

ORIGINAL

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

U.S. DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FILED

OCT 11 2001

CLERK, U.S. DISTRICT COURT
By [Signature] Deputy

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,

Plaintiff,

v.

TRANSIT MIX CONCRETE &
MATERIALS COMPANY, a wholly
owned subsidiary of TRINITY
INDUSTRIES, INC.

Defendant.

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CIVIL ACTION NO.

3:01CV1885-R

JURY TRIAL DEMAND

PLAINTIFF EEOC'S FIRST AMENDED COMPLAINT

NATURE OF THE ACTION

This is an action under Title VII of the Civil Rights Act of 1964, and Title I of the Civil Rights Act of 1991, to correct unlawful employment practices on the basis of race and to provide appropriate relief to Emmet Holmes. The Equal Employment Opportunity Commission alleges that the Defendant, Transit Mix Concrete & Materials Company, a wholly owned subsidiary of Trinity Industries, Inc., (hereinafter "Defendant"), violated Title VII when Defendant subjected Emmet Holmes to a racially hostile work environment and when Defendant failed to promote Emmet Holmes to the position of Dispatcher based upon his race, Black.

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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 §§ 706(f)(1) & (3) of Title VII of the Civil Rights Act of 1964, as amended, ("Title VII"), 42 U.S.C. § 2000e-5 (f)(1) & (3) and Section 102 of the Civil Rights Act of 1991, 42 U.S.C. §1981A. The employment practices alleged to be unlawful were and are now being committed within the State of Texas.

PARTIES

2. Plaintiff, Equal Employment Opportunity Commission (the "Commission"), is an 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 §706(f)(1) & (3) of Title VII, 42 U.S.C. § 2000e -5(f)(1) & (3).

3. At all relevant times, Defendant has continuously been and is now doing business in the State of Texas and the Cities of Belton, Rockdale, and Temple, and has continuously had at least fifteen (15) employees.

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

STATEMENT OF CLAIMS

5. More than thirty days prior to the institution of this lawsuit, Emmet Holmes filed a charge with the Commission alleging violations of Title VII by the Defendant. All conditions precedent to the institution of this lawsuit have been fulfilled.

6. Since at least June 5, 1998, the Defendant has engaged in unlawful employment practices in its facilities in Belton, Rockdale, and Temple, Texas, in violation of Section 703 of Title VII, 42 U.S.C. Section 2000e-2 by subjecting Emmet Holmes to a racially hostile environment.

7. Since at least June 5, 1998, Defendant has engaged in unlawful employment practices in its facilities in Belton, Rockdale, and Temple, Texas, in violation of Section 703 of Title VII, 42 U.S.C. Section 2000e-2 by failing to promote Emmet Holmes to the position of Dispatcher, a position equivalent to Plant Manager/Batcher depending on plant site, based upon his race, Black.

8. The practices complained of above were intentional and designed to deprive Emmet Holmes of equal employment opportunities and otherwise adversely affect his status as an employee.

9. The unlawful employment practices complained of above were committed with malice or with reckless indifference to the federally protected rights of Emmet Holmes.

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 persons in active concert or participation with it, from engaging in any employment practice which discriminates on the basis of race, or which facilitates, condones, or encourages employees to create a racially hostile environment.

B. Order the Defendant to institute and carry out policies, practices, and programs which provide equal employment opportunities for Emmet Holmes and other employees and

which eradicate the effects of its past and present unlawful employment practices.

C. Order the Defendant to make whole Emmet Holmes, by providing appropriate back pay with prejudgment interest, in amounts to be determined at trial, and other affirmative relief necessary to eradicate the effects of its unlawful employment practices, including but not limited to rightful place reinstatement of Emmet Holmes or front pay in lieu thereof.

D. Order the Defendant to make whole Emmet Holmes by providing compensation for past and future pecuniary losses resulting from the unlawful employment practices described above in paragraphs 6 and 7, including relocation expenses.

E. Order the Defendant to make whole Emmet Holmes by providing compensation for past and future non-pecuniary losses resulting from the unlawful employment practices described above in paragraphs 6 and 7, including, but not limited to emotional pain, suffering, anxiety, loss of enjoyment of life, humiliation, and inconvenience, in amounts to be determined at trial.

F. Order the Defendant to pay Emmet Holmes punitive damages for its malice or reckless indifference to Mr. Holmes' federally protected rights described above in paragraphs 6 and 7, in amounts to be determined at trial.

G. Grant such further relief as the Court deems necessary and proper.

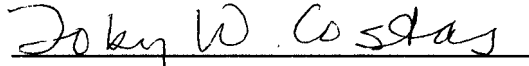
H. Award the Commission its costs in this action.

JURY TRIAL DEMAND


The Commission requests a Jury Trial on all questions of fact raised by its complaint.

Respectfully submitted,

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Acting Deputy General Counsel



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CERTIFICATE OF SERVICE

I, David C. Rivela, hereby certify that the foregoing Plaintiff EEOC's First Amended
Complaint was served by personal service, addressed to:

David M. Curtis
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(214) 741-7139 FAX

this 11th day of October, 2001.



DAVID C. RIVELA