

FILED  
UNITED STATES DISTRICT COURT  
DISTRICT OF NEW MEXICO

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

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*Robert M. Marsh*  
CLERK OF COURT

EQUAL EMPLOYMENT OPPORTUNITY  
COMMISSION,

Plaintiff,

v.

KEY ENERGY SERVICES, INC.,

Defendant.

CIV-02-0354 JP LFG

COMPLAINT

JURY TRIAL DEMANDED

**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 an employee of one sex at rates less than the rates paid to at least one employee of the opposite sex, to correct unlawful employment practices on the bases of sex and retaliation, and to provide appropriate relief due to Rickisue Daly as a result of such unlawful practices. The Commission alleges that, because of her sex, female, Ms. Daly was and is paid lower wages than at least one male employee who performed substantially equal work under similar working conditions. The Commission also alleges that Ms. Daly was discriminated against in her wages, terms, conditions and privileges of employment because of her sex, female, and was subjected to retaliation after she complained about wage and gender discrimination.

**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 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 ("EPA"), codified as Section 6 (d) of the FLSA, 29 U.S.C. § 206 (d), and 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) ("Title VII"). This action is also authorized and instituted pursuant to Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981a.

2. The employment practices alleged to be unlawful were and are now being committed within the jurisdiction of the United States District Court for the District of New Mexico.

### **PARTIES**

3. Plaintiff, the Equal Employment Opportunity Commission (the "Commission"), is an 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 by 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 Key Energy Services, Inc., ("Defendant Employer") has continuously been a Maryland Corporation doing business in the State of New Mexico and the City of Farmington, and has continuously had at least fifteen employees.

5. At all relevant times, Defendant Employer has continuously been and is now an employer engaged in an industry affecting commerce within the meaning of Section 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 (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 \$500,000.00.

#### **STATEMENT OF TITLE VII CLAIMS**

8. More than thirty days prior to the institution of this lawsuit, Rickisue Daly filed a charge with the Commission alleging violations of the Equal Pay Act and Title VII by Defendant Employer. All conditions precedent to the institution of this lawsuit have been fulfilled.

9. Since at least February 2000, Defendant Employer has engaged in unlawful employment practices at its Key Energy Services Four Corners Division facility in Farmington, New Mexico in violation of Sections 703(a) and 704(a) of Title VII, 42 U.S.C. §§ 2000e-2(a) and 3(a). These practices include:

- a) discriminating against Rickisue Daly in the wages, terms, conditions, and privileges of her employment because of her sex, female; and
- b) retaliating against Ms. Daly for opposing practices made unlawful by Title VII.

10. The effect of the unlawful employment practices complained of in Paragraph 9 above has been to deprive Rickisue Daly of equal employment opportunities and otherwise adversely affect her status as an employee because of her sex, female, and because she had opposed practices made unlawful by Title VII.

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 and/or reckless indifference to the federally protected rights of Rickisue Daly.

#### **STATEMENT OF EPA CLAIMS**

13. Since at least February 2000, 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 wages to its female Controller in the Key Energy Services Four Corners Division facility in Farmington, New Mexico, at rates less than the rates paid to at least one male employee 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, Defendant Employer unlawfully has withheld and is continuing to withhold the payment of wages due to Rickisue Daly.

15. The unlawful practices complained of in Paragraph 13 above were and are wilful.

16. Since at least March 2000, Defendant Employer has violated Section 15(a)(3) of the FLSA, 29 U.S.C. § 215(a)(3), by retaliating and discriminating against Rickisue Daly because she complained about Defendant Employer's denial of equal pay to her and gender discrimination

in the payment of wages to her.

17. The unlawful practices complained of in Paragraph 16 above were and are intentional.

18. The unlawful practices complained of in Paragraph 16 above were done with malice and/or reckless indifference to the federally protected rights of Rickisue Daly.

### **PRAYER FOR RELIEF**

Wherefore, the Commission respectfully requests that this Court:

A. Grant a permanent injunction enjoining the Defendant Employer, 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 sex, in the wages, terms, conditions, and privileges of employment and any other employment practices that discriminate on the bases of sex or retaliation.

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 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. Grant a permanent injunction enjoining the Defendant Employer, its officers, successors, assigns, and all persons in active concert or participation with it, from discriminating against individuals because such individual has filed any complaint or instituted or caused to be instituted any proceeding under or related to the Equal Pay Act, or has testified or

is about to testify in any such proceeding, or has served or is about to serve on an industry committee.

D. Order the Defendant Employer to institute and carry out policies, practices and programs which provide equal employment opportunities for women and those who participate in proceedings under the EPA or Title VII or who oppose practices made unlawful by the EPA or Title VII and which eradicate the effects of its past and present unlawful employment practices

E. Order the Defendant Employer to make whole Rickisue Daly 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 wage increases and front pay.

F. Order the Defendant Employer to make whole Rickisue Daly by providing compensation for past and future pecuniary losses resulting from the unlawful practices described in Paragraphs 9-12, 16-18 above, including but not limited to, vehicle purchase expenses and other out-of-pocket expenses in amounts to be determined at trial.

G. Order the Defendant Employer to make whole Rickisue Daly by providing compensation for past and future nonpecuniary losses resulting from the unlawful practices complained of in Paragraphs 9-12, 16-18 above, including, emotional pain, suffering, inconvenience, mental anguish, loss of enjoyment of life, and other non-pecuniary losses in amounts to be determined at trial.

H. Order the Defendant Employer to pay Rickisue Daly punitive damages for its malicious and/or reckless conduct described in Paragraphs 9-12, 16-18 above in an amount to be determined at trial.

I. Grant a judgement requiring the Defendant Employer 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 Rickisue Daly whose wages are being unlawfully withheld as a result of the acts complained of above.

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

K. Award the Commission its costs in this action.

**JURY TRIAL DEMANDED**


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

DATED this 28<sup>th</sup> day of March, 2002.

Respectfully submitted,

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