

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
WESTERN DIVISION

EQUAL EMPLOYMENT OPPORTUNITY )  
COMMISSION, )

Plaintiff, )

and )

GILES JEFFERSON, )

Plaintiff Intervenor, )

CIVIL ACTION NO. 1:07-CV-02339

v. )

AREA ERECTORS, INC., )

Defendant, )

FIRST AMENDED COMPLAINT

and )

INTERNATIONAL UNION OF OPERATING )  
ENGINEERS LOCAL UNION NO. 139 )

Rule 19 Non-Aligned Party, )

JUDGE PHILIP G. REINHARD

MAGISTRATE JUDGE  
P. MICHAEL MAHONEY

and )

INTERNATIONAL UNION OF OPERATING )  
ENGINEERS LOCAL UNION NO. 150 )

Rule 19 Non-Aligned Party, )

and )

INTERNATIONAL UNION OF OPERATING )  
ENGINEERS LOCAL UNION NO. 649 )

Rule 19 Non-Aligned Party, )

and )

INTERNATIONAL ASSOCIATION OF )  
BRIDGE, STRUCTURAL, ORNAMENTAL )  
AND REINFORCING IRONWORKERS )  
LOCAL UNION NO. 112 )

)

**Rule 19 Non-Aligned Party,** )

)

**and** )

)

**INTERNATIONAL ASSOCIATION OF** )

**BRIDGE, STRUCTURAL, ORNAMENTAL** )

**AND REINFORCING IRONWORKERS** )

**LOCAL UNION NO. 380** )

)

**Rule 19 Non-Aligned Party,** )

)

**and** )

)

**INTERNATIONAL ASSOCIATION OF** )

**BRIDGE, STRUCTURAL, ORNAMENTAL** )

**AND REINFORCING IRONWORKERS** )

**LOCAL UNION NO. 393** )

)

**Rule 19 Non-Aligned Party,** )

)

**and** )

)

**INTERNATIONAL ASSOCIATION OF** )

**BRIDGE, STRUCTURAL, ORNAMENTAL** )

**AND REINFORCING IRONWORKERS** )

**LOCAL UNION NO. 498** )

)

**Rule 19 Non-Aligned Party.** )

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)

**NATURE OF THE ACTION**

This is an action under Title VII of the Civil Rights Act of 1964, as amended, (“Title VII”), and Title I of the Civil Rights Act of 1991 to correct unlawful employment practices on the basis of race and retaliation. It requests appropriate relief for Giles L. Jefferson, and a class of African American employees, who were adversely affected by such practices. As stated with greater particularity in Paragraph fifteen (15) below, the Plaintiff, United States Equal Employment Opportunity Commission (“EEOC”) alleges that Area Erectors Inc. (“Area”)

terminated Giles L. Jefferson and a class of African American employees because of their race, and that Area retaliated against Jefferson by terminating his employment because he filed a charge of discrimination with EEOC and otherwise complained about race discrimination. In addition, EEOC is seeking an order directing Area to prepare, execute, and file accurate and complete Employer Information Report EEO-1s (“EEO-1 reports”) as required by 42 U.S.C. §2000e-8(c) and regulations issued there under, 29 C.F.R. §§1602.7 - 1602.11, for each calendar year from 2001 to the present.

### **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 706(f)(1) and (3) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §§ 2000e-5(f)(1) and (3), Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981a and 42 U.S.C. §2000e-8(c) and regulations issued there under, 29 C.F.R. §1602.9.

2. The employment practices and actions alleged to be unlawful were committed within the jurisdiction of the United States District Court for the Northern District of Illinois, Western Division.

### **PARTIES**

3. EEOC 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 Sections 706(f)(1) and (3) of Title VII, 42 U.S.C. § 2000e-5(f)(1) and (3) and 42 U.S.C. §2000e-8(c) and regulations issued there under, 29 C.F.R. §1602.9.

4. At all relevant times Area has continuously been a company doing business in the States of Illinois and Wisconsin, and has continuously had at least 100 employees.

5. At all relevant times, Area has continuously been an employer engaged in an industry affecting commerce within the meaning of Sections 701(b), (g), and (h) of Title VII, 42 U.S.C. §§ 2000e(b), (g), and (h).

**NON-ALIGNED PARTIES**

6. On July 25, 2007, the Honorable P. Michael Mahoney issued an Order granting in part Defendant's Motion to Join Certain Local Unions as Non-Aligned Parties under Fed. R. Civ. P. 19(a).

7. International Union of Operating Engineers Local Union No. 150 is named as a non-aligned party pursuant to the above referenced Order. The union at all relevant times has continuously been a labor organization which deals with employers concerning terms and conditions of employment, has continuously had at least 15 members, and is a recognized collective bargaining representative for employees of Area who are members of the union.

8. International Union of Operating Engineers Local Union No. 139 is named as a non-aligned party pursuant to the above referenced Order. The union at all relevant times has continuously been a labor organization which deals with employers concerning terms and conditions of employment, has continuously had at least 15 members, and is a recognized collective bargaining representative for employees of Area who are members of the union.

9. International Union of Operating Engineers Local Union No. 649 is named as a non-aligned party pursuant to the above referenced Order. The union at all relevant times has continuously been a labor organization which deals with employers concerning terms and

conditions of employment, has continuously had at least 15 members, and is a recognized collective bargaining representative for employees of Area who are members of the union.

10. International Association of Bridge, Structural, Ornamental, and Reinforcing Ironworkers Local Union No. 112 is named as a non-aligned party pursuant to the above referenced Order. The union at all relevant times has continuously been a labor organization which deals with employers concerning terms and conditions of employment, has continuously had at least 15 members, and is a recognized collective bargaining representative for employees of Area who are members of the union.

11. International Association of Bridge, Structural, Ornamental, and Reinforcing Ironworkers Local Union No. 380 is named as a non-aligned party pursuant to the above referenced Order. The union at all relevant times has continuously been a labor organization which deals with employers concerning terms and conditions of employment, has continuously had at least 15 members, and is a recognized collective bargaining representative for employees of Area who are members of the union.

12. International Association of Bridge, Structural, Ornamental, and Reinforcing Ironworkers Local Union No. 393 is named as a non-aligned party pursuant to the above referenced Order. The union at all relevant times has continuously been a labor organization which deals with employers concerning terms and conditions of employment, has continuously had at least 15 members, and is a recognized collective bargaining representative for employees of Area who are members of the union.

13. International Association of Bridge, Structural, Ornamental, and Reinforcing Ironworkers Local Union No. 498 is named as a non-aligned party pursuant to the above

referenced Order. The union at all relevant times has continuously been a labor organization which deals with employers concerning terms and conditions of employment, has continuously had at least 15 members, and is a recognized collective bargaining representative for employees of Area who are members of the union.

**STATEMENT OF CLAIMS**

14. More than 30 days prior to the commencement of this lawsuit, Giles L. Jefferson filed a charge with EEOC alleging violations of Title VII by Area. All conditions precedent to the institution of this lawsuit have been fulfilled.

15. Since at least August of 2003, Area has engaged in unlawful employment practices in violation of Sections 703(a) and 704(a) of Title VII, 42 U.S.C. §§2000e-2(a) and 2000e-3(a). These practices include, but are not limited to:

- A) terminating Jefferson, and other African American employees because of their race; and
- B) terminating Jefferson in retaliation for his filing of a charge of discrimination with EEOC and otherwise complaining about race discrimination.

16. Since at least September of 2001, and continuing thereafter until the present, Area has failed to fully comply with its obligations to file EEO-1 reports.

17. Area's failure to file said reports is in violation of 42 U.S.C. §2000e-8(c) and regulations issued there under, 29 C.F.R. §1602.7 - 1602.14.

18. The effect of the practices complained of in Paragraph 15 above has been to deprive Jefferson and a class of African American employees of equal employment opportunities

and otherwise adversely affect their status as employees because of their race.

19. The unlawful employment practices complained of in Paragraph 15 above were and are intentional.

20. The unlawful employment practices complained of in Paragraph 15 above were and are done with malice or with reckless indifference to Jefferson's and a class of African American employees' federally-protected rights.

**PRAYER FOR RELIEF**

Wherefore, the plaintiff EEOC respectfully requests that this Court:

A. Grant a permanent injunction enjoining Area, and their officers, agents, successors, assigns, and all persons in active concert or participation with them, from engaging in any employment practice which discriminates on the basis of race or retaliation for activity protected by Title VII;

B. Order Area to institute and carry out policies, practices, and programs which provide equal employment opportunities for Jefferson and a class of African American employees, and which eradicates the effects of their past and present unlawful employment practices;

C. Order Area to make Jefferson and other African American employees whole by providing appropriate back-pay, front-pay, pre-judgment interest, and other affirmative relief necessary to eradicate the effects of its unlawful employment practices, including, but not limited to, reinstatement;

D. Order Area to make Jefferson and other African American employees whole by providing compensation for past and future pecuniary losses resulting from the unlawful

practices complained of above, including loss of benefits, job search expenses and relocation expenses, if applicable, in an amount to be proven at trial;

E. Order Area to make Jefferson and a class of African American employees whole by compensating them for past and future non-pecuniary losses resulting from the unlawful practices complained of in Paragraph 15 above, including injury to professional reputation, emotional pain, suffering, loss of enjoyment of life, and humiliation, in amounts to be determined at trial;

F. Order Area to pay Jefferson and a class of African American employees punitive damages for the Area's malicious and reckless conduct described in Paragraph 15 above, in amounts to be determined at trial;

G. Order that Area, without further delay, shall prepare, execute, and file accurate and complete EEO-1 reports as required by law for each calendar year from 2001 to the present;

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

I. Award the EEOC its costs in this action.

**JURY TRIAL DEMAND**

The EEOC requests a jury trial on all issues of fact raised by its Complaint.

Respectfully submitted,

Ronald S. Cooper  
General Counsel

James Lee  
Deputy General Counsel

Gwendolyn Young Reams  
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EQUAL EMPLOYMENT OPPORTUNITY  
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Date: August 9, 2007

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