

United States District Court  
Western District of Wisconsin  
Theresa M. Owens

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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WISCONSIN

TERESA M. OWENS  
CLERK US DIST COURT  
WD OF WI

EQUAL EMPLOYMENT OPPORTUNITY )  
COMMISSION, )  
Plaintiff, )  
v. )  
AREA ERECTORS INC. )  
Defendant. )  
\_\_\_\_\_ )

06 C 05 16 C

Civil Action No. \_\_\_\_\_

**COMPLAINT**  
(Jury Trial Demand)

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 seven (7) 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 thereunder, 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 thereunder, 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 Western District of Wisconsin.

### **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 thereunder, 29 C.F.R. §1602.9.

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

5. At all relevant times, Defendant 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).

**STATEMENT OF CLAIMS**

6. 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 Defendant. All conditions precedent to the institution of this lawsuit have been fulfilled.

7. Since at least August of 2003, Defendant 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.

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

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

10. The effect of the practices complained of in Paragraph 7 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.

11. The unlawful employment practices complained of in Paragraph 7 above were and are intentional.

12. The unlawful employment practices complained of in Paragraph 7 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 7 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 Defendant's malicious and reckless conduct described in Paragraph 7 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.

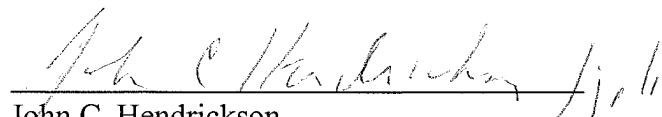
Respectfully submitted,

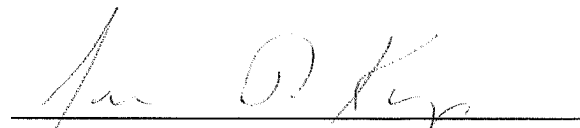
Dated: September 14, 2006

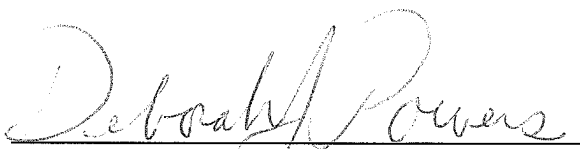
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IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,	)	
	)	
Plaintiff,	)	
	)	No. 06 C 0516 C
v.	)	
AREA ERECTORS, INC.,	)	
	)	
Defendant.	)	
<hr/>		
GILES L. JEFFERSON,	)	
	)	
Plaintiff-Intervenor,	)	
	)	No. 06 C 0516 C
v.	)	
AREA ERECTORS, INC.,	)	
	)	Jury trial demanded
Defendant.	)	
<hr/>		

COMPLAINT IN INTERVENTION

Nature of the Case

Giles L. Jefferson (“plaintiff” or “Jefferson”) brings this intervenor complaint pursuant to Title VII of the Civil Rights Act of 1964, 42 U.S.C. §2000e, *et seq.*, as amended (“Title VII”) and the Civil Rights Act of 1866, 42 U.S.C. §1981, as amended by the Civil Rights Act of 1991 (“§1981”) to (1) redress unlawful employment practices on the basis of race discrimination; (2) redress, on behalf of himself and all other persons similarly situated, unlawful employment practices on the basis of retaliation; and (3) to provide appropriate relief. As stated more fully below, Jefferson alleges, among other things, that defendant Area Erectors Inc. (“Area Erectors”) unlawfully retaliated against him and unlawfully discriminated against him in the terms and conditions of his employment and by terminating his employment.

Jurisdiction and Venue

1. This Court has original jurisdiction of plaintiff's claims pursuant to 28 U.S.C. §§1331 and 1343(a)(4) and 42 U.S.C. §2000e-5(f)(1) and (3).

2. The employment practices alleged to be unlawful were committed within the jurisdiction of the United States District Court for the Western District of Wisconsin.

3. Venue lies with this Court pursuant to 28 U.S.C. §1391 and 42 U.S.C. §2000e-5(f)(3).

Parties

4. Plaintiff Giles Jefferson, an African-American, is presently a journeyman iron worker. Jefferson has been a member of Iron Workers Local Union 498 ("Local 498") since 1999. At the time of the events alleged in this complaint, Jefferson had passed the test to become a journeyman iron worker but was still in need of further work experience hours to qualify for journeyman status within Local 498. Jefferson resides in Rockford, Illinois.

5. Defendant Area Erectors is an Illinois corporation that has continuously had at least 15 employees during all times pertinent to this lawsuit. Area Erectors is headquartered in Rockford, Illinois. At all relevant times, Area Erectors has continuously been an employer engaged in an industry affecting commerce within the meaning of §§701(b), (g), and (h) of Title VII, 42 U.S.C. §§2000e(b), (g), and (h).

6. Area Erectors is a company specializing in steel erection services for fabricators and general contractors. Area Erectors is the largest steel erection company in the Rockford area, and it was ranked as the seventh largest such company in the country based on its 2002 revenues.

7. At all times relevant to the events alleged in this complaint through the present, none of the management employees and foremen employed by Area Erectors at its main office in Rockford, Illinois have been African-American. These individuals include the president; controller; purchasing and special projects manager; safety representative; division team leader, estimator, and project manager; two project managers; field superintendent; maintenance department head; contract coordinator; and approximately 18 foremen.



8. In his dealings with Area Erectors, which included a visit to its Rockford office, Jefferson observed only one African-American employee at the company. This person was employed in a clerical capacity.

#### Plaintiff's Allegations

9. On or about March 22, 2004, Jefferson filed a charge of discrimination with the United States Equal Employment Opportunity Commission ("EEOC"). In his charge, Jefferson averred that Iron City Constructors, Inc. ("Iron City"), The Boldt Company (f/k/a Oscar J. Boldt Construction Co.) ("Boldt"), and Riverside Contractors, LLC, all companies who had employed Jefferson through Local 498, subjected him and certain other African-Americans to a hostile working environment based on race. In addition, Jefferson reported that the aforementioned companies subjected him to (a) disparate treatment in work assignments based on his race; (b) retaliation because he protested the discriminatory conduct and conditions that were imposed upon him; and (c) fired him because of his race and/or in retaliation for his protests of discriminatory conduct and conditions. Jefferson's charge of discrimination has EEOC charge no. 260 2004 03199.

10. Shortly after Jefferson filed his EEOC charge, it became common knowledge at Local 498 and in the regional ironworking industry that Jefferson had complained to the EEOC regarding his claims of racial discrimination against Boldt and Iron City. On several occasions, other iron workers have approached Jefferson to ask about the EEOC charge and the EEOC's investigation.

11. The EEOC subsequently investigated Jefferson's charges, ultimately found cause and thereafter in June 2005 filed a lawsuit captioned *Equal Employment Opportunity Commission v. Iron City Constructors, Inc. and The Boldt Company* (the "Boldt Lawsuit"), No. 05 C 0386 S, against Iron City and Boldt in the United States District Court for the Western District of Wisconsin. In August 2005, Jefferson was granted leave to file an intervenor complaint in the Boldt Lawsuit. The Boldt Lawsuit was settled prior to trial. The Court entered

consent decrees in November 2005 (regarding the claims against Boldt) and in December 2005 (regarding the claims against Iron City).

12. Area Erectors is a member of the Northern Illinois Building Contractors Association, Inc. (the “Association”), which has a collective bargaining agreement (the “Agreement”) with Local 498. The Agreement requires the Association’s members – including Area Erectors – to observe certain rules when it employs the union's iron workers.

13. Among other things, the Agreement requires that members of the Association that hire iron workers from Local 498 must maintain an on-site ratio of four journeymen iron workers to one apprentice iron workers.

14. The Agreement further provides that the direction of the working forces and the right to suspend, transfer, layoff, promote, demote or relieve employees of their duty is vested exclusively in its members (including Area Erectors).

15. The Agreement was in effect at all times relevant to this complaint.

16. Area Erectors employs iron workers from Local 498 at many of its various work projects on a regular basis.

17. Area Erectors employees a number of Local 498 iron workers on an on-going basis. Area Erectors transfers these iron workers from project to project without terminating them from its employ. None of these iron workers are African-Americans.

18. When Area Erectors has needed additional unionized iron workers for one of its project, it has contacted iron workers union locals (including Local 498) and the union locals have furnished the number of journeymen and apprentice iron workers required by Area Erectors.

19. Unless Area Erectors requests a particular worker, the union local (including Local 498) determine which individual iron workers they send out.

20. On or about June 29, 2004, Area Erectors hired through Local 498 a group of iron workers to work at the Frito-Lay construction site in Beloit, Wisconsin (the “Frito-Lay site”). Because Area Erectors requested that the union provide more than four journeymen ironworkers,

the Agreement required Area Erectors to hire at least one apprentice ironworker to maintain a four to one journeyman apprentice ratio.

21. Local 498 sent Jefferson as the apprentice iron worker of this group. Jefferson was the only apprentice and the only African-American iron worker hired to work at the Frito-Lay site.

22. Bill Lopke (“Lopke”), who is white and a member of Local 498, was employed by Area Erectors as one of its foremen at the Frito-Lay site. Lopke was Jefferson's supervisor at the Frito-Lay site.

23. On the morning of July 1, 2004, Jefferson's third day of work at the Frito-Lay site, Lopke approached him and stated words to the effect that Lopke understood Jefferson had filed a complaint with the EEOC against Boldt and Iron City. Lopke further stated that what Jefferson had done was a “no no.”

24. Later that same day, Lopke told Jefferson that Jefferson was going to be “laid off.” Lopke claimed the reason was because work was slow in the area. He said that Area Erectors was going to replace Jefferson, effective that same day, with one of the iron workers it regularly used.

25. Jefferson was the only iron worker from Local 498 who was laid off from the Frito-Lay site.

26. Area Erectors replaced Jefferson with a white journeyman iron worker from Local 498.

27. After replacing Jefferson, Area Erectors did not have, nor did it seek to have, any other apprentice iron worker on the Frito-Lay site. This was in contravention of the Agreement's required apprentice-journeyman ratio.

28. Iron workers from Local 498 continued to work on the Frito-Lay site for at least another month after Area Erectors terminated Jefferson on July 1, 2004.

29. On or about July 12, 2004, On or about June 29, 2004, Area Erectors hired through Local 498 a group of iron workers in the four to one journeyman apprentice ratio to work

on a construction site in Rockford, Illinois (the "Rockford site"). Local 498 sent Jefferson as the apprentice iron worker of this group.

30. Again, Jefferson was the only apprentice and the only African-American iron worker hired to work at the Rockford site.

31. Jeff Hobbs ("Hobbs"), a white male, is employed by Area Erectors as the field superintendent for its various sites. In this capacity, Hobbs travels from site to site and serves as a high-level supervisor for iron workers working for Area Erectors.

32. Travis Nelson ("Nelson"), a white male foreman employed by Area Erectors, was also Jefferson's supervisor while working at the Rockford site.

33. On July 15, 2004, Jefferson was working at the Rockford site when Hobbs walked by. Hobbs appeared surprised to see Jefferson and refused to speak to him, despite Jefferson saying hello. Instead, Hobbs gave Jefferson a dirty look and spoke with some of the white iron workers nearby.

34. The next day, July 16, 2004, just four days after Jefferson had started working at the Rockford site, Nelson told Jefferson that he was being "laid off" because work was slow in the area and that Area Erectors wanted to bring in the iron workers that it used on a regular basis.

35. After leaving the Rockford site, Jefferson went to Area Erectors' Rockford office where he encountered Hobbs and asked him why he was being laid off. Hobbs told Jefferson that when it is a federal or state job, we have to have one of you but when it is a private job we don't have to have any of you. When Jefferson pointed out that he was the only apprentice, Hobbs told him that he was laid off so he should just accept it.

36. Jefferson was the only iron worker from Local 498 who was laid off from the Rockford site.

37. Area Erectors replaced Jefferson with a white journeyman from Local 498.

38. After replacing Jefferson, Area Erectors did not have, nor did it seek to have, any other apprentice iron worker on the Rockford site. Once again, this was in contravention of the Agreement's required apprentice-journeyman ratio.

39. Iron workers from Local 498 continued to work on the Rockford site for at least another month after Area Erectors terminated Jefferson on July 16, 2004.

40. As a result of the aforementioned events, Jefferson filed EEOC charge number 260-2005-00212 against Area Erectors for discrimination and retaliation which led to the present action.

41. Thereafter, Local 498's apprentice coordinator, Bob Schulser approached Jefferson and stated words to the effect that guys like Jefferson were seen as troublemakers and if he continued to complain about discrimination, the union and/or industry would "blackball" Jefferson, and he would never work again.

42. Jefferson has been referred to Area Erectors by Local 498 and hired only to be "laid off" (or terminated) by Area Erectors within a short span of days and replaced by white journeymen workers on at least four occasions.

43. During the brief periods of time in which he was allowed by Area Erectors to actually perform work on its behalf, Jefferson was often assigned to dangerous and/or menial jobs that the white ironworkers whom Jefferson worked with were not assigned to perform. On other occasions, Jefferson was singled out by Area Erectors white foremen and subjected to abusive treatment that the white journeymen were not subjected to.

44. Jefferson was laid off from both the Frito-Lay site and the Rockford site as a result of Area Erectors practice of discrimination against African-Americans and in retaliation for his filing an EEOC complaint against Boldt and Iron City.

45. Jefferson was not considered for retention by Area Erectors as one of its iron workers that it employs on an on-going basis because he is an African-American.

46. As a result of Area Erectors' discriminatory and retaliatory adverse actions, Jefferson has experienced emotional distress, substantial lost wages, and the lost opportunity to gain work hours as an iron worker that would enable Jefferson to move from being an apprentice to a journeyman iron worker.

COUNT I  
Violation of Title VII

47. Plaintiff repeats, realleges, and incorporates by this reference the allegations set forth in ¶¶1-46, inclusive, as though fully set forth herein.

48. Defendant's unlawful retaliation against Jefferson and discrimination against Jefferson is in violation of the rights secured to him by Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§2000e *et seq.*, as amended by the Civil Rights Act of 1991.

49. By the conduct described above, defendant intentionally violated Jefferson's rights under Title VII.

50. As a result of the violation of his Title VII rights, Jefferson is entitled to equitable and injunctive relief, including “rightful place” and “make-whole” remedies and equitable monetary relief, to remedy and compensate for the effects of defendant's unlawful actions.

51. As a result of defendant's intentional violation of the Title VII rights of Jefferson, he has suffered emotional distress, physical pain, substantial lost wages, and lost opportunity to gain work hours as an iron worker that would have enabled him to more quickly advance to the status of journeyman.

52. In its discriminatory and retaliatory actions as alleged above, defendant has acted with malice or reckless indifference to Jefferson's rights, thereby entitling him to an award of punitive damages.

53. To remedy the violation of Jefferson's rights secured by Title VII, plaintiff requests that the Court award the relief prayed for below.

54. To remedy the violation of Jefferson's rights secured by Title VII, plaintiff requests that the Court award the relief prayed for below.

PRAYER FOR RELIEF

WHEREFORE, plaintiff Giles Jefferson respectfully request that this Court:

- (a) declare defendant's actions to be in violation of the law;

- (b) enjoin defendant from engaging in discrimination in terminations/lay offs, transfers in lieu of termination/lay off, and other terms and conditions of employment because of race;
- (c) award plaintiff damages in the amount of all salary and other benefits (including the lost opportunity to gain work hours as an iron worker that would enable Jefferson to move from being an apprentice to a journeyman iron worker) that he lost on account of defendant's unlawful conduct;
- (d) award plaintiff compensatory damages for the emotional distress that he sustained on account of defendant's wrongful conduct;
- (e) award plaintiff punitive damages;
- (f) award plaintiff his reasonable attorney's fees and costs;
- (g) award plaintiff prejudgment interest; and
- (h) award such other relief as the Court deems just.

COUNT II  
Violation of 42 U.S.C. §1981

55. Plaintiff repeats, realleges, and incorporates by this reference the allegations set forth in ¶¶1-54, inclusive, as though fully set forth herein.

56. By the conduct described above, defendant intentionally deprived Jefferson of the same rights as are enjoyed by white citizens to the creation, performance, enjoyment, and all benefits and privileges, of his contractual employment relationship with defendant, in violation of 42 U.S.C. §1981.

57. As a result of defendant's discrimination in violation of §1981, Jefferson has been denied employment opportunities providing substantial compensation and benefits, thereby entitling him to injunctive and equitable monetary relief. Jefferson also has suffered emotional distress, substantial lost wages, and lost opportunity to gain work hours as an iron worker that would have enabled him to advance his status (from apprentice to journeyman) in Local 498 because of defendant's actions, thereby entitling him to compensatory damages.

58. In its discriminatory and retaliatory actions as alleged above, defendant has acted with malice or reckless indifference to Jefferson's rights, thereby entitling him to an award of


punitive damages. To remedy the violations of Jefferson's rights secured by §1981, Jefferson requests that the Court award the relief prayed for below.

PRAYER FOR RELIEF

WHEREFORE, plaintiff Giles Jefferson respectfully request that this Court:

- (a) declare defendant's actions to be in violation of the law;
- (b) enjoin defendant from engaging in discrimination in terminations/layoffs, transfers in lieu of termination, and other terms and conditions of employment because of race;
- (c) award plaintiff damages in the amount of all salary and other benefits (including the lost opportunity to gain work hours as an iron worker that would enable Jefferson to move from being an apprentice to a journeyman iron worker) that he lost on account of defendant's unlawful conduct;
- (d) award plaintiff compensatory damages for the emotional distress that he sustained on account of defendant's wrongful conduct;
- (e) award plaintiff punitive damages;
- (f) award plaintiff reasonable attorney's fees and costs;
- (g) award plaintiff prejudgment interest; and
- (h) award such other relief as the Court deems just.

Respectfully submitted,



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