

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

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DEFENDANTS

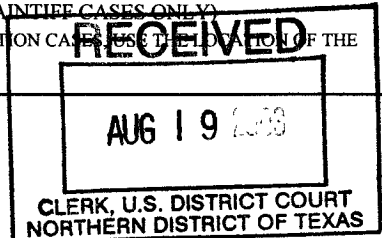
TXI OPERATIONS, L P.

303 CV 1868 P

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

County of Residence of First Listed Defendant _____
(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)
RONETTA J. FRANCIS, SENIOR TRIAL ATTORNEY
EEOC-Dallas District Office
207 South Houston, 3rd Floor
Dallas, Texas 75202 (214) 655-3334

Attorneys (If Known)

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

- 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)

- | | | | | | |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| | PTF | DEF | | PTF | 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 State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place 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 & 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"/> 190 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 & 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 <input type="checkbox"/> 362 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 USC <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R R & Truck <input type="checkbox"/> 650 Airlne Regs <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input checked="" type="checkbox"/> 22 Appeal 28 USC 158 <input type="checkbox"/> 23 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 20 Copyrights <input type="checkbox"/> 30 Patent <input type="checkbox"/> 40 Trademark SOCIAL SECURITY <input type="checkbox"/> 61 HIA (1395ff) <input type="checkbox"/> 62 Black Lung (923) <input type="checkbox"/> 63 DIWC/DIWW (405(g)) <input type="checkbox"/> 64 SSID Title XVI <input type="checkbox"/> 65 RSI (405(g))	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/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	FEDERAL TAX SUITS	
<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 Prson Condition	<input type="checkbox"/> 70 Taxes (U S. Plaintiff or Defendant) <input type="checkbox"/> 71 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 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)

This cause of action is brought pursuant to Title VII of Civil Rights Act of 1964 to correct unlawful employment practices 24 Hour Professional Janitorial Services violated Title VII of Civil Rights Act of 1964, as amended, by failin to hire or retain Ms Ruffin and Mr. Everitt because of their race (Black) Defendants violated Section 703(a) of Title VII, 42USC Section 2000e-2

VII. REQUESTED IN COMPLAINT: CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 DEMAND \$ _____ CHECK YES only if demanded in complaint: JURY DEMAND: X Yes No

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

DATE 8-19-03 SIGNATURE OF ATTORNEY OF RECORD Ronetta Francis, Attorney for Plaintiff, EEOC

ORIGINAL

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

U.S. DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FILED
AUG 19 2003
CLERK, U.S. DISTRICT COURT
By _____ Deputy

EQUAL EMPLOYMENT OPPORTUNITY)
COMMISSION,)
)
Plaintiff,)
)
v.)
)
TXI OPERATIONS, L.P.,)
)
Defendant.)

CIVIL ACTION NO.

COMPLAINT

303 CV 1868 P

JURY TRIAL DEMAND

NATURE OF THE ACTION

This an action under the Equal Pay Act of 1963, as amended ("EPA"), 29 U.S.C. §206(d), Title VII of the Civil Rights Act of 1964, as amended, and Title I of the Civil Rights Act of 1991 to restrain the unlawful payment of wages to an employee of one sex at a rate less than the rates paid to employees of the opposite sex, to correct unlawful employment practices on the basis of sex and to provide appropriate relief to Julie Fundling. The Commission alleges that Defendant, TXI Operations, L.P. (hereafter "Defendant"), violated the EPA and Title VII by paying Ms. Fundling lower wages than Defendant's male employee performing substantially the same job duties.

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, 29 U.S.C. §§ 216(c) and 217, to

COMPLAINT

enforce the requirements of the Equal Pay Act of 1963, codified as Section 6(d) of the FLSA, 29 U.S. C. §206(d).

2. Jurisdiction of this Court is further invoked pursuant to 28 U.S.C. §451, 1331, 1337, 1343, 1345. This action is also authorized and instituted pursuant to Section 706(1)(f) and (3) of the Civil Rights Act of 1964, as amended, (“Title VII”), 42 U.S.C. §2000e-5(f) (1) and (3), and Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981A.

3. 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 Texas.

PARTIES

4. Plaintiff, Equal Employment Opportunity Commission (“Commission”), is an agency of the United States of America charged with the administration, interpretation and enforcement of the EPA and Title VII of the Civil Rights Act of 1964, as amended and is expressly authorized to bring this action by Sections 16(c) of the Fair Labor Standards Act (“FLSA”), 29 U.S.C. §216(c), as amended by Section 1 of Reorganization Plan No. 1 of 1978, 92 Stat. 3781, and by Public Law 98-532 (1984), 98 Stat. 2705 and Sections 706(f)(1) and (3) of Title VII, 42 U.S.C. §2000e-5(f)(1) and (3).

5. At all relevant times, Defendant has continuously been and is now doing business in the state of Texas and has continuously had at least fifteen employees.

6. At all relevant times, Defendant has continuously been an employer engaged in an industry affecting commerce under Section 3(d) of the FLSA, 29 U.S.C. §203 (d) and Sections 701(b), (g) and (h) of Title VII, 42 U.S.C. §2000e-(b), (g) and (h).

7. At all relevant times, Defendant has continuously employed employees engaged in commerce or in production of goods for commerce within the meaning of Section 3(b), (i) and (j) of the FLSA, 29 U.S.C. §203 (d), (i) and (j), or has continuously been an enterprise engaged in commerce or in the production of goods for commerce within the meaning of Section 3(r) and (s) of the FLSA, 29 U.S.C. §203(r) and (s), in that said enterprise has continuously been engaged in the operation of a corporation that supplies building materials, particularly cement and structural steel in several States and is an enterprise whose annual gross volume of sales made or business done is not less than \$500,000.00.

STATEMENT OF CLAIMS

7. More than thirty days prior to the institution of this lawsuit, Julie Fundling filed a Charge of Discrimination with the Commission alleging violations of the EPA and Title VII of the Civil Rights Act of 1964, as amended, by the Defendant. All conditions precedent to the institution of this lawsuit have been fulfilled.

8. Since at least September 1999, Defendant has engaged in unlawful employment practices in Dallas, Texas, by discriminating against Julie Fundling with respect to her compensation, in violation of Section 703(a)(1) of Title VII, 42 U.S.C. § 2000e-2(a)(1). Specifically, Defendant discriminated against Ms. Fundling by paying her lower wages than the similarly-situated male employee.

9. The effect of the practices complained of above has been to deprive Julie Fundling of equal compensation, terms, conditions, and privileges of employment and otherwise adversely affected her status as an employee because of her sex.

10. The unlawful employment practices complained of in paragraph 8 above were

intentional.

11. The unlawful employment practices complained of in paragraph 8 above were done with malice or with reckless indifference to the federally protected rights of Julie Fundling.

12. Since at least September 1999, Defendant has violated Sections 6(d)(1) and 15(a)(2) of the FLSA, 29 U.S.C. §§ 206(d)(1) and 215(a)(2), by paying wages to its female Associate General Counsel in Dallas, Texas at a rate less than the rate paid to the male employee 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. Specifically, Defendant paid and has continued to pay Julie Fundling at a rate less than comparable male employees, at least until the date of this Complaint.

13. As a result of the acts complained of above, Defendant unlawfully withheld and is continuing to withhold the payment of wages due to Julie Fundling.

14. The unlawful practices complained of in Paragraph 12, above, were and are willful.

PRAYER FOR RELIEF

Wherefore, the Commission respectfully requests that this Court:

A. Grant a permanent injunction enjoining the Defendant, its officers, successors, assigns, and all person in active concert or participation with it, from engaging in any employment practice which discriminates on the basis of sex by paying wages to female employees at rates less than the rates paid to employees of the opposite sex in the same establishment for substantially equal work on jobs, the performance of which requires substantially equal skill, effort, and responsibility and which are performed under similar

working conditions, or engaging in any employment practice which discriminates on the basis of sex.

B. Grant a permanent injunction enjoining the Defendant, its officers, successors, assigns, and all persons in active concert or participation with it, from engaging in any employment practice which discriminates in violation of the EPA and Title VII.

C. Order the Defendant to institute and carry out policies, practices, and programs which provide equal employment opportunities for Julie Fundling and eradicate the effects of its past and present unlawful unemployment practices.

D. Order the Defendant to make whole Julie Fundling by providing appropriate back pay with prejudgment interest, in amounts to be proved at trial, and other affirmative relief necessary to eradicate the effects of the Defendant's unlawful employment practices, including but not limited to pay increases.

E. Order the Defendant to make whole Julie Fundling by providing compensation for past and future non-pecuniary losses resulting from the unlawful employment practices described in paragraph 8 above, including but not limited to, emotional pain, suffering, inconvenience, mental anguish, and loss of enjoyment of life, in amounts to be determined at trial.

F. Order the Defendant to pay Julie Fundling punitive damages for its malicious conduct or reckless indifference, described in paragraphs 8 and 11 above, in an amount to be determined at trial.

G. Grant a judgment requiring Defendant to pay appropriate back wages in an amount to be proved at trial, and an equal sum as liquidated damages, or prejudgment interest in lieu thereof, to Julie Fundling, whose wages were, and continue to be, unlawfully withheld as a result of the acts

complained of above.

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

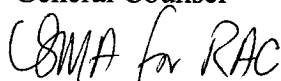
I. Award the Commission its costs in this action.

JURY TRIAL DEMAND

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

Respectfully submitted,

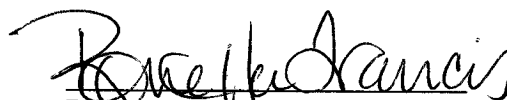
ERIC S. DREIBAND
General Counsel



ROBERT A. CANINO
Regional Attorney
Oklahoma State Bar No. 011782



SUZANNE M. ANDERSON
Supervisory Trial Attorney
Texas Bar No. 14009470



RONETTA J. FRANCIS
Senior Trial Attorney
Virginia State Bar No. 39886

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION
Dallas District Office
207 South Houston Street, 3rd Floor
Dallas, Texas 75202
Tel No. (214) 655-3334
Fax No. (214) 655-3331