

PERSONAL INJURY
- [ ] 310 Airplane
- [ ] 315 Airplane Product Liability
- [ ] 320 Assault, Libel & Slander
- [ ] 330 Federal Employers' Liability
- [ ] 340 Marine
- [ ] 345 Marine Product Liability
- [ ] 350 Motor Vehicle
- [ ] 355 Motor Vehicle Product Liability
- [ ] 360 Other Personal Injury

PERSONAL INJURY
- [ ] 362 Personal Injury—Med. Malpractice
- [ ] 365 Personal Injury — Product Liability
- [ ] 368 Asbestos Personal Injury Product Liability

PERSONAL PROPERTY
- [ ] 370 Other Fraud
- [ ] 371 Truth in Lending
- [ ] 380 Other Personal Property Damage
- [ ] 385 Property Damage Product Liability

**REAL PROPERTY**
- [ ] 210 Land Condemnation
- [ ] 220 Foreclosure
- [ ] 230 Rent Lease & Ejectment
- [ ] 240 Torts to Land
- [ ] 245 Tort Product Liability
- [ ] 290 All Other Real Property

**CIVIL RIGHTS**
- [ ] 441 Voting
- [X] 442 Employment
- [ ] 443 Housing/ Accommodations
- [ ] 444 Welfare
- [ ] 440 Other Civil Rights

**PRISONER PETITIONS**
- [ ] 510 Motions to Vacate Sentence
- Habeas Corpus:
- [ ] 530 General
- [ ] 535 Death Penalty
- [ ] 540 Mandamus & Other
- [ ] 550 Civil Rights
- [ ] 555 Prison Condition

**FORFEITURE/PENALTY**
- [ ] 610 Agriculture
- [ ] 620 Other Food & Drug
- [ ] 625 Drug Related Seizure of Property 21 USC 881
- [ ] 630 Liquor Laws
- [ ] 640 R.R. & Truck
- [ ] 650 Airline Regs.
- [ ] 660 Occupational Safety/Health
- [ ] 690 Other

**LABOR**
- [ ] 710 Fair Labor Standards Act
- [ ] 720 Labor/Mgmt. Relations
- [ ] 730 Labor/Mgmt.Reporting & Disclosure Act
- [ ] 740 Railway Labor Act
- [ ] 790 Other Labor Litigation
- [ ] 791 Empl. Ret. Inc. Security Act

**BANKRUPTCY**
- [ ] 422 Appeal 28 USC 158
- [ ] 423 Withdrawal 28 USC 157

**PROPERTY RIGHTS**
- [ ] 820 Copyrights
- [ ] 830 Patent
- [ ] 840 Trademark

**SOCIAL SECURITY**
- [ ] 861 HIA (1395ff)
- [ ] 862 Black Lung (923)
- [ ] 863 DIWC/DIWW (405(g))
- [ ] 864 SSID Title XVI
- [ ] 865 RSI (405(g))

**FEDERAL TAX SUITS**
- [ ] 870 Taxes (U.S. Plaintiff or Defendant)
- [ ] 871 IRS—Third Party 26 USC 7609

**OTHER STATUTES**
- [ ] 400 State Reapportionment
- [ ] 410 Antitrust
- [ ] 430 Banks and Banking
- [ ] 450 Commerce/ICC Rates/etc.
- [ ] 460 Deportation
- [ ] 470 Racketeer Influenced and Corrupt Organizations
- [ ] 810 Selective Service
- [ ] 850 Securities/Commodities/ Exchange
- [ ] 875 Customer Challenge 12 USC 3410
- [ ] 891 Agricultural Acts
- [ ] 892 Economic Stabilization Act
- [ ] 893 Environmental Matters
- [ ] 894 Energy Allocation Act
- [ ] 895 Freedom of Information Act
- [ ] 900 Appeal of Fee Determination Under Equal Access to Justice
- [ ] 950 Constitutionality of State Statutes
- [ ] 890 Other Statutory Actions

**V. ORIGIN** (PLACE AN "X" IN ONE BOX ONLY)

- [X] 1 Original Proceeding
- [ ] 2 Removed 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

**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.)

See Attachment A

**VII. REQUESTED IN COMPLAINT:** [ ] CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND $ backpay & damages

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

**VIII. RELATED CASE(S) IF ANY** (See instructions):
JUDGE _____ DOCKET NUMBER _____

DATE 9/30/03

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

ATTACHMENT A

This is an action under Title VII of the Civil Rights Act of 1964 ("Title VII") and Title I of the Civil Rights Act of 1991 to correct unlawful employment practices on the basis of sex and race, and to provide appropriate relief to Charging Party Molly Baron-Prodan and a class of other, similarly situated female and Black applicants for employment. As alleged with greater particularity in paragraphs 7-21, below, the United States Equal Employment Opportunity Commission ("the Commission") alleges that the Defendant S & Z Tool & Die Co., Inc. ("S & Z Tool") has engaged in a pattern or practice of refusing to hire female applicants for employment because of their sex and Black applicants because of their race in violation of Title VII. The Commission further alleges that Defendant S & Z Tool has failed to preserve personnel and employment records in violation of Title VII and the Commission's Regulations implementing Title VII.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO

I Civil Categories: (Place an (X) in one category only)

1. ( ) Admiralty and general maritime law.
2. ( ) Antitrust.
3. ( x) Civil Rights.
4. ( ) Contract.
5. ( ) Habeas Corpus (other than Section 2255).*
6. ( ) Labor Relations.
7. ( ) Patent.
8. ( ) Personal Injury (including Jones Act).
9. ( ) Review of administrative action.
10. ( ) Tax.
11. ( ) Unfair competition, trademark and copyright.
12. ( ) General Civil (all other civil cases).

*If under Title 28, U.S.C. 2255, NAME SENTENCING JUDGE:_____
MAGISTRATE:_____

II The Counties in the Northern District of Ohio are divided into divisions as shown below. After the county is determined in Section III, please check the appropriate division.

EASTERN DIVISION
( ) AKRON (Counties: Ashland, Carroll, Crawford, Holmes, Medina, Portage, Richland, Stark, Summit, Tuscarawas, Wayne.)
(xx) CLEVELAND (Counties: Cuyahoga, Geauga, Lake, Lorain.)
( ) YOUNGSTOWN (Counties: Ashtabula, Columbiana, Mahoning, Trumbull.)

WESTERN DIVISION
( ) TOLEDO (Counties: Allen, Auglaize, Defiance, Erie, Fulton, Hancock, Hardin, Henry, Huron, Lucas, Marion, Mercer, Ottawa, Paulding, Putnam, Sandusky, Seneca, Van Wert, Williams, Wood, Wyandot.)

III In accordance with Local Civil Rule 15, actions involving counties in the Eastern Division shall be filed at any of the divisional offices therein. Actions involving counties in th Western Division shall be filed only at the Toledo office. For the purpose of determining the proper division, and for statistical reasons, the following information is requested.

(1) Resident defendant. If the defendant resides in a county within this district, please set forth the name of such county.

Cuyahoga COUNTY

(2) Non-resident defendant. If no defendant is a resident of a county in this district, please set forth the county wherein the cause of action arose or the event complained of occured.

_____ COUNTY

(3) Corporation. For the purposes of answering (1) and (2) above, a corporation i deemed to be a resident of that county in which it has its principal place of business in that district.

_____ COUNTY

(4) Other Cases. If no defendant is a resident of this district, or if the defendant is a corporation not having a principal place of business within th district, and the cause of action arose or the event complained of occurred outside this district, please set forth the county of the plaintiff's residence.

_____ COUNTY