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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA
PHOENIX DIVISION

EQUAL EMPLOYMENT OPPORTUNITY)
COMMISSION,) Case No.:
Plaintiff,)
vs.) COMPLAINT
SOUTHWEST TECHNICAL SOLUTIONS,) (JURY TRIAL DEMANDED)
INC. and BAE SYSTEMS SIMULA, INC.,)
Defendants.)

NATURE OF THE ACTION

This is an action under the Equal Pay Act of 1963, the Age Discrimination in Employment Act of 1967, 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 male employees at rates less than the rates paid to female employees, to correct unlawful employment practices on the basis of sex, female, age, and retaliation, and to provide appropriate relief due to Margaret Chavez, Laura Box and a class of women as a result of such unlawful practices. The Commission alleges that Southwest Technical Solutions, Inc. ("STSI") and Simula (hereinafter "Defendant Employers") paid Ms. Chavez, Ms. Box and a class of women at a wage rate less than the rates paid to its male managers performing similar

1 work. The Commission also alleges that Simula failed to promote Ms. Chavez because
2 of her sex, female, and age, 58, and failed to convert both Ms. Chavez and Ms. Box to
3 permanent status because of their sex, female, and because of Ms. Chavez's age, 58.
4 Additionally, the Commission alleges that STSI and Simula retaliated against Ms. Box
5 for complaining of sexual harassment and for filing a charge.

6 **JURISDICTION AND VENUE**

7 1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 451, 1331,
8 1337, 1343 and 1345. This action is authorized and instituted pursuant to Sections 16(c)
9 and 17 of the Fair Labor Standards Act of 1938 (the "FLSA"), as amended, 29 U.S.C. §§
10 216(c) and 217, to enforce the requirements of the Equal Pay Act of 1963 (the "EPA"),
11 codified as Section 6(d) of the FLSA, 29 U.S.C. § 206(d); Section 7(b) of the Age
12 Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § 626(b)(the
13 "ADEA"); and pursuant to Section 706(f)(1) and (3) of Title VII of the Civil Rights Act
14 of 1964, as amended, 42 U.S.C. § 2000e-5(f)(1) and (3) ("Title VII") and pursuant to
15 Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981a.

16 2. The employment practices alleged to be unlawful were committed within
17 the jurisdiction of the United States District Court for the District of Arizona, Phoenix
18 Division.

19 **PARTIES**

20 3. Plaintiff, the Equal Employment Opportunity Commission (the
21 "Commission"), is the agency of the United States of America charged with the
22 administration, interpretation and enforcement of the EPA, the ADEA, and Title VII, and
23 is expressly authorized to bring this action by Sections 16(c) and 17 of the FLSA, 29
24 U.S.C. §§ 216(c) and 217, as amended by Section 1 of Reorganization Plan No. 1 of
25 1978, 92 Stat. 3781, and Public Law 98-532 (1984), 98 Stat. 2705; by Section 7(b) of the
26 ADEA, 29 U.S.C. §626(b), as amended by Section 2 of the Reorganization Plan No. 1 of
27 1978, 92 Stat. 3781, and Public Law 98-532 (1984), 98 Stat. 2705; and by Section
28 706(f)(1) and (3) of Title VII, 42 U.S.C. § 2000e-5(f)(1)and (3).

1 the ADEA, and Title VII by Defendant Employers. All conditions precedent to the
2 institution of this lawsuit have been fulfilled.

3 11. Since at least August 2004, Defendant Employers have engaged in
4 unlawful employment practices at their Phoenix, Arizona facilities, in violation of
5 Section 703(a)(1) and (h) and Section 704(a) of Title VII, 42 U.S.C. § 2000e-2(a)(1) and
6 (h); 42 U.S.C. § 2000e-3(a). These unlawful employment practices include, but are not
7 limited to:

- 8 a. Because of their sex, female, Defendant Employers paid Ms.
9 Chavez, Ms. Box and a class of women less than it paid similarly situated
10 male employees;
- 11 b. Because of their sex, female, Defendant Simula failed to convert Ms.
12 Chavez and Ms. Box to permanent employees;
- 13 c. Because of her sex, female, Defendant Simula failed to promote Ms.
14 Chavez to a lead position; and
- 15 d. Because of her sex, female, her complaints of sexual harassment,
16 and her filing a charge with the EEOC, Defendants retaliated against Ms.
17 Box when they failed to convert her to permanent status and then
18 terminated her.

19 12. The effect of the practice(s) complained of in paragraph 11 above has been
20 to deprive Ms. Chavez, Ms. Box and a class of women of equal employment
21 opportunities and otherwise adversely affect their status as employees, because of their
22 sex, female, and in Ms. Box's case because she filed a charge with the EEOC.

23 13. The unlawful employment practices complained of in paragraph 11 above
24 were intentional.

25 14. The unlawful employment practices complained of in paragraph 11 above
26 were done with malice or with reckless indifference to the federally protected rights of
27 Ms. Chavez, Ms. Box and a class of women.

28

1 **STATEMENT OF EPA CLAIMS**

2 15. Since at least August 2004, Defendant Employer has violated Sections
3 6(d)(1) and 15(a)(2) of the FLSA, 29 U.S.C. §§ 206(d)(1) and 215(a)(2), by paying
4 wages to Margaret Chavez, Laura Box and a class of women at rates less than the rates
5 paid to male employees for substantially equal work on jobs the performance of which
6 requires equal skill, effort, and responsibility, and which are performed under similar
7 working conditions.

8 16. As a result of the acts complained of above, Defendant Employer
9 unlawfully has withheld and is continuing to withhold the payment of wages due to Ms.
10 Chavez, Ms. Box and a class of women.

11 17. The unlawful practices complained of in paragraph 14 above were willful.

12 **STATEMENT OF ADEA CLAIMS**

13 18. Since at least August 2004, Defendant Simula has engaged in unlawful
14 employment practices at its Phoenix, Arizona facility in violation of Section 623(a)(1) of
15 the ADEA, 29 U.S.C. § 623(a)(1). The unlawful employment practices include paying
16 Ms. Chavez less than younger employees, failing to promote Ms. Chavez, and failing to
17 convert Ms. Chavez to permanent status because of her age, 58.

18 19. The effect of the practices complained of in paragraph 18 has been to
19 deprive Ms. Chavez of equal employment opportunities and otherwise adversely affect
20 her status as an employee because of her age.

21 20. The unlawful practices complained of in paragraph 18 were willful within
22 the meaning of Section 7(b) of the ADEA, 29 U.S.C. § 626(b).

23 **PRAYER FOR RELIEF**

24 Wherefore, the Commission requests that this Court:

25 A. Grant a permanent injunction enjoining the Defendant Employers, their
26 officers, successors, assigns and all persons in active concert or participation with it, from
27 engaging in wage discrimination and in any other employment practice which
28 discriminates on the basis of sex.

1 B. Grant a permanent injunction enjoining the Defendant Employers, their
2 officers, successors, assigns and all persons in active concert or participation with it, from
3 discriminating within any of its establishments between employees on the basis of sex, by
4 paying wages to employees of one sex at rates less than the rates at which it pays wages
5 to employees of the opposite sex for substantially equal work on jobs the performance of
6 which requires equal skill, effort, and responsibility, and which are performed under
7 similar working conditions.

8 C. Grant a permanent injunction enjoining the Defendant Employers, their
9 officers, successors, assigns and all persons in active concert or participation with it, from
10 engaging in any employment practice which retaliates against employees who complain
11 about discrimination.

12 D. Grant a permanent injunction enjoining the Defendant Simula, its officers,
13 successors, assigns and all persons in active concert or participation with it, from failing
14 to promote or make permanent employees who are forty years old or older and/or paying
15 them less because of their age and from any other employment practice which
16 discriminates on the basis of age against individuals forty years of age or older.

17 E. Order Defendant Employer to institute and carry out policies, practices and
18 programs which provide equal employment opportunities for women and individuals 40
19 years of age and older, which eradicate the effects of its past and present unlawful
20 employment practices.

21 F. Order Defendant Employers to make whole Ms. Chavez, Ms. Box and a
22 class of women, by providing appropriate backpay with prejudgment interest, in amounts
23 to be proved at trial, and other affirmative relief necessary to eradicate the effects of its
24 unlawful employment practices, including but not limited to rightful – place
25 reinstatement, or in the alternative front pay.

26 G. Pursuant to 42 U.S.C. § 1981a(b), order Defendant Employers to make
27 whole Ms. Chavez, Ms. Box and a class of women by providing compensation for past
28

1 and future pecuniary losses resulting from the unlawful practices described above,
2 including but not limited to job search expenses, in amounts to be determined at trial.

3 H. Pursuant to 42 U.S.C. § 1981a(b), order Defendant Employers to make
4 whole Ms. Chavez, Ms. Box and a class of women by providing compensation for past
5 and future nonpecuniary losses resulting from the unlawful practices complained of
6 above, including but not limited to emotional pain, suffering, inconvenience, mental
7 anguish, and loss of enjoyment of life, in amounts to be determined at trial.

8 I. Order Defendant Employers to pay punitive damages for its malicious
9 and/or reckless conduct described above, in an amount to be determined at trial.

10 J. Grant a judgment requiring Defendant Employer to pay appropriate back
11 wages in amounts to be determined at trial, an equal sum as liquidated damages, and
12 prejudgment interest to Ms. Chavez, Ms. Box and a class of women, whose wages are
13 being unlawfully withheld as a result of the acts complained of above.

14 K. Grant such further relief as this Court deems necessary and proper in the
15 public interest.

16 L. Award the Commission its costs of this action.

17 **JURY TRIAL DEMAND**

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

20 Respectfully submitted this 29th day of August, 2007.

21
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General Counsel

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26 Associate General Counsel

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