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committed in Napa County within the jurisdiction of the United States District Court for the Northern District of California.

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

Intradistrict Assignment: The employment practices alleged to be unlawful were

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, Calpine Corporation (the Employer), has continuously been a corporation, doing business in the State of California and the City of Middletown, and has continuously had at least 15 employees.
- 5. At all relevant times, Defendant Employer 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, Defendant Employer 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, Defendant Employer 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 (i).

STATEMENT OF TITLE VII CLAIMS

- 8. More than thirty days prior to the institution of this lawsuit, Denise Stirtz filed a charge with the Commission alleging violations of Title VII by Defendant Employer. All conditions precedent to the institution of this lawsuit have been fulfilled.
- 9. Since at least May 1, 2002, Defendant Employer has engaged in unlawful employment practices at its Sacramento, Cal. location, in violation of Section 703(a)(1) of Title VII, 42 U.S.C. §§ 2000e-2 (a)(1). Defendant Employer discriminated against Ms. Stirtz by subjecting her to more adverse compensation, terms, and conditions of employment because of her sex.
- 10. The effect of the practice(s) complained of in paragraph 12 above has been to deprive Ms. Stirtz 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 12 above were intentional.
- 12. The unlawful employment practices complained of in paragraphs 12 above were done with malice or with reckless indifference to the federally protected rights of Ms. Stirtz.

STATEMENT OF EQUAL PAY ACT CLAIMS

- 13. Since at least May 1, 2002, Defendant Employer 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 compensation to Ms. Stirtz in its Middletown, Cal. facility, 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 above, Defendant Employer unlawfully has withheld and is continuing to withhold the payment of compensation due to Ms. Stirtz.

PRAYER FOR RELIEF

Wherefore, the Commission requests that this Court:

A. Grant a permanent injunction enjoining the Defendant, its officers, successors, assigns and all persons in active concert or participation with it, from engaging in compensation

discrimination and in any other employment practice which discriminates on the basis of sex.

- B. Grant a permanent injunction enjoining the Defendant Employer, 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 compensation to employees of one sex at rates less than the rates at which it pays compensation 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 Defendant 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 Defendant to make whole Denise Stirtz, 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, including but not limited to lost compensation and frontpay.
- E. Order Defendant to make whole Ms. Stirtz by providing compensation for past and future pecuniary losses resulting from the unlawful practices described in paragraphs 12 and 16 above, in amounts to be determined at trial.
- F. Order Defendant to make whole Ms. Stirtz by providing compensation for past and future nonpecuniary losses resulting from the unlawful practices complained of in paragraph 12 above, including emotional pain, suffering, inconvenience, loss of enjoyment of life, and humiliation, in amounts to be determined at trial.
- G. Order Defendant to pay Ms. Stirtz punitive damages for its malicious and/or reckless conduct described in paragraph 12 above, in an amount to be determined at trial.
- H. Grant a judgment requiring Defendant to pay appropriate back compensation in amounts to be determined at trial, an equal sum as liquidated damages, and prejudgment interest to Ms. Stirtz whose wages are being unlawfully withheld as a result of the acts complained of above.
 - I. Grant such further relief as this Court deems necessary and proper in the public

	Case 3:04-cv-02402-SI	Document 1	Filed 06/17/2004	Page 5 of 5
1	interest.			
2	J. Award the Commission its costs of this action.			
3	JURY TRIAL DEMAND			
4	The Commission requests a jury trial on all questions of fact raised by its complaint.			
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6			Respectfully sub	mitted,
7		ERIC S. DREIBAND General Counsel		
8 9	JAMES L. LEE Deputy General Counsel			
10	GWENDOLYN YOUNG REAMS Associate General Counsel			
11 12 13			EQUAL EMPLO COMMISSION 1801 L Street, N Washington, DC	.W.
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15 16	Dated:		WILLIAM R. TA Regional Attorne	
17 18 19	Dated:		JONATHAN T. Supervisory Tria	
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21 22	Dated:	_	DAVID F. OFFE Senior Trial Atto	
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	COMPLAINT		5	EEOC v Calpine Corp.