

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

**EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION**

AND

AVA SMITH THOMPSON

Plaintiffs

vs.

SARA LEE CORPORATION

**C/O
Csc-Lawyers Incorporating Service
(Corporation Service Company)
50 W. Broad St
Suite 1800
Columbus Ohio 43215**

**Statutory Agent
Defendant**

Case No. 1:06 CV645

JUDGE SPIEGEL

**PLAINTIFF AVA SMITH-
THOMPSON'S COMPLAINT
AGAINST DEFENDANT SARA
LEE CORPORATION**

JURY DEMAND ENDORSED HEREON

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 Sections 16(c) and 17 of the Fair Labor Standards Act of 1938(the 'FLSA'), as amended, 20 U.S.C. 216 (c) and 217, to enforce the requirements of the Equal Pay Act of 1963, codified as Section 6 (d) of the FLSA, 29 U.S.C. 206(d) , which incorporates by reference Sections 16(c) and 17 of the FLSA, section 706(f)(1) and (3) of Title VII of the Civil Rights Act f 1964, as amended ("Title VII"), 42 U.S.C. 2000e-5(f)(1) and (3), and Section 107(a) of the Americans with Disabilities Act of 1990 (the "ADA"), 42 U.S.C. 12117(a),

which incorporates by reference Section 706(f)(1) and (3) of Title VII. This action is authorized and instituted pursuant to Section 102 of Title I of the Civil Rights Act of 1991, 42 U.S.C. 1981a.

2. The employment practices alleged to be unlawful were being committed within the jurisdiction of the United States District Court for the Southern District of Ohio, Western Division.
3. Plaintiff Ava Smith Thompson has met all of the jurisdictional prerequisites to asserting these claims.

PARTIES

4. Plaintiff Ava Smith-Thompson is a former employee of Defendant Sara Lee Corporation, who timely filed a charge of employment discrimination with Plaintiff Equal Employment Opportunity Commission (Plaintiff EEOC).
5. Defendant Sara Lee Corporation is an employer within the meaning of federal anti-discrimination laws, within the meaning of Title VII, the FLSA, the ADA, and the ADEA, all as alleged in Plaintiff Equal Employment Opportunity Commission's Complaint, ¶¶ 4 through 8, which paragraphs are incorporated by reference as if fully set forth herein.
6. Following investigation of Plaintiff Ava Smith-Thompson's charge of discrimination, the EEOC made a probable cause determination that Defendant Sara Lee Corporation had engaged in unlawful employment practices at its Cincinnati, Ohio facility, in violation of the FLSA, Title VII, the ADEA, and the ADA.
7. Defendant Sara Lee subjected its employees, including Plaintiff Ava Smith-Thompson, to retaliatory practices by requiring them to waive their right to file an EEOC Charge as a condition to receive severance or other pay.

8. Defendant Sara Lee Corporation's above-described actions were in violation of the FLSA, Title VII, the ADEA, and the ADA.
9. As a result of these unlawful acts, Defendant Sara Lee unlawfully has withheld and is continuing to withhold the payment of severance pay to Ava Smith-Thompson, as well as a class of employees who were required to waive their right to file an EEOC charge as a condition to receive severance or other pay.
10. The effect of the above-described practices has been to deprive Plaintiff Ava Smith-Thompson of equal employment opportunities and to otherwise adversely affect her status as an employee, because of retaliation.
11. The above-described unlawful employment practices were willful within the meaning of section 7(b) of the ADEA.
12. The above-described unlawful employment practices were intentional and willful, and wanton.
13. The above-described practices were done with malice or reckless indifference to the federally protected rights of Ava Smith-Thompson.
14. Defendant Sara Lee is liable to Plaintiff Ava Smith-Thompson for all damages caused by its unlawful practices, in an amount to be proven at trial, but in excess of \$25,000.00.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff demands judgment against Defendant Sara Lee Corporation as follows:

1. That Defendant Sara Lee Corporation be enjoined from further unlawful conduct as described in this Complaint;

2. That Defendant Sara Lee be ordered to make Plaintiff Ava Smith-Thompson whole by providing Plaintiff Ava Smith-Thompson with the appropriate severance pay, with pre-judgment interest,
3. That Plaintiff be awarded compensatory damages in an amount to be proven at trial but in excess of \$25,000;
3. That Plaintiff be awarded reasonable attorney fees, and costs;
4. That Plaintiff be awarded punitive damages; and
5. That Plaintiff be awarded such other legal and equitable relief to which she may be entitled.

Respectfully submitted,

/s/ Carol S. Wood

Carol S. Wood (Ohio # 0040739)
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JURY DEMAND

Plaintiff Ava Smith-Thompson hereby demands a jury on all issues so triable.

/s/ Carol S. Wood (0040739)

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing is being served electronically on Kenneth L Bird, Attorney for Plaintiff Equal Employment Opportunity Commission at kenneth.bird@eeoc.gov, and on Lisa May Evans, Attorney for Defendant Sara Lee Corporation, at lisamay.evans@thompsonhine.com, this 15th day of January, 2007.

/s/ Carol S. Wood (Ohio # 0040739)