

FILE

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Judge [Name]

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK



2008

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UNITED STATES OF AMERICA, :  
  
Plaintiff, :  
  
v. :  
  
CITY OF NEW YORK and NEW YORK CITY :  
DEPARTMENT OF TRANSPORTATION, :  
  
Defendants. :  
----- X

COMPLAINT



Plaintiff United States of America (the "United States") alleges upon information and belief as follows:

INTRODUCTION

1. This action is brought on behalf of the United States to enforce the provisions of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, et seq. ("Title VII"). As set forth more fully below, the United States alleges in this action that Defendants have engaged in a pattern or practice of discrimination on the basis of sex in hiring for the position of Bridge Painter with the New York City Department of Transportation.

### **JURISDICTION AND VENUE**

2. This Court has jurisdiction over the subject matter of this action under 42 U.S.C. § 2000e-6 and 28 U.S.C. §§ 1331 and 1345.

3. Venue is proper in this District pursuant to 28 U.S.C. § 1391 because Defendants are located in this District and because the acts and omissions giving rise to the claims in this action occurred in this District.

### **THE PARTIES**

4. Defendant City of New York (the "City") is a person within the meaning of 42 U.S.C. § 2000e(a) and an employer within the meaning of 42 U.S.C. § 2000e(b).

5. Defendant New York City Department of Transportation ("DOT") is an agency of the City, a person within the meaning of 42 U.S.C. § 2000e(a), and an employer or agent of an employer within the meaning of 42 U.S.C. § 2000e(b).

### **PATTERN OR PRACTICE OF DISCRIMINATION**

6. The DOT's Division of Bridges is responsible for the maintenance of the approximately 770 elevated bridge structures operated by the City.

7. Defendants employ approximately one hundred individuals in the position of Bridge Painter. The responsibilities of a Bridge Painter in New York City include preparing and painting iron and steel members in bridges and other elevated structures.

8. Defendants are responsible for establishing the terms, conditions and other practices that bear upon the employment of Bridge Painters by the City.

9. Defendants have never hired, extended an offer to hire, or employed a woman as a Bridge Painter.

10. The civil service process, which is administered by the New York City Department of Citywide Administrative Services ("DCAS"), requires, among other things, that employees for competitive titles be hired from civil service lists following an open and competitive civil service examination. The position of Bridge Painter is a competitive position under the civil service system of the City of New York.

11. Contrary to the civil service process, the City has not administered a civil service examination for the position of Bridge Painter since 1992. Instead, Defendants have hired Bridge Painters on a provisional basis. Provisional hiring is not conducted in accordance with the civil service system. When Defendants have engaged in such provisional hiring, they have not provided any objective, formalized guidelines or procedures in hiring individuals for the position of Bridge Painter.

12. Each time Defendants have hired a Bridge Painter on a provisional basis, Defendants have hired exclusively men, notwithstanding that qualified women had applied.

13. Since October 31, 1997, fifty-six people have applied for the position of Bridge Painter and Defendants have hired thirteen of those applicants. All thirteen of the applicants hired by Defendants for the position of Bridge Painter during this period were men.

14. Since October 31, 1997, four women have applied for the position of Bridge Painter. Although all four of the women who applied during this period were qualified for the position of Bridge Painter, none has been hired.

15. In response to a Job Vacancy Notice dated February 9, 1998, twenty-two men and two women submitted applications for the position of Bridge Painter. Between February 1998 and October 1999, and pursuant to the February 9, 1998 Job Vacancy Notice, Defendants hired ten men and no women as provisional Bridge Painters. Although both of the

women who had applied for the position of Bridge Painter in response to the February 9, 1998 Job Vacancy Notice were qualified for the position, Defendants did not interview either female applicant. Each of the male applicants who was hired had been interviewed.

16. In response to a Job Vacancy Notice issued July 29, 1999, twelve men and one woman applied for the position of Bridge Painter. Although the woman who applied for the position of Bridge Painter in response to the July 29, 1999 Job Vacancy Notice was qualified for the position, Defendants did not select her and instead hired two men for the position.

17. On August 8, 2000, Defendants hired a man as a provisional Bridge Painter. The August 8, 2000 hiring of this Bridge Painter was not conducted in connection with any Job Vacancy Announcement. Nor did Defendants interview anyone for the position.

18. Defendants have pursued and continue to pursue policies and practices that discriminate against women and that deprive or tend to deprive women of employment opportunities because of their sex, in violation of Section 707 of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e-6, among other ways, by failing or refusing to hire women for the position of Bridge Painter on the same basis as men, by hiring outside of the civil service process, and by failing or refusing to take appropriate action to correct the present effects of their discriminatory policies and practices.

19. The Department of Justice investigated the employment practices of the Defendants, notified them of the investigation and the policies and practices described in paragraphs 6 through 18 above, and unsuccessfully attempted to resolve this matter through negotiations.

**Conditions Precedent to Suit**

20. All conditions precedent to the filing of this suit have been satisfied.

**CLAIM FOR RELIEF**  
**(Pattern or Practice of Discrimination)**

21. Paragraphs 6 through 20 are realleged and incorporated by reference in this paragraph.

22. The acts, omissions, policies, and practices described in paragraphs 6 through 21 above constitute a pattern or practice of employment discrimination on the basis of sex in violation of 42 U.S.C. § 2000e-2(a). This pattern or practice is intended to deny women the full exercise of the rights secured by Title VII of the Civil Rights Act, as amended. Unless enjoined by the Court, Defendants will continue to pursue policies and practices that are the same as or similar to those that are alleged in this Complaint.

WHEREFORE, the United States requests that this Court enter judgment:

A. enjoining Defendants from engaging in discriminatory employment policies and practices in violation of Title VII and requiring that Defendants provide and follow a fair, open, and competitive selection process for the position of Bridge Painter;


B. directing defendants to take such other steps as may be necessary to prevent and remedy employment discrimination and the patterns or practices of discrimination in employment identified above;

C. awarding remedial relief, including but not limited to job offers with retroactive seniority and back pay with interest, to the individuals injured by Defendants' discriminatory conduct; and

D. granting such further relief as the Court may deem just, together with the United States' costs and disbursements in this action.


Dated: Washington, D.C.  
\_\_\_\_\_, 2007

ALBERTO GONZALES  
Attorney General

By:   
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WAN J. KIM  
Assistant Attorney General  
Civil Rights Division

Dated: New York, NY  
March 12, 2007

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