

3. Notice was given to all current black/African-American hourly employees, by first-class mail, postage prepaid, as to their right to pursue an individual claim for a hostile environment, subject only to the requirement that a timely proof of claim be returned to class counsel.

4. The Class Notice given of the settlement set forth in the Points of Agreement and other matters set forth therein was the best notice practicable under the circumstances, including individual notice, via U.S. Mail, postage prepaid, to all current black or African-American people presently employed at the Davenport Works and to those former employees who could be located through reasonable effort. Notice was also published in the Quad City Times. Said Class Notice fully and accurately informed members of the Class of the material elements of the Class Action and the proposed settlement, and provided due and adequate notice of those proceedings and of the matters set forth therein to all persons entitled to such notice. Said Class Notice fully satisfied the requirements of Rule 23(c)(2) and 23(e) of the Federal Rules of Civil Procedure, and the United States Constitution (copies of the notice given is attached hereto as Exhibit B).

5. The Class consists of: All black African/American persons who have been employed or applied for employment at, Alcoa's Davenport Works at any time between January 1, 1972 and May 12, 1997.

6. The Class meets the Rule 23(a) requirements as to numerosity, commonality, typicality and adequacy. The Class consists of well over one hundred persons; the class members share common concerns as to racial issues at the Davenport Works; the Class members have raised disparate impact issues typical of the entire Class and the named Class members have clearly established their ability to adequately represent the entire Class.

Releasors, or any of them, had or now have, as a member of a Class or as an individual, against the aforementioned Released Parties, or any of them, excepting any hostile environment claims of the individual class members, those enumerated and denominated claims for failure to promote, failure to hire and discharge set forth in paragraphs 3 and 4 above, and any claim to enforce the terms of the Settlement, and the Releasors are hereby permanently barred and enjoined from prosecuting any such released claim against the Released Parties, or any of them.

8. A separate order shall be entered approving an award of attorney's fees and expenses for counsel for Plaintiffs. That order shall not disturb or affect any of the terms of this Order.

9. This Court shall retain continuing jurisdiction over the Act and the parties to the Settlement for purposes of (a) implementation of the Settlement and any distribution to members of the Class, pursuant to further orders of this Court; (b) hearing and determining applications for plaintiffs' attorney's fees, costs, and expenses; (c) performing any necessary oversight as to mediation of the hostile work environment claims, (d) trying any cases which are not successfully resolved by mediation or settlement, and (e) for a period of six (6) years from the date of this Order, shall maintain jurisdiction to enter any further orders as may be necessary to effectuate the terms of Settlement provided in the Points of Agreement and the provisions of this Order.

Des Moines, Iowa

DATED: September 11, 1997.

Celeste Bremer

Celeste F. Bremer
United States Magistrate Judge

EXHIBIT C

Charlie Babers
Norma Benson
Joann Boyd
Mary Burrell
James Burrage
Zachary Crider
Georgia Cruthfield
Debra Davis
James Drummond
Catherine Gardner
Catherine Grimmet
Lawrence Herron
Maxine Johnson
Olivia Jones
Vera Kelly
Carl Kipper
Dorothy Miles
Mary Nelson
Shelton Rowe
Alice Sharp
Verdell Sheets
Dianne Slaughter
Ron Summerall
Gloria Veasey
David Walker
Helen Warren
Luella Wiseman

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF IOWA
DAVENPORT DIVISION

JOHN P. COOPER, et al.,)	
)	
Plaintiffs,)	
)	CIVIL NO. 3-95-CV-10074
v.)	
)	
ALUMINUM COMPANY OF AMERICA,)	
)	
Defendant.)	
)	

AGREED POINTS OF SETTLEMENT

I. SYSTEMATIC CHANGES

A. **Training.** Diversity and racial tolerance training of all Davenport Works hourly and salaried personnel is ongoing. One day of training is being provided to hourly personnel; two days of training are being provided to supervisory personnel.

This training is now being provided by Roland West & Associates ("RW").

A 1997 training schedule has been provided to class counsel. The full cycle of training, based upon comparable scheduling in 1998, will be completed mid-1998.

Fact patterns and role playing are being and will continue to be implemented in the training sessions.

Medical Department personnel will go through the same diversity and racial tolerance training as all salaried employees. In addition, a special training component for medical personnel will be designed and administered by RW, in accordance with sound training principles and with a goal of resolving particular Medical Department issues identified through the plaintiffs' depositions.

One day of special training will be provided to members of the Equal Access Committee ("EAC") and First Response Teams, including training in how to conduct investigations.

Hourly workers will receive one full day of refresher training every three (3) years through at least the year 2003. New full-time hires will receive diversity and racial tolerance training within three (3) months of their start dates.

Human Resources, including Industrial Relations, ("HR") and EAC members will get a minimum of eight (8) hours of refresher diversity and racial tolerance training annually through at least the year 2000.

First Response Team members will receive four (4) hours of refresher training annually.

All plant personnel with supervisory responsibilities will get a minimum of eight (8) hours annual refresher training through at least the year 2000, and the content and extent of that training will be as determined by management in consultation with the EAC.

The approximate cost of the training will be provided to class counsel.

B. Zero Tolerance Racial Harassment Policy. A zero tolerance racial harassment policy will be implemented at Davenport Works. Use of the "n" word and use of symbols such as the "KKK" or Nazi swastikas shall be subject to discipline, up to and including termination. Use of these terms shall, at a minimum, result in a written reprimand in the employee's personnel file stating that such language is unacceptable and any further violation will result in serious discipline, up to and including termination. This policy will apply to all employees regardless of race, sex, creed, age, or national origin.

Any discrimination or harassment will be subject to discipline and potential termination, and the punishment will be determined by the EAC.

Davenport Works Anti-Discrimination Policy will be distributed in a gold envelope to all employees annually for five years. A supplemental letter from Pat Hassey discussing at least diversity tolerance, discrimination and harassment will be included with the initial distribution. The policy will be posted throughout the plant.

The policy specifies that all employees will have equal access to training, promotions and other terms and conditions of employment.

All First Response Team members will receive training in investigative techniques. Law enforcement techniques, such as handwriting and fingerprint analysis, as deemed appropriate by plant security, will be implemented in investigating harassment incidents.

In appropriate incidents, every effort will be made to photograph the relevant area by the end of the shift on which the incident is reported.

An anti-graffiti policy will be developed to report to maintenance promptly any graffiti on the Davenport premises, so that photographs can be taken and offensive statements removed.

Alcoa's zero tolerance policy, Pat Hassey's supplemental letter, and the anti-graffiti policy will be appended to the final copy of the Settlement Agreement presented to the Court for approval.

C. Bidding. If any class member comes forward, by July 12, 1997, with specific, verifiable facts indicating that (1) he or she has, as a result of racial animus or discrimination, been precluded or discouraged from a transfer, or (2) has been in a hostile environment such that the employee's home department is effectively "poisoned," the parties will address the situation in good faith, including consideration of transfer and the possibility of seniority retention after transfer. The Diversity Advisor will be consulted for his recommendation if this situation arises.

D. EAC/First Response Teams. Davenport will implement the EAC/First Response Teams and the EAC Process shown in Attachment A. For each reported incident, at least a preliminary investigative report to the EAC will be made by the First Response Team within three (3) business days of the employee report of the incident. If feasible, no later than ten (10) business days after the report of the incident, a final investigative report, along with department management's recommendation for discipline, if any, will be submitted to the EAC. The Diversity Advisor will be included in this process.

The EAC will meet with and report at least quarterly to the Executive Committee. The Diversity Advisor will be present at these meetings.

The EAC will consist of five individuals, subject to diversity constraints, and will include at least one black male and one black female member.

Each First Response Team will include one hourly employee from each department. A meeting with class members and the union will be arranged prior to the final selection of the First Response Team members to discuss selection criteria. First Response Team members will be selected subject to diversity constraints. Selection for First Response Team members will be made by posting the position and allowing employees to sign up for the job. Hourly employees will be asked to volunteer and will be selected by the union, with input from and review by the EAC and the Diversity Advisor.

Select class members, class counsel, counsel for Alcoa, EAC members, the Diversity Advisor, the Executive Committee and other Alcoa employees as determined by Alcoa will conduct

a review meeting one (1) year after the EAC becomes operational, at which comments and suggestions regarding the EAC process will be discussed.

E. Speech Re: Diversity. Pat Hassey gave a speech at the Annual Meetings. He will address all employees again as the EAC is introduced. Additional appropriate communications will occur (through the plant's normal communication means, e.g., monthly video magazine, plant newsletter, etc.) to announce the EAC, its membership and procedures.

F. Make Test Scores Available to All Test Takers. Alcoa will make all test scores available to all test takers upon request by the individual.

G. Training. Numerous improvements have been made to job training programs since 1995, including formulation of standard operating procedures, and these will continue to be pursued.

All new hourly employees will continue to receive forty (40) hours of classroom safety training, followed by specific job safety training at the departmental level. During this training, new employees will be educated as to the existence of standard operating procedures and how to access and use them.

An hourly mentor will be assigned to each incoming full-time hourly probationary employee. The mentor will not necessarily provide the actual on the job training, but will meet with the probationary employee weekly to address any concerns raised by the employee. The mentor will have access to the probationary employee's training records. Hourly employees will be asked to volunteer. A meeting with class members and the union will be arranged to discuss selection criteria, prior to the final selection of the mentors. Mentors will be selected by the union with input and review by the EAC and the Diversity Advisor. Mentors will receive special training for eight hours as determined by management in consultation with the Diversity Advisor. The Diversity Advisor and EAC will review any concerns about the performance of a mentor assigned to a black employee.

If there is a change in a mentor's or mentee's shift, a new mentor can be assigned or the existing mentor can continue in his/her position with weekly meetings with the mentee.

Training hours will continue to be tracked in order to maintain the ability to effectively measure how much training white employees are receiving as opposed to black employees. Training will be equally available to all employees regardless of race, sex, creed, age or national origin.

H. Hiring Issues. Alcoa will retain an outside consultant, Aon Consulting Group ("AON") to review and validate its hiring procedures, including testing. Aon will make recommendations as to any test or procedure that has a disparate impact. Aon will look specifically at the relationship between Alcoa and the Job Service of Iowa and suggest any necessary changes.

Alcoa will correct any hiring procedures which are determined to have a disparate impact on black employees and which are not validated.

Alcoa will pay up to \$5,000 for an independent outside consultant chosen by class counsel, and whose substantive professional credentials are approved by Alcoa, to review the validation and recommendations of Aon.

At the next general test administration, a limited group of black applicants, identified by Plaintiff's counsel and agreed to by Alcoa, will be permitted to take the entrance test, once the test is validated and/or recommended new procedures are put in place. Applicants in this group will be advised of test scores and, if they are not hired, will be given a reason by Alcoa. Applicants from this designated group who fail to achieve a satisfactory score on the initial administration of the test will be permitted to repeat the test two (2) times at the next general administrations.

The test now administered to applicants for hourly production positions will be replaced by a new validated test. Aon will begin the requisite job analysis within the next thirty days. Aon will review the feasibility of the use of job sample tests in addition to paper and pencil tests, and job sample tests will be used where deemed feasible.

I. Non-Traditional Work Assignments. Non-traditional work assignments ("NTWAs") currently available are limited. Nevertheless, Alcoa will review its procedures for filling NTWAs. Alcoa will confer and consult with the Diversity Advisor and the EAC regarding NTWAs. Special attention will be given to the need for some of these positions to be held by class members.

All black applicants who apply for positions in job categories where the Davenport Works is underutilized will be given an interview for under represented positions. If they are not hired into the position, they will be told who is hired and why they were not selected.

J. Promotions. Vacancies for first-line supervisory positions will be posted plant-wide.

In the event Davenport is underutilized for the position of first line supervisor at any time when there is an opening for a first line position, the head of the department in which the opening exists will consult with the HR Department. HR will be responsible for seeking qualified minority group applicants and will work with the Diversity Advisor and the EAC to seek opportunities to increase the total number of qualified minority employees in management positions.

Alcoa will interview all black applicants located in the department where the vacancy arises, for all areas in which Davenport is underutilized.

Alcoa will tell all black applicants interviewed but not selected why they were not selected, as well as what they might do differently in the future to improve their opportunity for promotion.

Promotions to first line supervisor positions will be made on race neutral grounds.

K. Apprentices. Alcoa will continue outreach efforts to recruit black applicants for apprenticeship positions from sources outside Davenport Works, when positions arise.

L. Medical. Medical personnel will be given sensitivity training per Section I.A. above.

Class members may bring an advocate with them to appointments with medical personnel.

Records will be made available and copying will be permitted.

Class members can review histories and note any disagreement in their files.

M. Personnel Records. Class member files will be made available upon request and copying will be permitted.

N. Light Duty Assignments. Alcoa's policy is to accommodate employees with workers' compensation injuries ahead of employees on sickness and accident. All light duty assignments will be carefully monitored to insure fairness and equal opportunity.

Employees who have a grievance can go through the union grievance process and, if appropriate, to the EAC.

As of this date, two (2) of approximately seven (7) light duty assignments are held by black employees.

O. Allocation of NTWAs. Aon will review and make appropriate recommendations on the job selection process for NTWAs. Prior to making recommendations, Aon will confer and consult with the Diversity Advisor.

Each such job will be posted in the department in which the job becomes available.

P. Control Discharge of Black Employees. All discharges of black employees will be reviewed by the HR Department and the EAC before implementation.

Black workers will not be discharged for conduct for which similarly situated white employees would not be discharged. This will be enforced by the EAC.

A review of the plant's absentee policy is currently underway by a special task force having diverse membership. The parties agree that some supervisory flexibility, but not unfettered discretion, is appropriate. Recommendations will be reviewed by the Diversity Advisor.

II. INDIVIDUAL INJUNCTIVE RELIEF

A. Employees. For class claims (all damages excluding hostile work environment) a pool of \$212,000 will be made available for distribution to class members at the discretion of class counsel.

B. The parties are negotiating in good faith as to certain claims for wrongful termination. The parties believe these can be resolved without mediation, however, these claimants (identified in Attachment B hereto) will be entitled to mediate their wrongful termination claims if they cannot be otherwise resolved. The parties are also negotiating in good faith as to specific individuals named regarding promotional or job opportunities.

III. DURATION

The Settlement Agreement will remain in effect for six (6) years from the date of approval by the Court, absent court order to the contrary.

IV. PROCEDURAL MATTERS

The parties will agree upon a form of notice to be sent to current African-American employees at the Davenport Works which will advise them of their option to mediate individual hostile environment claims subject to timely completion of a proof of claim form. This will be followed by a notice to the entire class which will provide advice to the class that counsel have stipulated to a settlement class, describe the agreed-upon terms of settlement, and further advise the class that all claims except those claims for emotional distress caused by a hostile work environment and those described in II.B. above, will be released upon approval of the Settlement Agreement. Once the Settlement Agreement is approved, the individual claims of emotional distress will be mediated before a mediator agreed upon by and between counsel for the parties. Class counsel and Alcoa's counsel shall meet prior to the commencement of the mediation to discuss whether any of the claims may be resolved prior to the mediation.

V. COLLECTIVE BARGAINING ISSUES

The parties have negotiated this Settlement Agreement at arm's length and in good faith, and believe that obligations set forth herein are permitted under the Collective Bargaining Agreement between Alcoa and the Aluminum, Brick and Glass Worker's Union entered on May 31, 1996, and any extension or renewal thereof. In the event that any obligation is later found inconsistent with the Labor Agreement, Alcoa agrees to seek an appropriate modification to the Labor Agreement.

VI. MISCELLANEOUS

Management acknowledges that this lawsuit has stimulated extensive analysis of employment practices at Davenport Works and led to many ongoing changes and improvements regarding diversity and racial tolerance at Alcoa. At the same time, the class members acknowledge that management has responded with a substantial and whole-hearted commitment to diversity, and all involved anticipate working together to build and maintain the advantages of diversity.

A measurement of a manager or supervisor's success at Alcoa will be his or her implementation of diversity and racial tolerance.

Attorney's fees and costs will be resolved at a later date.

Date April 15, 1997

ROXANNE CONLIN & ASSOCIATES

By *Roxanne Conlin*
Roxanne Conlin

The Plaza
900 Walnut Street, Suite 5
Des Moines, Iowa 50309-2239
(515) 282-3329

Counsel for Plaintiffs

Date April 14, 1997

LEBOEUF, LAMB, GREENE &
MACRAE, L.L.P.

By *Margaret A. Keane*
Margaret A. Keane

601 Grant Street, 7th Floor
Pittsburgh, PA 15219
(412) 594-2361

Counsel for Defendant

Post-Net Fax Note	7871	Date <u>4-15-97</u>
<u>MARGARET</u>		From <u>Roxanne</u>
Co./Dept.		To
Phone #		Phone #
Fax # <u>412-594-8237</u>		

alleges that subclasses of employees suffered emotional distress from employment in a hostile environment.

The lawyers for the Class and for Alcoa have reached a proposed settlement of the class action claims. That settlement will be presented to the Court for approval and the Court will hold a hearing on June 16, 1997 to consider the settlement. At the hearing, the Court will determine if the Settlement is a fair, adequate and reasonable resolution of the class claims. The Court has not ruled on the merits of the claims against, or the defenses of, Alcoa.

The following is a brief description of the settlement terms:

THE SETTLEMENT CLASS

The proposed Settlement Agreement resolves the racial discrimination, and race plus sex discrimination claims of a Rule 23(b)(2) class of all black/African-Americans who have applied for employment at Davenport, been deterred from applying for employment, or who are, were or will be employed by Alcoa at any time between January 1, 1972 and June 16, 1997.

PROSPECTIVE RELIEF

Under the Settlement, Alcoa has agreed to implement a zero tolerance racial harassment policy. Alcoa also agrees to revise a number of employment practices at the Davenport Works and will review other practices for disparate impact and make any appropriate recommended changes. A number of changes have already been implemented. In addition, Alcoa will review and, if necessary, revise its procedures for testing and hiring. Alcoa will administer the test for hourly production positions to a group of individuals identified by plaintiffs' counsel without regard to its regular pre-application procedures. A mentor system will be implemented to facilitate the training of incoming black/African-American probationary employees. Alcoa will review its method of selecting workers for positions known as "non-traditional work assignments." Revisions have been made, and others will be made, to the promotion process. From this time forward, black/African-American employees will not be terminated without prior review by the Equal Access Committee and the Human Resources Department.

Alcoa also agrees to create several programs designed to enhance equal employment opportunities in the workplace. Specifically, Alcoa will establish the position of Diversity Advisor, an individual to whom employees may go to for help with employment concerns. Alcoa will also

implement a plant-wide mechanism for reporting, investigating, and resolving employee disputes regarding harassment and discrimination, to be known as the Equal Access Committee. This mechanism will consist of First Response Teams which will investigate.

In order to respond to issues raised by class members and to address management concerns, Alcoa is providing plant-wide diversity training for all personnel at the Davenport Works including additional training for all managerial personnel. Personnel in the human relations/industrial relations area and all persons involved with the Equal Access Committee and the First Response Teams will receive training about investigation of, and appropriate responses to, possible incidents of harassment and discrimination. Special training will be provided to medical personnel.

MONETARY RELIEF

A back pay fund of \$212,000 representing Alcoa's total monetary liability for all claims in the Class Complaint except certain retained claims -- individual hostile environment claims and certain enumerated failure to promote and termination claims (as set forth in Schedule A attached hereto), will be established. This fund shall be distributed among the class in amounts determined at the discretion of plaintiffs' counsel with the approval of the Court and based upon year of service.

DECISION TO SETTLE AND BENEFITS OF SETTLEMENT

Plaintiffs' Counsel have extensive and particular expertise and experience in the prosecution of class actions of this sort. Based on their thorough factual and legal investigation of the claims and defenses in these actions and their familiarity with other similar actions, counsel have concluded that the proposed Stipulated Settlement of this Class Action is fair, just and reasonable and is in the best interests of the Class.

In evaluating the settlement, Plaintiffs' Counsel have considered the expense and length of continued proceedings necessary to prosecute the Class Action against Alcoa Davenport Works through trial and any appeals. Plaintiffs' Counsel also have taken into account the strength of Alcoa's defenses and the uncertain outcome and the risk of any litigation, especially in complex actions such as here, as well as the difficulties and delay inherent in litigation. Plaintiffs' Counsel believe that the settlement of the Class Action described in this Notice confers substantial benefits to the Class and each of its members, without the substantial additional cost, uncertainty and delay that would result if the Class Action were to proceed through trial and appeal. Based upon these considerations, Plaintiffs' Counsel have concluded that it is in the best interest of the Class to settle these actions on the terms set forth herein.

Although Alcoa has denied any liability, and has not waived or relinquished any defenses available to it, it has agreed to settle this action on the proposed terms in order to limit

further expense, inconvenience and distraction and to dispose of burdensome and protracted litigation.

The Court has not ruled on the merits of the claims against, or the defenses of, Alcoa and this notice does not imply that there has been or would be any finding of any violations of the law by Alcoa or that recovery could or could not be had in any amount if these actions are not settled.

This notice is not an expression of any opinion by the Court of the merits of this litigation or the Settlement Agreement.

THE SETTLEMENT HEARING

A settlement hearing will be held on June 16 at 9:00 a.m. before the Honorable Celeste Bremer at the United States District Court for the Southern District of Iowa. Persons may attend the hearing at the U.S. Courthouse Annex in Des Moines in person or may attend by the Iowa Communications from the U.S. Courthouse in Davenport, Iowa. The purpose of the hearing is to determine whether the Stipulation of Settlement should be approved and confirmed by the Court as fair, reasonable and adequate.

1. **YOU DO NOT NEED TO TAKE ANY ACTION NOW.** You will receive by mail more detailed information about the settlement before the Court rules on the settlement. You do not need to attend the Court hearing. If the proposed settlement is not approved, the offer of settlement will be deemed withdrawn and the lawsuit will continue as if the settlement offer had not been made. You will be represented by the attorneys currently representing the plaintiffs and other class members, at no expense to you.

In addition to alleging claims of race discrimination, the above-mentioned lawsuit also claimed certain black/African-American employees had suffered emotional distress as a result of unlawful racial, and racial and sexual harassment by Alcoa. Those employees who believe they have had to endure a hostile environment due to race, or race and sex, and have suffered emotional distress, and who have submitted a timely proof of claim form, or who are named class members, may mediate the individual claims before a mediator selected by counsel for the class and Alcoa (**THIS WILL NOT AFFECT ANY MONEY OR OTHER BENEFITS YOU MAY BE ENTITLED TO UNDER ANY OTHER PART OF THE SETTLEMENT**).

In order to sustain such a claim, you will need to prove that you suffered emotional distress that you reasonably believe resulted from racial or racial and sexual harassment.

2. **Any Class Member** may appear at the settlement hearing in person or by counsel and be heard to the extent allowed by the Court in support of, or in opposition to fairness, reasonableness and adequacy of the settlement, provided, however, that no person shall be heard or entitled to contest the approval of the terms and conditions of the proposed Settlement and the judgment to be entered thereon approving the same, or the counsel fees or reimbursement of

EXHIBIT C

Charlie Babers
Norma Benson
Joann Boyd
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James Burrage
Zachary Crider
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Lawrence Herron
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Olivia Jones
Vera Kelly
Carl Kipper
Dorothy Miles
Mary Nelson
Shelton Rowe
Alice Sharp
Verdell Sheers
Dianne Slaughter
Ron Summerall
Gloria Veasey
David Walker
Helen Warren
Luella Wiseman

EXHIBIT D

Calvin Carpenter
Robert Donelson
Donald Donelson
Bob Gales
Beverly Hall
Alvin Hillard
Robert Horace
Linda Joiner
Willie Jones
Brenda Mayes
Kermit McDuffy
Barb Pearson
Shawna Rogan
Gwen Skipper
Jackie Smith
Earnest Stokes
Charles Taylor
Fred Taylor
Mary Taylor
Jolinda Tyson
John Wilson

LaMonica Fallon: Named class member whose claims are separate and distinct from the relief agreed to by the parties for applicants no hired.