

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

UNITED STATES OF AMERICA, by
RAMSEY CLARK, Attorney General,

Plaintiff,

v.

H. K. PORTER COMPANY, INC., a
corporation,

Defendant.

CIVIL ACTION

67-363

O R D E R

This cause having come on for hearing on the defendant's motions to dismiss, for more definite statement, and for joinder of parties defendants and the plaintiff's motion to produce, and the Court having considered the briefs and argument of counsel for the respective parties and being fully advised, and

The Court being of the opinion that:

1. The provision of §707 of Title VII of the Civil Rights Act of 1964, 42 U.S.C. §2000e-6(a), that a complaint filed thereunder set forth facts pertaining to the pattern or practice alleged takes precedence over the notice concept of pleading under Rule 8 of the Federal Rules of Civil Procedure. Since the complaint as presently framed sets forth conclusionary averments only and accordingly does not comply with this requirement of the statute that a

complaint set forth facts, the defendant's motion for more definite statement is due to be granted.

2. The United Steelworkers of America, AFL-CIO, and its Local Union No. 2250 are parties needed for just adjudication, they can be served with process, and their joinder will not deprive this Court of jurisdiction over the subject matter of the action. The defendant's motion for an order joining them as parties defendants is accordingly due to be granted.

3. The Court, disagreeing with the defendant's position that the plaintiff's motion to produce should be deferred pending the filing of the more definite statement, is of the opinion that such motion is due to be granted at this time, subject to the qualifications herein set forth which have been agreed upon by counsel for the respective parties.

It is, therefore, ORDERED, ADJUDGED AND DECREED by the Court:

1. That the defendant's motion for more definite statement be and the same is hereby granted and that the plaintiff shall serve and file an amended complaint which contains a more definite statement of the facts pertaining to the pattern or practice alleged on or before October 15, 1967, this being the date requested by its attorneys.

2. That the defendant's motion for the joinder as parties defendants of the United Steelworkers of America, AFL-CIO, and its Local Union No. 2250 be and the same is hereby granted, that they be made parties defendants to this action and that the caption of this action shall be amended accordingly, that the plaintiff serve and file an amended complaint, naming them as parties defendants, within ten days after entry of this Order, and that summons be issued and such summons and copies of said amended complaint

and of this Order be served upon the said United Steelworkers of America, AFL-CIO, and its Local Union No. 2250 forthwith after said amended complaint is filed.

3. (a) That the plaintiff's motion to produce be and the same is hereby granted, subject to the following qualifications:

(i) The documents described in paragraph 10 of such motion are to be limited to those issued by defendant since July 1, 1965 or in general use by defendant since July 1, 1965.

~~(ii) The phrase "annually agreed upon", as it appears in the provision of the contract quoted in paragraph 3 of the affidavit in support of such motion, is to be regarded as deleted and the phrase "mutually agreed upon" substituted therefor.~~

(b) That with the foregoing qualifications, the defendant shall produce all documents described in paragraphs 1 through 10 of such motion, of which it is in possession, custody, or control, at the office of its Connors Works, Birmingham, Alabama, at 9:30 A.M. on Monday, August 7, 1967, and permit the attorneys for plaintiff to inspect, copy or photograph such documents.

4. The defendant's motion to dismiss the complaint as presently framed and the defendant's motion to dismiss for failure to join the Unions be and the same are hereby overruled.

DONE, this the 28th day of July, 1967.

/s/ SEYBOURN H. LYNNE
Chief Judge