

**RECEIVED UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA**

**[ FILED ]**

2001 JAN 11 A 9 35

JAN 11 2001

VICKIE K. PREWETT, \*  
CHRISTINE HALE \*  
DEBORAH COLE \*  
VICKY BROWN, \*  
LISA JACKSON, \*  
TERESA THOMASON, \*  
SUSAN W. COLLIER, \*  
VALERIE PORTER WILLIAMS, \*  
BETTY DUBOSE, and all \*  
females, collectively, \*  
employed in Alabama as County \*  
Veteran Affairs Assistants under \*  
circumstances similar to those \*  
of the named Plaintiffs \*  
and the class of all such \*  
individuals affected by salary \*  
policies which discriminate on \*  
the basis of gender, \*

CLERK  
U. S. DISTRICT COURT  
MIDDLE DIST. OF ALA.

Plaintiffs,

vs.

CIVIL ACTION NO: 2:COCV1674(T)

STATE OF ALABAMA \*  
DEPARTMENT OF VETERANS \*  
AFFAIRS AND THE ALABAMA \*  
STATE PERSONNEL DEPARTMENT, \*

Defendants.

**PLAINTIFFS' MOTION TO CONDITIONALLY CERTIFY  
COLLECTIVE ACTION AND TO AUTHORIZE  
NOTICE TO SIMILARLY SITUATED EMPLOYEES**

Plaintiffs move the Court, pursuant to 29 U.S.C. Section 216(b), to conditionally

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certify this action as a collective action on behalf of plaintiffs and similarly situated employees of the State of Alabama Department of Veterans Affairs, and to authorize that appropriate notice be given by plaintiffs to the similarly situated employees. As grounds for this motion, plaintiffs would show the Court as follows:

1. Named plaintiffs are female present and former employees of the State of Alabama Department of Veterans Affairs. Named plaintiffs are or were employed in the job position of County Veterans Affairs Assistants. *Complaint*, ¶ 1.

2. Named plaintiffs allege that defendants have employed males in the job position of "Veterans Service Officer," at salary levels substantially higher than named plaintiffs. *Complaint*, ¶ 18. Further, named plaintiffs allege that the males so employed perform duties which are essentially the same as the duties of the plaintiffs, requiring equal skill, effort and responsibility, and performed under similar working conditions as those performed by the plaintiffs. *Complaint*, ¶18.

3. Named plaintiffs allege that throughout the State of Alabama defendants employ many females County Veteran Affairs Assistants who are being paid unequal pay under circumstances closely similar or identical to those of the named plaintiffs. *Complaint*, ¶24. Accordingly, named plaintiffs seek to bring this action as a collective action on behalf of themselves and similarly situated female employees, pursuant to Section 16(b) of the Fair Labor Standards Act, 29 U.S.C. § 216(b). *Complaint*, ¶24.

4. In support of these allegations, and in support of this motion, plaintiffs submit

the attached affidavit attached as Exhibit A, verifying the factual allegations of the complaint.

5. Under authority of 29 U.S.C. § 216(b), plaintiffs may bring an action on behalf of similarly situated employees if each such employee "gives his [or her] consent in writing to become a party and such consent is filed in the Court in which the action is brought."

6. Plaintiffs ask that they be authorized to send appropriate notice and consent forms to similarly situated employees of the State of Alabama Department of Veteran Affairs, and suggest that the notice attached hereto is Exhibit B be approved by the Court. In seeking a order authorizing that notice and consent forms be sent to similarity situated employers, plaintiffs rely upon the Supreme Court's and this Court's decisions which point out that early judicial participation in the notice process in an Equal Pay Act case serves a number of important goals: providing judicial oversight of the contents of the notice; ensuring that all potential plaintiffs receive timely notice of a pending action; and, providing a cut-off date for receipt of consents. *Hoffman-La Roche, Inc. v. Sperling*, 493 U.S. 165, 171 (1989); *Garner v. G.D. Searle Pharmaceuticals & Co.*, 802 F. Supp 418, 422 (M.D. Ala. 1991).

8. Plaintiffs will or may later seek class certification under Rule 23 of the Federal Rules of Civil Procedure to prosecute claims on behalf of a class of women under Title VII, 42 U.S.C. Section 1983, and the Equal Protection clause of the

Fourteenth Amendment to the United States Constitution. Plaintiffs ask that the Court consider the instant motion to conditionally certify a collective action under the Equal Pay Act separately from class certification under Rule 23.

WHEREFORE, these premises considered, plaintiffs move the Court:

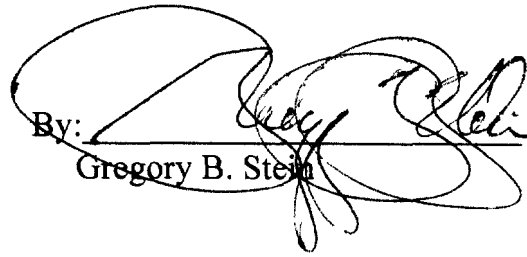
(1) to conditionally certify this action as a collective action pursuant to 29 U.S.C. Section 216(b), and define the class of plaintiffs as all women who have been employed by the State of Alabama as County Veterans Affairs Assistants or Administrative Support Assistants at any time since December 7, 1997; and,

(2) to authorize plaintiffs to mail the notice attached hereto as Exhibit B to all females employed by defendants as a County Veterans Affairs Assistant or Administrative Support Assistant at any point in time since December 7, 1997.

Respectfully submitted this 10<sup>th</sup> day of January, 2001.

Richard L. Thiry  
Henry H. Caddell  
THIRY and CADELL  
1911 Government St.  
Mobile, AL 36606  
Telephone: (334) 478-8880  
Facsimile: (334) 478-8885

STEIN and BREWSTER  
Post Office Box 1051  
Mobile, AL 36633  
Telephone: (334) 433-2002  
Facsimile: (334) 432-7756

By:   
Gregory B. Stein

Attorneys for Plaintiffs

OF COUNSEL:

Rhonda Brownstein, Esq.  
SOUTHERN POVERTY LAW CENTER  
Post Office Box 2087  
Montgomery, Alabama 36102-2087

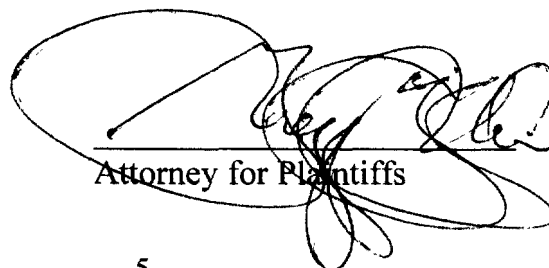
**CERTIFICATE OF SERVICE**

I hereby certify that on this 10<sup>th</sup> day of January, 2001, a copy of the foregoing was served upon the following:

Alice A. Byrne, Esq.  
Attorney for State Personnel Department  
64 North Union Street, Suite 316  
Montgomery, AL 36130

Margaret L. Fleming, Esq.  
Assistant Attorney General  
Alabama State House  
11 South Union Street  
Montgomery, AL 36130

Alabama Department of Veteran Affairs  
Post Office Box 1509  
Montgomery, AL 36192-3071

  
Attorney for Plaintiffs

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BETTY DUBOSE and all  
females, collectively,  
employed in Alabama as  
County Veteran Affairs  
Assistants under circum-  
stances similar to those  
of the named Plaintiffs  
and the class of all such  
individuals affected by  
salary policies which  
discriminate on the  
basis of gender,

Plaintiffs,

vs.

STATE OF ALABAMA  
DEPARTMENT OF VETERANS  
AFFAIRS AND THE ALABAMA  
STATE PERSONNEL DEPARTMENT,

Defendants.

CIVIL ACTION NO: 00-T-1674-N

AFFIDAVIT VERIFYING COMPLAINT

STATE OF ALABAMA:  
COUNTY OF BALDWIN:

Vickie K. Prewett, being duly sworn on oath, deposes and says  
as follows:

My name is Vickie K. Prewett. My address is Post Office Box  
2711, Gulf Shores, Alabama 36507. I am a plaintiff in the above-  
styled action.

I have read the complaint that was filed in this action in the  
Middle District of Alabama on December 7, 2000. All of the facts

set forth in that complaint are true and correct to the best of my knowledge, information and belief.

  
VICKIE K. PREWETT

SWORN BEFORE NOTARY

STATE OF ALABAMA:  
COUNTY OF BALDWIN:

Personally appeared before me, the undersigned authority in and for said State and County, Vickie K. Prewett, who after being duly sworn by me, doth depose and say that the foregoing affidavit is true and correct to the best of her knowledge.

Done this the 4<sup>th</sup> day of January, 2001.

  
NOTARY PUBLIC

My Commission Expires: 5/26/2003

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VICKIE K. PREWETT, \*  
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DEBORAH COCKER, \*  
VICKY BROWN, \*  
LISA JACKSON, \*  
TERESA THOMASON, \*  
SUSAN W. COLLIER, \*  
VALERIE PORTER WILLIAMS, \*  
BETTY DUBOSE, and all \*  
females, collectively, \*  
employed in Alabama as County \*  
Veteran Affairs Assistants under \*  
circumstances similar to those \*  
of the named Plaintiffs \*  
and the class of all such \*  
individuals affected by salary \*  
policies which discriminate on \*  
the basis of gender, \*

Plaintiffs, \*

vs. \*

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DEPARTMENT OF VETERANS \*  
AFFAIRS AND THE ALABAMA \*  
STATE PERSONNEL DEPARTMENT, \*

Defendants. \*

**NOTICE OF PENDENCY OF EQUAL PAY ACT COLLECTIVE  
ACTION AND CONSENT FORM**

**Important! Please read this notice carefully. It may affect your legal rights.**



**To: All adult females in Alabama who, at any time since December 7, 1997, have been employed by the State of Alabama Department of Veterans Affairs as County Veterans Affairs Assistants (Administrative Support Assistants) doing work equal to males employed as Veteran Service Officers but receiving lesser, unequal pay.**

If you (1) are a female, and (2) have been employed by the State of Alabama Department of Veterans Affairs as a County Veterans Affairs Assistant (Administrative Support Assistant) at any time since December 7, 1997 (even if you have since left that employment), this notice is to inform you of a pending lawsuit which may affect your legal rights. Vickie K. Prewett, Christine Hale, Deborah Coker, Vickie Brown, Lisa Jackson, Theresa Thomason, Susan W. Collier, Valerie Porter Williams, and Betty Dubose have filed a lawsuit in the federal court in Montgomery, Alabama, claiming that women employed as County Veterans Affairs Assistants (Administrative Support Assistants) do work essentially equal to males employed as Veteran Service Officers but are paid less, unequal pay. These persons, "the plaintiffs," claim that the unequal pay for equal work violates the "Equal Pay Act," 29 United States Code Sections 206(d)(1) and 216(b). The plaintiffs seek to bring this lawsuit for themselves and as a "collective action" on behalf of all other women who have been employed as County Veterans Affairs Assistants (Administrative Support Assistants) for some or all of the time since December 7, 1997.

In order for you to participate in this lawsuit, you need to complete, sign and file with the Court a written consent form like the one attached to this notice as APPENDIX

1. If you do not sign and file a written consent form with the Court, you will not be allowed to participate in the lawsuit and will not be allowed to share in any monies or other relief obtained by the plaintiffs.

You are encouraged to consult a lawyer and obtain legal advice on whether to participate in this lawsuit. You may consult a lawyer of your own choosing or may consult the lawyers who represent the plaintiffs in this lawsuit, whose names and telephone numbers, addresses, and email addresses are as follows:

Henry H. Caddell, Esq  
**Thiry & Caddell**  
1911 Government Street  
Mobile, AL 36606  
Telephone: (334) 478-8880  
Fax: (334) 478-8885  
Email: caddelllaw@zebra.net

Richard L. Thiry, Esq.  
**Thiry & Caddell**  
1911 Government Street  
Mobile, AL 36606  
Telephone: (334) 478-8880  
Fax: (334) 478-8885

Gregory B. Stein, Esq.  
**Stein and Brewster**  
205 N. Conception St.  
Mobile, AL 36602  
Telephone: (334) 433-2002  
Fax: (334) 432-7756  
Email: gstein@steinandbrewster.com

You will not be charged any fee or costs by the lawyers (listed above) in consulting with them in connection with this lawsuit.

**When and how to file a written consent form**

You should mail or hand deliver the attached consent form, or a similar writing, to the Clerk of the United States District Court for the Middle District of Alabama in Montgomery, Alabama. The name and address of the Clerk is as follows:

Debra P. Hackett, Clerk  
United States District Court  
for the Middle District of Alabama  
15 Lee Street  
Post Office Box 711  
Montgomery, AL 36101

If you wish, one of the lawyers for the plaintiffs listed above will help you file the consent form. You should file the written consent form with the Clerk no later than 5:00 p.m., Friday, May 18, 2001. The consent form should be received by the Clerk on that day, not just postmarked. If you do not file the written consent form by that day you may be excluded from the lawsuit. A decision whether to exclude persons who file written consent forms after May 18, 2001 will be made by the judge. If you wish to participate in the lawsuit, you should protect your legal rights by filing the form **on or before May 18, 2001.**

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Clerk, United States District Court  
for the Middle District of Alabama

Attachment: APPENDIX 1, WRITTEN CONSENT TO BE A PARTY PLAINTIFF

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA**

VICKIE K. PREWETT, \*  
et al.,

Plaintiffs, \*

vs. \* CIVIL ACTION NO: 2:COCV1674(T)

STATE OF ALABAMA \*  
DEPARTMENT OF VETERANS \*  
AFFAIRS AND THE ALABAMA \*  
STATE PERSONNEL DEPARTMENT, \*

Defendants. \*

**WRITTEN CONSENT TO BE A PARTY PLAINTIFF**

I, \_\_\_\_\_, hereby give written consent to be a party Plaintiff in the above-styled action seeking relief under the federal Equal Pay Act.

DATE: \_\_\_\_\_

SIGNED

\_\_\_\_\_

Please print below

\_\_\_\_\_  
Full Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
Home Telephone

\_\_\_\_\_  
Work Telephone

\_\_\_\_\_  
Email address (optional)

\_\_\_\_\_