

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
NORTHEASTERN DIVISION

LINDA JOHNSON and the class she)
seeks to represent,)

Plaintiff)

v.)

CASE NO. CV-07-C-0064-NE

STEELCASE, INC.,)

Defendant.)

FIRST AMENDED COMPLAINT

I. INTRODUCTION

1. This is an action against Steelcase, Inc. to redress racial discrimination in its selection system for promotions. Plaintiff, on her own behalf and on behalf of a class of similarly-situated African-American employees, seeks a declaratory judgment and equitable, injunctive, and monetary relief pursuant to the Civil Rights Act of 1866, as amended, 42 U.S.C. §§ 1981 and 1981(A).

2. Plaintiff Linda Johnson brings this action on her own behalf and on behalf of all African-American employees at Steelcase who sought promotions from production technician positions to more-desirable and higher-paying positions, including but not limited to supervisor, temporary supervisor, zone leader, job setter,

production specialist, and all other positions classified by defendant as “craft worker” positions on its EEO-1 forms; who may in the future seek such jobs; or who would in the past have sought such jobs in the absence of the discriminatory practices challenged in this case.

3. Class certification is sought on plaintiff’s pattern or practice claim pursuant to Federal Rule of Civil Procedure 23(b)(2) for the equitable relief. For the punitive damages claim, plaintiff seeks class certification under either Rule 23(b)(2) as part of the relief available at Stage I of a bifurcated trial of their pattern or practice claim for injunctive relief or as a hybrid certification under both Rules 23(b)(2) and 23(b)(3).

4. Plaintiff also brings a claim on her own behalf only under Title VII of the Civil Rights Act of 1964, which was amended by the Civil Rights Act of 1991, and which is codified at 42 U.S.C. § 2000e *et seq.* and 42 U.S.C. §1981a, and the Civil Rights Act of 1866, 42 U.S.C. §§ 1981 and 1981(A), for her demotion from backup quality specialist to production technician, the claim in her original complaint.

II. JURISDICTION AND VENUE

5. The jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 1331, 1343(a)(3),1343(a)(4), and 42 U.S.C. § 2000e-5.

6. Plaintiff Linda Johnson is a resident of Madison County, Alabama.

Defendant Steelcase, Inc. does business throughout the United States, including its facilities located in Limestone County, Alabama. Venue is proper pursuant to 28 U.S.C. § 1391(b) and 42 U.S.C. § 2000e-5.

III. PARTIES

7. Plaintiff Linda Johnson is an African-American female citizen of the United States, over the age of nineteen, and a resident of the State of Alabama.

8. Defendant Steelcase, Inc. is a proper defendant pursuant to Civil Rights Act of 1866, as amended, 42 U.S.C. §§ 1981 and 1981(A), and an employer within the meaning of that term as used in Title VII. At all times pertinent to the matters alleged herein, defendant employed fifteen (15) or more employees.

IV. FACTUAL ALLEGATIONS

9. Plaintiff restates and incorporates by reference the above paragraphs.

10. Defendant manufactures office furniture.

11. The assembly-line work of the manufacturing operation is performed by employees called “production technicians.” This is defendant’s entry-level position. The great majority of defendant’s employees are hired into this position.

12. Plaintiff was initially hired by defendant as a production technician at its Athens, Alabama facility.

13. At new employee training plaintiff and others received, defendant

emphasized that most of the jobs in the plant, like the production technician position itself, did not require any special certifications or education beyond a high school diploma. Plaintiff and others were told that most jobs in the plant required only on-the-job training after selection. Plaintiff and others were told they could go as high in the company as they wanted to go.

14. In reality, however, this is not how things work at Steelcase for African-American employees.

15. On information and belief, according to data supplied by defendant to the EEOC for its Athens operation for 2007, though African-American employees are 53 percent (134/252 or 53.17%) of the production technician pool out of which higher-level positions are filled, they occupy a substantially smaller percentage of the more-desirable and higher-paying jobs into which they could have been promoted, constituting only 5.9% ($1/17 = 5.88\%$) of the supervisors and occupy only 7.9% ($10/127 = 7.87\%$) of the jobs referred to as “craft worker” jobs in defendant’s 2007 EEO-1, including but not limited to zone leader, temporary supervisor, job setter, and production specialist.

16. Effectively, defendant has segregated African-American employees in the least-desirable and lowest-paying jobs in the plant.

17. Defendant rarely posts jobs. Rather, the standard operating procedure

has been for individuals to be hand-picked for promotions, and the supervisors doing the picking, as noted above, are overwhelmingly white.

18. Plaintiff was a victim of this system.

19. In response to a posting, plaintiff applied for and received a promotion from production technician to a backup quality specialist position (a type of production specialist position) on 2nd/3rd shift.

20. The only reason the position was posted was because defendant's efforts to fill the job by hand-picking a person failed.

21. The only reason plaintiff got the job was because no one else applied for it.

22. After plaintiff was awarded the position, she held the position until on or about February 16, 2006, when she was demoted back to a production technician position.

23. There was no legitimate basis for defendant's decision to demote plaintiff.

24. Defendant claims plaintiff voluntarily requested a transfer to 1st shift and that her voluntary transfer caused her demotion from the backup quality specialist position.

25. This claim is false. Defendant's own policy specifically says that official

backups like plaintiff are not part of the production technician classification and thus not part of the transfer system.

26. Defendant's misrepresentation regarding the transfer was a pretext for race discrimination, sex discrimination, or a combination of the two.

27. Plaintiff was initially replaced by a white male, who was sent from day shift to be the backup quality specialist on 2nd shift.

28. Later, plaintiff's position was given permanently to a white female.

29. Prior to plaintiff's promotion, the quality department had been entirely white.

30. After plaintiff's demotion, the quality department was again entirely white.

31. Plaintiff filed a charge concerning the demotion on or about August 7, 2006, less than 180 days after February 16, 2006. Plaintiff's charge is attached as Exhibit 1 to her original complaint.

32. Plaintiff originally filed this lawsuit asserting her demotion claim under Title VII and § 1981 in January 2007, which was within 90 days of October 25, 2006, the date the EEOC mailed her notice of right to sue. Plaintiff's notice of right to sue is attached as Exhibit 2 to her original complaint.

33. During the pendency of this lawsuit, in August 2007, defendant, as part

of an alleged reorganization of its quality department, announced one or more open quality specialist positions.

34. Plaintiff applied for a quality specialist position.

35. Plaintiff was qualified for the job.

36. Plaintiff was interviewed for the position.

37. Defendant rejected plaintiff's application.

38. After the alleged reorganization, the quality department remained all-white.

39. Also, in approximately late September or early October 2007, defendant filled a zone leader position in the area in which plaintiff worked.

40. While a zone leader position is considered an hourly position, it is a promotion from a production technician position, functions as an assistant supervisor in an area, and supervisors are commonly selected from the pool of zone leaders.

41. Defendant filled this position without posting it.

42. Defendant filled this position without interviewing plaintiff for the position.

43. Plaintiff was qualified for the position.

44. Plaintiff had expressed interest in the position. When a white female was temporarily placed in the zone leader position, plaintiff questioned her supervisor

regarding why she or someone else who was working in the area had not been asked to temporarily fill the slot. The supervisor had no explanation but told plaintiff when the job was posted her chances of getting the position were good because of her knowledge of and experience in the area.

45. Nevertheless, defendant did not post the job, and a white male was given the job.

46. Upon information and belief, defendant has a promotion system that is intended to prevent African-Americans from advancing out of the production technician position into more-desirable and higher-paying jobs and that has the effect of segregating African-Americans in the less-desirable and lower-paying production technician jobs.

47. Upon information and belief, as described above, African-Americans are significantly underrepresented in positions above production technician.

48. Upon information and belief, one or more areas or departments are all-white.

49. Individual supervisory personnel of defendant are permitted to identify individuals to be promoted “temporarily” into positions. This practice allows the person selected to gain experience that makes them better qualified for future advancement. White supervisory personnel repeatedly select white employees for

“temporary” zone leader and other positions and largely exclude African-Americans from these positions.

50. Zone leaders fill in temporarily for supervisors, thus gaining supervisory experience and having an advantage in applying for supervisor and other positions that come open.

51. Upon information and belief, defendant regularly hand-picks and places persons in positions temporarily, saying that the position is not being posted because it is just temporary, only to have the position end up being a permanent one that is given to the hand-picked person who was “temporarily” placed in the position.

52. Upon information and belief, usually the position is not posted when it is made permanent and given to a hand-picked person.

53. Upon information and belief, even if a position is posted when it is made permanent, it is usually given to the hand-picked person who was in the position temporarily.

54. Upon information and belief, defendant maintains the above-described promotion policies and practices knowing and intending that they limit the advancement opportunities of African-American employees and that they cause African-Americans to be significantly underrepresented in job classifications above production technician.

55. Upon information and belief, the above-described promotion policies and practices disparately impact African-American employees, including the named plaintiff. Such policies and practices also discourage African-American applicants from applying for promotions that even do get posted.

56. Defendant discriminates on the basis of race at each such stage of the selection process for promotions as well as throughout the promotion process as a whole. Such discrimination is accomplished through: (a) disparate impact; (b) disparate treatment; and (c) a pattern or practice of race discrimination.

57. On January 14, 2008, plaintiff filed an EEOC charge against defendant on her own behalf and on behalf of all African-Americans who have sought promotions from the production technician position to more-desirable and higher-paying jobs as described in paragraph 2 above, who may in the future seek such jobs, or who in the past would have sought such jobs in the absence of the discriminatory practices challenged in this case.

58. Upon receipt of a notice of right to sue, plaintiff will seek to amend her complaint to add her Title VII promotion claims, including both disparate impact and disparate treatment claims. Plaintiff currently alleges her disparate treatment promotion claims under § 1981.

59. In addition to having a disparate impact on African-American

employees, defendant's promotion policies and practices are part of a pattern or practice of discouraging and/or preventing African-Americans from applying for or being considered for promotions out of the production technician position and rejecting them when they express interest in or apply for such jobs.

V. FIRST CAUSE OF ACTION — DISPARATE TREATMENT — INDIVIDUAL DEMOTION CLAIM

60. Plaintiff restates and incorporates by reference the paragraphs above.

61. Plaintiff has been subjected to race and/or sex discrimination by defendant in violation of Title VII and/or 42 U.S.C. § 1981.

62. On or about February 16, 2006, defendant demoted plaintiff from a backup quality specialist position to a production technician position.

63. Defendant demoted plaintiff in whole or in part because of her race, which is African-American, because she is a woman, and/or because she is an African-American female.

64. Defendant acted with malice and/or reckless indifference to plaintiff's federally-protected rights.

65. The conduct of defendant proximately caused injury and damage to plaintiff.

VI. SECOND CAUSE OF ACTION — DISPARATE TREATMENT IN PROMOTIONS (CLASS)

66. Plaintiff restates and incorporates by reference the paragraphs above.

67. Defendant has engaged in a pattern and practice of discriminating against African-Americans on the basis of their race with respect to promotions from the production technician position to more-desirable and higher-paying jobs as described in paragraph 2 above.

68. Defendant's selection procedures are intended to have a disparate impact on plaintiff and the class she seeks to represent. Such practices form a part of defendant's overall pattern and practice of keeping African-Americans segregated in the less-desirable and lower-paying production technician classification. Defendant's selection system perpetuates defendant's decades-old policy and practice of keeping African-Americans out of the more-desirable and higher-paying jobs and perpetuates prior racial discrimination and a segregated workforce.

69. Plaintiff seeks only equitable relief in this count of the Complaint, including backpay, instatement, retroactive seniority and status, and other declaratory and injunctive relief for such unlawful disparate treatment, making class certification appropriate under Federal Rule of Civil Procedure 23(b)(2).

70. Defendant's selection procedures have adversely affected the named plaintiff and the class she seeks to represent by, among other things, failing to select African-Americans for the job positions described in paragraph 2 above. Because of

defendant's discriminatory employment practices, plaintiff and the class have experienced harm, including a past and future loss of wages and benefits.

71. The named plaintiff and the class she seeks to represent seek to redress the wrongs alleged herein. This suit for back pay (plus interest), reinstatement, retroactive seniority and status, and other declaratory and injunctive relief is their only means of securing adequate relief. Plaintiff also seeks attorneys' fees and expenses.

VII. THIRD CAUSE OF ACTION — PUNITIVE DAMAGES

72. Plaintiff restates and incorporates the paragraphs above.

73. Because the above-described promotion policies and practices are such an obvious barrier to African-Americans being selected for promotions, because defendant's actions are so inconsistent with ordinary business practices, and because the resultant segregation of African-American employees in the production technician classification is so easily observed by any person working for defendant, the defendant must have acted maliciously, willfully, and with reckless disregard for the rights of the plaintiff and the class she seeks to represent, making punitive damages an appropriate remedy.

74. Such punitive damages are sought for defendant's conduct towards African-American employees, not for any individualized injury or harm. As such, the

entitlement to such damages are properly part of the same proof at Stage I of a bifurcated trial for classwide injunctive relief sought as part of the Second Cause of Action and do not require individualized proof from each member of the class towards whom such discrimination was directed.

VIII. CLASS CERTIFICATION ALLEGATIONS

75. Class certification is sought separately for each of the two class causes of action set forth above. Class certification is appropriate under Rule 23(b)(2) for the equitable relief sought on the disparate treatment pattern or practice claim. For the punitive damages claim, plaintiff seeks class certification under either Rule 23(b)(2) as part of the relief available at Stage I of a bifurcated trial of their pattern or practice claim for injunctive relief or as a hybrid certification under both Rules 23(b)(2) and 23(b)(3).

76. The named plaintiff is a member of the class she seeks to represent for each of the class causes of action. The prosecution of the claims of the named individual plaintiff requires adjudication of the question common to the putative class: is defendant's selection process for promotions part of a pattern or practice of segregating African-American employees in the production technician position and preventing them from advancing into more-desirable and higher-paying jobs as described in paragraph 2 above? The claims of the named plaintiff and the class have

common questions of law and fact because defendant has discouraged and prevented African-Americans from applying for or being considered for promotions to such jobs and rejected them when they have expressed an interest in or applied for such jobs.

77. The relief necessary to remedy the claims of the named plaintiff is the same relief that is necessary for the class and therefore satisfies the typicality requirement of Rule 23(a)(3). The named plaintiff seeks the following relief for her individual promotion claims and those of the class: a declaratory judgment that defendant has engaged in systemic race discrimination by limiting the advancement opportunities of African-Americans; a permanent injunction against such continuing discrimination; a restructuring of defendant's promotion selection procedures so that African-Americans are able to learn about and fairly compete in the future for jobs; a restructuring of defendant's workforce so that African-Americans are assigned to jobs that they would have held in the absence of defendant's past race discrimination; back pay and any other monetary relief, reinstatement or front pay, and other non-monetary remedies necessary to make plaintiff and the class she seeks to represent whole from defendant's past discrimination; and attorneys' fees and expenses.

78. The class that the named plaintiff seeks to represent is too numerous to make joinder practicable. The proposed class consists of all African-Americans who sought promotions from the production technician position to more-desirable and

higher-paying jobs as described in paragraph 2 above, who may in the future seek such jobs, or who would in the past have sought such jobs in the absence of the discriminatory practices challenged in this case. The challenged employment discrimination makes joinder impracticable by preventing or discouraging African-American employees from applying for or pursuing promotion opportunities, thereby making it impractical and inefficient to identify many members of the class prior to a determination of the merits of defendant's class-wide liability.

79. The class representative's interests are coextensive with those of the class in that she seeks to remedy defendant's discriminatory employment practices so that African-Americans will no longer be prevented from obtaining promotions out of the production technician position. The class representative is able and willing to represent the class fairly and vigorously, as she pursues goals common to the class through this action. Plaintiff's counsel is also qualified, experienced, and able to conduct the litigation and to meet the time and fiscal demands required to litigate an employment discrimination class action of this size and complexity. The combined interests, experience, and resources of plaintiff and her counsel to litigate competently the individual and class claims of race-based employment discrimination at issue satisfy the adequacy of representation requirement under Fed. R. Civ. P. 23(a)(4).

80. Certification of a class of similarly-situated African-Americans is the

most efficient and economical means of resolving the questions of law and fact that are common to the individual promotion claims of the named plaintiff. The individual promotion claims of the named plaintiff require resolution of the common question of whether defendant has engaged in a systemic pattern of race discrimination. The named plaintiff seeks remedies to undo the adverse effects of such discrimination in her life and career and to prevent continued race discrimination in the future. The named plaintiff has standing to seek such relief in part because of the adverse effect that race discrimination has on her own interest in working and living in conditions free from the pernicious effects of racial bias. In order to gain such relief for herself, as well as for the putative class members, the named plaintiff must first establish the existence of systemic race discrimination as the premise of the relief she seeks. Without class certification, the same evidence and issues would be subject to repeated re-litigation in a multitude of individual lawsuits with an attendant risk of inconsistent adjudications and conflicting obligations. Certification of a class of African-American production technicians affected by the common questions of law and fact is the most efficient and judicious means of presenting the evidence and arguments necessary to resolve such questions for plaintiff, the class, and defendant. The named plaintiff's individual and class promotion claims are premised upon the traditional bifurcated method of proof and trial for systemic disparate treatment

claims of the type at issue in this complaint. Such a bifurcated method of proof and trial is the most efficient method of resolving such common issues.

81. Defendant has acted on grounds generally applicable to the class by adopting and following systemic practices and procedures that are discriminatory on the basis of race. Race discrimination is defendant's standard operating procedure rather than a sporadic occurrence. Defendant has refused to act on grounds generally applicable to the class by refusing to adopt or follow promotion selection procedures that do not systemically discriminate against African-Americans. Defendant's systemic discrimination and refusal to act on grounds that are not racially discriminatory have made appropriate final injunctive and declaratory relief with respect to the class as a whole.

82. Injunctive and declaratory remedies are the predominant relief sought. They are both dependent upon proof of defendant's individual and class-wide liability at the end of Stage I of a bifurcated trial. Such determination at Stage I is also the essential predicate for the named plaintiff's and class members' entitlement to monetary and non-monetary remedies at Stage II of such a trial. Entitlement to declaratory and injunctive relief flows directly and automatically from proof of the common questions of law and fact regarding the existence of systemic racial discrimination. Such relief is the factual and legal predicate for the named plaintiff's

and the class members' entitlement to monetary and non-monetary remedies for individual losses caused by such systemic discrimination.

83. Alternatively, certification is sought pursuant to Fed. R. Civ. P. 23(b)(3). The common issues of fact and law affecting the promotion claims of the named plaintiff and the proposed class members, including but not limited to the common issues identified in the above paragraphs, predominate over any issues affecting only individual claims. A class action is superior to other available means for the fair and efficient adjudication of the promotion claims of the named plaintiff and members of the proposed class. The cost of proving defendant's pattern and practice of discrimination makes it impracticable for the named plaintiff and members of the proposed class to control the prosecution of their claims individually.

84. Alternatively, certification is sought under a combination of Fed. R. Civ. P. 23(b)(2) and 23(b)(3). Plaintiff restates and incorporates by reference the above paragraphs.

X. PRAYER FOR RELIEF

Wherefore, plaintiff, on her own behalf and on behalf of the class she seeks to represent, requests the following relief:

a. On plaintiff's individual demotion claim only, in addition to the relief requested below, compensatory damages;

- b. Acceptance of jurisdiction of this cause;
- c. Certification of the case as a class action maintainable under Federal Rules of Civil Procedure Rule 23 (a) and (b)(2) and/or (b)(3) on behalf of the proposed plaintiff class, designation of plaintiff as representative of the class, and designation of her counsel of record as class counsel;
- d. A declaratory judgment that defendant's employment practices alleged herein are illegal and in violation of the Civil Rights Act of 1866, as amended, 42 U.S.C. §§ 1981 and 1981(A);
- e. A preliminary and permanent injunction against defendant and its partners, officers, owners, agents, successors, employees, representatives and any and all persons acting in concert with it, from engaging in racial discrimination in promotions;
- f. An Order requiring defendant to initiate and implement programs that (i) provide equal employment opportunities for African-American employees seeking advancement; (ii) remedy the effects of defendant's past and present unlawful promotion practices described above; and (iii) eliminate the continuing effects of the discriminatory promotion practices described above;
- g. An Order requiring defendant to initiate and implement systems of recruiting and selecting African-American employees for zone leader, supervisor,

and quality specialist positions in a non-discriminatory manner;

h. An Order establishing a task force on equality and fairness to determine the effectiveness of defendant's promotion procedures that would provide for (i) the monitoring, reporting, and retaining of jurisdiction to ensure equal employment opportunity, (ii) the assurance that injunctive relief is properly implemented, and (iii) a quarterly report setting forth information relevant to the determination of the effectiveness of these programs;

i. An Order placing or restoring plaintiff and the class she seeks to represent into those jobs they would now be occupying but for defendant's discriminatory practices;

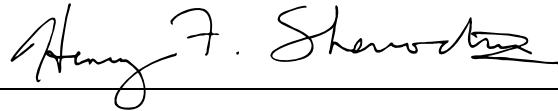
j. An award of back pay, instatement or front pay, retroactive seniority or status, lost benefits, preferential rights to jobs, and any other appropriate equitable relief to plaintiff and class members;

k. An award of punitive damages and nominal damages;

l. An award of litigation costs and expenses, including reasonable attorneys' fees, to plaintiff and class members;

m. Prejudgment and post judgment interest; and

n. Such other and further relief as the Court may deem just and proper.



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