

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

EQUAL EMPLOYMENT OPPORTUNITY)	
COMMISSION,)	
)	
Plaintiff,)	
)	CIVIL ACTION NO.
v.)	
)	
)	<u>COMPLAINT</u>
PACKAGING DYNAMICS, INC.,)	
)	JURY TRIAL DEMAND
)	
<u>Defendant.</u>)	

NATURE OF THE ACTION

This is an action under the Equal Pay Act of 1963, Title VII of the Civil Rights Act of 1964 and Title I of the Civil Rights Act of 1991 to restrain the unlawful payment of wages to employees of one sex at rates less than the rates paid to employees of the opposite sex, and to provide appropriate relief due to employees as a result of such unlawful practices. The Equal Employment Opportunity Commission alleges that Packaging Dynamics, Inc. paid Heidi Huey at wage rates which were less than the rates paid to its male employees performing substantially equal work, and otherwise discriminates against her because of her sex.

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

206(d), to enforce the prohibitions set forth in Section 15(a)(3) of the FLSA, 29 U.S.C. § 215(a)(3), and pursuant to Section 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) ("Title VII"). This action is also 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 committed within the jurisdiction of the United States District Court for the Western District of Missouri.

PARTIES

3. Plaintiff, the Equal Employment Opportunity Commission (the "Commission"), is the agency of the United States of America charged with the administration, interpretation and enforcement of the Equal Pay Act and Title VII, and is expressly authorized to bring this action by Sections 16(c) and 17 of the FLSA, 29 U.S.C. §§ 216(c) and 217, as amended by Section 1 of Reorganization Plan No. 1 of 1978, 92 Stat. 3781, and Public Law 98-532 (1984), 98 Stat. 2705, and by Section 706(f)(1) and (3) of Title VII, 42 U.S.C. § 2000e-5(f)(1) and (3).

4. At all relevant times, Defendant, Packaging Dynamics, Inc. ("Packaging Dynamics"), has continuously been a Missouri corporation doing business in the State of Missouri and the City of Kansas City, and has continuously had at least 15 employees.

5. At all relevant times, Packaging Dynamics 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).

6. At all relevant times, Packaging Dynamics has acted directly or indirectly as an employer in relation to employees and has continuously been an employer within the meaning of Section 3(d) of the FLSA, 29 U.S.C. § 203(d).

7. At all relevant times, Packaging Dynamics has continuously employed employees engaged in commerce or in the production of goods for commerce within the meaning of Sections 3(b), (i) and (j) of the FLSA, 29 U.S.C. §§ 203(b), (i) and (j), and has continuously been an enterprise engaged in commerce or in the production of goods for commerce within the meaning of Sections 3(r) and (s) of the FLSA, 29 U.S.C. §§ 203(r) and (s), in that said enterprise has continuously been an enterprise whose annual gross volume of sales made or business done is not less than \$500,000.

STATEMENT OF CLAIMS

8. More than thirty days prior to the institution of this lawsuit, Heidi Huey filed a charge with the Commission alleging violations of Title VII by Packaging Dynamics. All conditions precedent to the institution of this lawsuit have been fulfilled.

9. Since at least October 1, 1998, Packaging Dynamics has engaged in unlawful employment practices at its Kansas City, Missouri facility, in violation of Section 706(f)(1) of Title VII, 42 U.S.C. § 2000e-5(f)(1). The Commission alleges that Packaging Dynamics paid lower wages to Heidi Huey than it paid to male employees who performed the same or similar job duties because of her sex.

10. The effect of the practices complained of in paragraph 9 above has been to deprive Heidi Huey of equal employment opportunities and otherwise adversely affect her status as an employee because of her sex.

11. The unlawful employment practices complained of in paragraph 9 above were and are intentional.

12. The unlawful employment practices complained of in paragraph 9 above were and are done with malice or with reckless indifference to the federally protected rights of Heidi Huey.

13. Since at least October 1, 1998, Packaging Dynamics 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 Heidi Huey at rates less than the rates 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.

14. As a result of the acts complained of in paragraph 13 above, Packaging Dynamics unlawfully has withheld and is continuing to withhold the payment of wages due to Heidi Huey

15. The unlawful practices complained of in paragraph 14 were and are willful.

PRAYER FOR RELIEF

Wherefore, the Commission requests that this Court:

A. Grant a permanent injunction enjoining the Defendant Packaging Dynamics, Inc., its officers, successors, assigns and all persons in active concert or participation with it, from engaging in sex discrimination in wages and in any other employment practice which discriminates on the basis of sex.

B. Grant a permanent injunction enjoining the Defendant Packaging Dynamics, Inc., its officers, successors, assigns and all persons in active concert or participation with it, from discriminating

within any of its establishments between employees on the basis of sex, by paying wages to employees of one sex at rates less than the rates at which it pays wages to employees of the opposite sex for substantially equal work on jobs the performance of which requires equal skill, effort, and responsibility, and which are performed under similar working conditions.

C. Order the Defendant Packaging Dynamics, Inc. to institute and carry out policies, practices and programs which provide equal employment opportunities for women, and which eradicate the effects of its past and present unlawful employment practices.

D. Order the Defendant Packaging Dynamics, Inc. to make whole Heidi Huey by providing appropriate backpay with prejudgment interest, in amounts to be proved at trial, and other affirmative relief necessary to eradicate the effects of its unlawful employment practices,

E. Order Defendant Packaging Dynamics, Inc. to make whole Heidi Huey by providing compensation for past and future pecuniary losses resulting from the unlawful practices described in paragraph 9 above, in amounts to be determined at trial.

F. Order Defendant Packaging Dynamics, Inc. to make whole Heidi Huey by providing compensation for past and future nonpecuniary losses resulting from the unlawful practices complained of in paragraph 9 above, in amounts to determined at trial.

G. Order Defendant Packaging Dynamics, Inc. to pay punitive damages for its malicious and/or reckless conduct described in paragraph 9 above, in an amount to be determined at trial.

H. Grant a judgment requiring Defendant Packaging Dynamics, Inc. to pay appropriate back wages in amounts to be determined at trial, and an equal sum as liquidated damages or

prejudgment interest in lieu thereof, to Heidi Huey whose wages are being unlawfully withheld as a result of the acts complained of in paragraph 13 above.

- I. Grant such further relief as this Court deems necessary and proper in the public interest.
- J. Award the Commission its costs of this action.

JURY TRIAL DEMAND

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

Respectfully submitted,

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