

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

<b>JOAN McLAUGHLIN,</b>	:	
	:	<b>CIVIL ACTION</b>
	:	
<b>v.</b>	:	<b>No.: 04-CV-5771</b>
	:	
<b>SPD TECHNOLOGIES, INC., A DIVISION OF L-3 COMMUNICATIONS, INC.,</b>	:	<b>JURY TRIAL DEMANDED</b>
<b>Defendant.</b>	:	
	:	

**THIRD PARTY COMPLAINT**

1. Plaintiff, Joan McLaughlin, brings this action pursuant to the Equal Pay Act of 1963 (“EPA”), Title VII of the Civil Rights Act of 1964 (“Title VII”), and the Pennsylvania Human Relations Act of 1955 (“PHRA”) to remedy the violations of her right to “equal pay for equal work” by defendant SPD Technologies, Inc., a Division of L-3 Communications, Inc. (“SPD”). At issue is SPD’s continuing and intentional refusal to pay Ms. McLaughlin a salary equal to the salaries it has paid and is paying to similarly-situated male employees. As relief for the violations of her rights, Ms. McLaughlin seeks, *inter alia*, an award of back pay as well as liquidated, compensatory and punitive damages, and an injunction going forward to redress SPD’s violations of her rights under federal and Pennsylvania law.

**Jurisdiction and Venue**

2. Subject matter jurisdiction over Ms. McLaughlin's EPA and Title VII claims is conferred on the Court by, respectively, 28 U.S.C. § 1331 and 42 U.S.C. § 2000e-5(f)(3). Subject matter jurisdiction over her PHRA claim is conferred on the Court by 28 U.S.C. § 1367(a).

3. Venue over Ms. McLaughlin's federal and state claims are properly laid in this Court since those claims arose in this judicial district and because defendant SPD is licensed to conduct and regularly conducts business here.

**Parties**

4. Plaintiff Joan McLaughlin is a resident and citizen of the Commonwealth of Pennsylvania. She resides at 1222 Richard Lane, Feasterville, Pennsylvania 19053.

5. Defendant SPD is a Delaware corporation engaged in the business of manufacturing and supplying circuit breakers for the Department of Defense and the United States Navy. It maintains its principal place of business at 13500 Roosevelt Boulevard, Philadelphia, Pennsylvania 19116.

6. At all relevant times hereto, defendant SPD has been an employer within the meaning of the EPA, Title VII and the PHRA.

7. At all times relevant hereto, Ms. McLaughlin has been an employee protected by the anti-discrimination provisions of the EPA, Title VII and the PHRA.

**Exhaustion of Administrative Remedies**

8. On or about January 5, 2004 Ms. McLaughlin filed a charge of discrimination, Charge No. 170-2004-00852, against SPD with the United States Equal Employment Opportunity Commission (“EEOC”). The charge was dual-filed with the Pennsylvania Human Relations Commission (“PHRC”) and docketed at Case No. 20030572. As pled, Ms. McLaughlin charged that SPD refused to pay her the same salary it paid to her male counterparts.

9. After investigating her charge, the EEOC issued a Determination in which it found reasonable cause to believe that SPD continually discriminated against Ms. McLaughlin on account of her gender in violation of both Title VII and the EPA.

10. Subsequent efforts by the EEOC to conciliate Ms. McLaughlin’s charge of discrimination were unsuccessful. Thereafter, on December 13, 2004, the EEOC filed a civil action in this Court against SPD (Civil Action No.: 04-5771) alleging violations by defendant of both Title VII and the EPA.

11. Based on the foregoing, all prerequisites to suit under Title VII and the EPA have been satisfied.

12. In addition, by letter dated February 1, 2005, the PHRC notified Ms. McLaughlin of her right to bring suit against SPD pursuant to the PHRA; thus, all prerequisites for suit under Pennsylvania law have also been satisfied.

### **Statement of Facts**

13. Ms. McLaughlin began her employment with SPD in 1988 as a Purchasing Secretary. Based on her exemplary work performance, she was promoted in June 1990 to the position of Assistant Buyer/Secretary; in November 1994 she was promoted to the position of Buyer; and on November 1, 1999 she was promoted to her current position of Senior Buyer, Salary Grade 106.

14. Despite Ms. McLaughlin's excellent performance, SPD consistently and continually paid her less salary than it paid to her male counterparts. As a Buyer, and subsequently since her promotion to her current position as Senior Buyer, Ms. McLaughlin has performed the same or substantially similar duties as her male counterparts, held the same positions as they have held and achieved the same or better results than they achieved.

15. Over time, Ms. McLaughlin has complained to management at SPD about its failure/refusal to pay her equal pay for equal work, but SPD has refused to pay her the same salary it has paid to her male counterparts.

16. For example, Ms. McLaughlin complained to her supervisor, Robert Luty, that she was being underpaid. He told her that she should not expect to earn as much as her male counterparts.

17. On another occasion, Ms. McLaughlin complained about the pay disparity to Stuart Frey, another one of her supervisors. In response, Mr. Frey told plaintiff that she did not need a pay increase since her salary supplemented her husband's.

18. On yet another occasion, Ms. McLaughlin was recommended by Adrian Van Zeist for a promotion to the position of Purchasing Manager. Despite her qualifications, experience and ability, SPD denied her that promotion claiming, falsely, that she needed to have "letters," *i.e.*, a certification, for the job. Despite the fact that a certification is not a criterion for that position and no other Purchasing Manager has a certification, Ms. McLaughlin studied for and successfully obtained a Certified Purchasing Manager ("CPM") certificate which she duly presented to SPD. Nonetheless, even after obtaining that certification, SPD refused to appoint Ms. McLaughlin to the position of Purchasing Manager and instead has appointed less qualified males without a CPM certification to that position.

19. Other examples of SPD's sex-based wage discrimination against Ms. McLaughlin include the following:

- a. In March 1999, SPD hired Allen Presley as a Buyer at a salary of \$45,552.00. Eight months later, in November 1999, SPD promoted

Mr. Presley to the position of Senior Buyer, Salary Grade 106, and increased his salary to \$58,080.00. By contrast, when SPD promoted Ms. McLaughlin in October 1999 to the Senior Buyer position, her salary only increased from \$50,640.00 to \$54,960.00 -- thus SPD increased Mr. Presley's salary three times the amount of plaintiff's salary increase despite the fact that he had only been employed for just eight months whereas Ms. McLaughlin had been employed for over eleven years and for five years as a Buyer;

- b. SPD continued to pay Ms. McLaughlin less than it paid Mr. Presley. On November 15, 2001, Mr. Presley's salary was raised to \$63,000.00, while on October 1, 2001 Ms. McLaughlin's salary was only increased to \$57,240.00. On November 15, 2002, Mr. Presley's salary was raised to \$65,520.00, while on October 1, 2002 Ms. McLaughlin's salary was only increased to \$59,640.00. Thus, effective November 15, 2002, SPD paid Ms. McLaughlin \$5,880.00 less than Mr. Presley on account of her sex;
- c. In 2003 and 2004, SPD hired four male employees as Senior Buyers, Salary Grade 106, at a higher salary than it paid to Ms. McLaughlin. SPD hired Jay Karp on April 7, 2003 at a salary of \$65,040.00. SPD hired Theodore Schallenhammer on August 11, 2003 at a salary of

\$62,040.00. SPD hired Robert McNulty on October 22, 2003 at a salary of \$65,040.00. SPD hired Andrew Long on February 6, 2004 at a salary of \$65,040.00. In addition, on February 1, 2003, SPD transferred Farooq Malik from the position of Purchasing Manager to Senior Buyer and paid him \$78,600.00 to work as a Senior Buyer, Salary Grade 106.

20. SPD paid Ms. McLaughlin significantly less wages as a Senior Buyer, Salary Grade 106, than it has paid male Senior Buyers, Salary Grade 106, even though she has had more experience, performed comparable duties, and often was asked to train newly hired Senior Buyers.

21. The unlawful employment practices of SPD were undertaken intentionally, willfully and with malice and in reckless disregard of Ms. McLaughlin's rights under federal and Pennsylvania law.

22. Since at least December 13, 2001 -- three years prior to the filing of the EEOC's suit in this matter -- SPD has violated Sections 6(d)(1) and 15(a)(2) of the EPA, 29 U.S.C. §§ 206(d)(1) and 215(a)(2), by paying Ms. McLaughlin a salary as Senior Buyer, Salary Grade 106, at a rate less than the rate it paid to male employees in the same establishment for substantially equal work on jobs the performance of which requires equal skill, effort, and responsibility, and which are performed under similar working conditions.

23. As a result of the acts complained of above, SPD has unlawfully withheld and continues to withhold salary payments due Ms. McLaughlin.

24. As a direct and proximate result of SPD's violation of her rights, Ms. McLaughlin has suffered and will continue to suffer a loss of earnings and earning capacity that she has a right to receive as an employee.

25. As a further direct and proximate result of SPD's violation of her rights, Ms. McLaughlin has suffered and continues to suffer physical pain and suffering, emotional distress, humiliation, harm to her reputation, loss of self-esteem and confidence and the loss of enjoyment of life's pleasures.

### **STATEMENT OF CLAIMS**

#### **COUNT I: VIOLATION OF THE EPA**

26. Ms. McLaughlin incorporates by reference the allegations contained in paragraphs 1 through 25 of her Complaint.

27. By denying Ms. McLaughlin equal pay for equal work, SPD has violated Sections 6(d)(1) and 15(a)(2) of the EPA, 29 U.S.C. § 206(d)(1) and 215(a)(2).



**COUNT II: VIOLATION OF TITLE VII**

28. Ms. McLaughlin incorporates by reference the allegations contained in paragraphs 1 through 27 of her Complaint.

29. By denying Ms. McLaughlin on account of her gender the salary it has paid similarly-situated males, SPD has violated Section 703(a)(1) of Title VII, 42 U.S.C. § 2000e-2(a)(1).

**COUNT III: VIOLATION OF THE PHRA**

30. Ms. McLaughlin incorporates by reference the allegations contained in paragraphs 1 through 29 of her Complaint.

31. By denying Ms. McLaughlin on account of her gender the salary it has paid similarly-situated males, SPD has violated Section 5(a) of the PHRA, 43 Pa.C.S.A. § 955(a).

**PRAYER FOR RELIEF**

WHEREFORE, Ms. McLaughlin respectfully requests that judgment be entered in her favor and against SPD, the judgment to include the following relief:

- a. An award of back pay with prejudgment interest;
- b. An award of liquidated damages under the EPA in twice the amount of Ms. McLaughlin's back pay award;
- c. An injunction requiring SPD to pay Ms. McLaughlin going forward with a salary equal to the salaries it pays to similarly-situated males;
- d. An award of compensatory damages under Title VII and the PHRA to compensate Ms. McLaughlin for the non-economic injuries she has suffered;
- e. An award of punitive damages to punish SPD and deter it and other employers from committing similar violations;
- f. An award of reasonable counsel fees and costs incurred by Ms. McLaughlin; and
- g. Such other relief as may be necessary and proper under the circumstances.

**Jury Demand**

Ms. McLaughlin demands a trial by jury on all the legal claims set forth in her Third Party Complaint.

Respectfully submitted,

RAYNES McCARTY

By:  \_\_\_\_\_

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Counsel for Plaintiff Joan McLaughlin

Dated: March 14, 2005

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing Third Party Complaint which has been filed with the Court and has been served on the following counsel as indicated:

**Via U.S. First Class Mail**  
Mary A. Tiernan, Esquire  
Acting Supervisory Trial Attorney  
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HAROLD I. GOODMAN

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Dated: March 14, 2005