

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

LINDA SMITH and the Class she Seeks to Represent)	
)	
Plaintiffs,)	
)	
v.)	CIVIL ACTION NO:
)	
UNITED STATES STEEL CORPORATION, and UNITED STATES STEEL CORPORATION FAIRFIELD WORKS)	Jury Demand
)	

Defendant.

CLASS ACTION COMPLAINT

I. INTRODUCTION

1. This Complaint is a class action brought by Linda Smith on behalf of herself and all the other similarly-situated individuals who may have been affected by the discrimination alleged below. This is an action for declaratory judgment, equitable relief, and money damages, instituted to secure the protection of and to redress the deprivation of rights secured by 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.* (hereinafter "Title VII") and 42 U.S.C. § 1981a. The plaintiff and the class she seeks to represent seek equitable relief, monetary relief and a jury trial of all issues triable to a jury.

II. JURISDICTION

2. 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.

3. The plaintiff is a resident of Walker County, Alabama and the defendant is located in Jefferson County. Venue is proper pursuant to 28 U.S.C. § 1391(b) and 42 U.S.C. § 2000e-5.

III. ADMINISTRATIVE REMEDIES

4. The plaintiff filed a charge of discrimination against the defendant with the Equal Employment Opportunity Commission within 180 days of occurrence of the last discriminatory act and has instituted this action within 90 days of receiving notice of her Right to Sue.

IV. PARTIES

5. The plaintiff, Linda Smith, is a female citizen of the United States, over the age of nineteen, and a resident of the State of Alabama.

6. The plaintiff brings this action on her own behalf and on behalf of all others similarly-situated pursuant to Rule 23(b)(2) of the Federal Rules of Civil Procedure. The class which the plaintiff seeks to represent is composed of all female applicants for Entry Level Production positions and discouraged female applicants who would have applied for Entry Level Production positions absent the discrimination alleged herein. There are common questions of law and fact affecting the rights of the members of the class who were discriminated against because of their sex. These persons are so numerous that joinder of all members is impractical. A common relief is sought. The interests of said class are adequately represented by the plaintiff. The defendant has acted or refused to act on grounds generally applicable to the class.

7. The defendants, United States Steel Corporation and United States Steel

Corporation Fairfield Works (hereinafter referred to collectively as "defendant"), are employers within the meaning of that term as used in Title VII. At all times pertinent to the matters alleged herein, the defendant has employed fifteen (15) or more employees.

V. FACTUAL ALLEGATIONS

8. The plaintiff realleges and incorporates by reference paragraphs 1-7 above with the same force and effect as if fully set out in specific detail hereinbelow.

9. On or about May 12, 2004, the plaintiff filled out an application for employment with the defendant for an Entry Level Production position, and she subsequently interviewed for the position.

10. On or around June 15, 2004, the defendant informed the plaintiff in writing that she did not get the job, telling her that her background failed to match the job requirements.

11. At all times, the plaintiff was qualified to perform the Entry Level Production job.

12. On September 9, 2004, the plaintiff filed an EEOC Charge against the defendant.

13. On October 15, 2004, the defendant responded to the plaintiff's EEOC Charge stating that the plaintiff was not selected because she did not satisfy the following minimum qualification for that position: "Two years of related heavy industrial experience (steel mill/mining/ construction/industrial)."

14. In particular the defendant stated the following in the position statement to the EEOC as its reasons for not selecting the plaintiff:

The position is within a heavy industrial environment, which may be hot, cold, dirty, greasy, wet or noisy, depending on the area. Two years of related heavy industrial experience is a required minimum qualification for the Entry Level

Production position. In the Particulars of her charge, Charging Party claims that she has nearly twenty (20) years of industrial experience working in a plant. Even if true, as stated above, the minimum requirement is two years of related heavy industrial experience, a requirement Charging Party clearly does not meet. . . .

In summary, Charging Party did not meet the minimum qualifications required for the Entry Level Production position. She does not have two years of related heavy industrial experience.

15. Upon information and belief this minimum qualification disparately impacted a class of female applicants, including the named plaintiff, and discouraged a class of female applicants from applying for Entry Level Production positions with the defendant.

16. That minimum qualification serves no legitimate business purpose because male employees in the Entry Level Production position begin that job by sweeping the floor and are eventually trained on the job for the production work.

17. Moreover, upon information and belief, the respondent does not require male applicants to meet this minimum qualification. Indeed, the defendant has hired male employees, including Scott Brewer, Ed Sewell and Jamie Carpenter into the Entry Level Production position without requiring them to have the two years of related heavy industrial experience.

18. The defendant's imposed minimum qualification of two years of related heavy industrial experience stands as such an obvious barrier to women entering its workforce, that by creating and maintaining such a requirement the defendant acted maliciously, willfully, and with reckless disregard for the rights of the plaintiff and the class she seeks to represent.

19. By requiring new hires into Entry Level Production positions to have two years of related heavy industrial experience, the defendant engages in a pattern and practice of

discriminating against female applicants and it discourages other females from applying for Entry Level Production positions.

VI. CLASS ACTION ALLEGATIONS

A. Class Definition and Common Questions of Law and Fact

20. The plaintiff is a member of the class she seeks to represent. That class consists of female applicants and discouraged female applicants who have been subjected to one or more aspects of the systemic gender discrimination described in the class claims portion of this complaint, which includes the defendant's selection procedures. The prosecution of the claims of the named individual plaintiff requires adjudication of the question common to the putative class: Has the defendant engaged in systemic gender discrimination in its selection practices in a manner made unlawful by the statutes under which this action is brought? The claims of the named individual plaintiff is embedded in common questions of law and fact because the defendant has prevented the hiring of female applicants and discouraged qualified female applicants from applying for Entry Level Production positions.

21. The defendant's hiring procedures are determined at the corporate level of the defendant's operations, and do not vary significantly from one facility or geographical location to another. The employment practices at issue in this complaint are not unique or limited to one plant, one office or one geographical area, but affect the named plaintiff and members of the class in the same manner throughout the defendant's operations.

B. Typicality of Relief Sought

22. The relief necessary to remedy the claims of the plaintiff is the same relief that is necessary for the class. The named plaintiff seeks the following relief for her individual

claims and those of the class: a declaratory judgment that the defendant has engaged in systemic gender discrimination by limiting the employment opportunities of females; a permanent injunction against such continuing discrimination; a restructuring of the defendant's selection procedures so that females are able to learn about and fairly compete in the future for jobs; a restructuring of the defendant's workforce so that females are assigned to jobs that they would have held in the absence of the defendant's past sex discrimination; back pay, reinstatement or front pay, punitive damages and other monetary and non-monetary remedies necessary to make the plaintiff and the class she seeks to represent whole from the defendant's past discrimination; and attorneys' fees and expenses.

C. Numerosity and Impracticability of Joinder

23. The class that the named plaintiff seeks to represent is too numerous to make joinder practicable. The proposed class consists of female applicants and discouraged female applicants who would have become employed by the defendant's facilities in the United States. The defendant's pattern and practice of gender discrimination also makes joinder impracticable by discouraging females from applying for or pursuing employment opportunities, thereby making it impractical and inefficient to identify many members of the class prior to a determination of the merits of the defendant's class-wide liability.

D. Adequacy of Representation

24. The class representative's interest is coextensive with those of the class in that she seeks to remedy the defendant's discriminatory employment practices so that females will no longer be prevented from obtaining positions at the defendant company. The class representative is able and willing to represent the class fairly and vigorously, as she pursues

her goal common to the class through this action. The 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 interest, experience and resources of the plaintiff and her counsel to litigate competently the individual and class claims of gender-based employment discrimination at issue satisfy the adequacy of representation requirement under Fed. R. Civ. P. 23(a)(4).

E. Efficiency of Class Prosecution of Common Claims

25. Certification of a class of similarly situated females is the most efficient and economical means of resolving the questions of law and fact that are common to the individual claims of the named plaintiff. The individual claims of the named plaintiff require resolution of the common question of whether the defendant has engaged in a systemic pattern of gender discrimination against females. The named plaintiff seeks remedies to undo the adverse effects of such discrimination in their own lives and careers and to prevent continued gender discrimination in the future. The named plaintiff has standing to seek such relief in part because of the adverse effect that gender discrimination against females has on her own interest in working and living in conditions free from the pernicious effects of gender 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 gender 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 the class of females 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 the plaintiff, the class and the defendant. The named plaintiff's individual and class claims are premised upon the traditional bifurcated method of proof and trial for disparate impact and 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.

F. Requirements of Rule 23(b)(2)

26. The 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 gender. The defendant's gender discrimination is its standard operating procedure rather than a sporadic occurrence. The defendant has refused to act on grounds generally applicable to the class by refusing to adopt or follow selection procedures which do not have disparate impact or otherwise systemically discriminate against females. The defendant's systemic discrimination and refusal to act on grounds that are not sexually discriminatory have made appropriate final injunctive relief and declaratory relief with respect to the class as a whole.

27. The injunctive relief and declaratory relief are the predominate reliefs sought because they are both the cumulation of the proof of the defendant's individual and class-wide liability at the end of Stage I of a bifurcated trial and the essential predicate for the named plaintiff and class members' entitlement to monetary and non-monetary remedies at Stage II of such a trial. Declaratory and injunctive relief flow directly and automatically from proof of the common questions of law and fact regarding the existence of systemic gender discrimination against females. Such relief is the factual and legal predicate for the named plaintiff and the

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

G. Alternatively Certification Is Sought Pursuant to Fed. R. Civ. P. 23(b)(3)

28. The common issues of fact and law affecting the claims of the named plaintiff and the proposed class members, including, but not limited to, the common issues identified in paragraphs 1-27 above, predominate, over any issues affected only individual claims.

29. A class action is superior to other available means for the fair and efficient adjudication of the claims of the named plaintiff and members of the proposed class.

30. The cost of proving the 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.

H. Alternatively Certification is Sought Under a Combination of Fed. R. Civ. P. 23(b)(2) and 23(b)(3)

31. The plaintiff restates and incorporates by reference Paragraphs 1 through 30, above.

32. Plaintiff's claims for classwide equitable relief, including declaratory and injunctive relief, disparate impact and defendant's liability for the alleged pattern and practice of sex discrimination are properly certified under Fed. R. Civ. P. 23(b)(2), and plaintiff's classwide damage claims are properly certified under Fed. R. Civ. P. 23(b)(3).

VII. CLASS CLAIMS

33. The plaintiff restates and incorporates by reference Paragraphs 1 through 32, above, as part of this count of the complaint.

34. The plaintiff and the class she seeks to represent are not hired by the defendant for Entry Level Production positions because of their female gender.

35. The defendant has engaged in a pattern and practice of discriminating against females on the basis of their sex with respect to hiring into Entry Level Production positions, which then prevents females from moving into supervisory and management positions.

36. The defendant uses a minimum qualification that disparately impacts female applicants and discourages female applicants.

37. The criteria utilized by the defendant in making selection decisions for its Entry Level Production position are discriminatory.

38. The systemic discrimination further adversely affects the plaintiff and the class she seeks to represent by promoting and reinforcing sexual stereotypes and sexual bias. In the absence of such sexual discrimination, the plaintiff and the class she seeks to represent would have a greater opportunity of employment and the opportunity to move into Entry Level Production positions, which could then lead to movement into supervisory and management positions with the defendant.

39. By requiring this minimum qualification, the defendant utilizes a selection system that disparately impacts a class of female employees represented by the plaintiff.

40. This selection system and this minimum qualification are not valid, job related or justified by business necessity. There are alternative selection procedures available to the defendant that have less disparate impact on females or greater validity and job relatedness, but the defendant has refused to consider or to use such procedures.

41. The defendant's selection procedures are intended to have a disparate impact

on the individual female plaintiff and the class she seeks to represent. Such practices form a part of the defendant's overall pattern and practice of keeping female employees out of its production and maintenance workforce.

42. The defendant's selection system perpetuates the defendant's decades-old policy and practice of keeping females out of its workforce.

43. By requiring female employees seeking employment with the defendant in Entry Level Production positions to have experience only gained in traditionally male positions, the defendant perpetuates its pre-civil rights act employment of a predominately male workforce.

44. The defendant's selection procedures have adversely affected the named plaintiff and the class she seeks to represent by, among other things, failing to hire female employees into traditionally male classifications.

45. Because of the defendant's discriminatory employment practices, the plaintiff has experienced harm, including the loss of compensation, wages, back and front pay, and other employment benefits.

46. The plaintiff and the class she seeks to represent seek to redress the wrongs alleged herein and this suit for back-pay (plus interest), a declaratory judgement, an injunction, punitive and/or nominal damages is their only means of securing adequate relief.

47. The plaintiff and the class she seeks to represent have no plain, adequate or complete remedy at law to redress the wrongs alleged herein, and this suit for backpay, an injunction, and a declaratory judgment is their only means of securing adequate relief.

48. The plaintiff and the class she seeks to represent are now suffering, and will continue to suffer, irreparable injury from the defendant's unlawful policies and practices as

set forth herein unless enjoined by this Court.

VIII. PRAYER FOR RELIEF

Wherefore, the plaintiff, on behalf of herself and the class members whom she seeks to represent, request the following relief, pursuant to Title VII of the act of Congress known as the "Civil Rights Act of 1964," U.S.C. § 2000e *et seq.* as amended, the "Civil Rights Act of 1991," and 42 and 42 U.S.C. § 1981a.

- a. Acceptance of jurisdiction of this cause;
- b. 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, and designation of the plaintiff as a representative of the class and her counsel of record as class counsel;
- c. A declaratory judgment that the defendant's employment practices alleged herein are illegal and in violation of Title VII of the Act of Congress known as the Civil Rights Act of 1964, as amended.
- d. A preliminary and permanent injunction against the defendant and its partners, officers, owners, agents, successors, employees, representatives and any and all persons acting in concert with it, from engaging in gender discrimination in hiring;
- e. An Order requiring the defendant to initiate and implement programs that (i) provide equal employment opportunities for female employees to be hired; (ii) remedy the effects of the defendant's past and present unlawful hiring practices; and (iii) eliminate the continuing effects of the discriminatory hiring practices described

above;

f. An Order requiring the defendant to initiate and implement systems of recruiting and selecting female employees into Entry Level Production positions in a non-discriminatory manner;

g. An Order establishing a task force on equality and fairness to determine the effectiveness of the defendant's hiring procedures which 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;

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

i. An award of back pay, reinstatement or front pay, lost benefits, preferential rights to jobs, and any other appropriate equitable relief to the plaintiff and class members;

j. An award of punitive damages and nominal damages pursuant to Title VII of the Act of Congress known as the Civil Rights Act of 1964, as amended and 42 U.S.C. §1981a;

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

l. Prejudgment and post judgment interest; and

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

THE PLAINTIFF DEMANDS A TRIAL BY STRUCK JURY.

Respectfully submitted,



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