

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

FILED
SEP 20 2000

DAVID W. DANIEL, CLERK
US DISTRICT COURT, EDNC
BY [Signature] DEP. CLERK

EQUAL EMPLOYMENT OPPORTUNITY)
COMMISSION,)
)
Plaintiff,)
)
v.)
)
COTT BEVERAGE USA, INC.,)
)
Defendant.)
_____)

CIVIL ACTION NO. 5: 00-CV-
694-F (3)
COMPLAINT
JURY TRIAL DEMAND

NATURE OF THE ACTION

This is an action under the Equal Pay Act of 1963, Title VII of the Civil Rights Act of 1964 and Title I of the Civil Rights Act of 1991 to restrain the unlawful payment of wages to employees of one sex at rates less than the rates paid to employees of the opposite sex, and to provide appropriate relief due to employees as a result of such unlawful employment practices. Plaintiff, the Equal Employment Opportunity Commission, alleges that Cott Beverage USA, Inc. subjected Laurie Atkinson to unequal wages for the same job as her male counterparts.

JURISDICTION AND VENUE

1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 451, 1331, 1337, 1343 and 1345. This action is authorized and instituted pursuant to Sections 16(c) and 17 of the Fair Labor Standards Act of 1938 (the "FLSA"), as amended, 29 U.S.C. §§ 216(c) and 217, to enforce the requirements of the Equal Pay Act of 1963, codified as Section 6(d) of the FLSA, 29 U.S.C. § 206(d), and pursuant to Section 706(f)(1) and (3) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e-5(f)(1) and (3) ("Title VII"). This action is also

authorized and instituted pursuant to Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981a.

2. The employment practices alleged to be unlawful were committed within the jurisdiction of the United States District Court for the Eastern District of North Carolina, Western Division.

PARTIES

3. Plaintiff, the Equal Employment Opportunity Commission (the "Commission"), is the agency of the United States of America charged with the administration, interpretation and enforcement of the Equal Pay Act and Title VII, and is expressly authorized to bring this action by Sections 16(c) and 17 of the FLSA, 29 U.S.C. §§ 216(c) and 217, as amended by Section 1 of Reorganization Plan No. 1 of 1978, 92 Stat. 3781, and Public Law 98-532 (1984), 98 Stat. 2705; and by Section 706(f)(1) and (3) of Title VII, 42 U.S.C. § 2000e-5(f)(1) and (3).

4. At all relevant times, Defendant, Cott Beverage USA, Inc. (the "Employer"), has continuously been incorporated in Georgia, doing business in the State of North Carolina and the City of Wilson, and has continuously had at least 15 employees.

5. At all relevant times, Defendant Employer has continuously been an employer engaged in an industry affecting commerce within the meaning of Sections 701(b), (g) and (h) of Title VII, 42 U.S.C. §§ 2000e(b), (g) and (h).

6. At all relevant times, Defendant Employer has acted directly or indirectly as an employer in relation to employees and has continuously been an employer within the meaning of Section 3(d) of the FLSA, 29 U.S.C. § 203(d).

7. At all relevant times, Defendant Employer has continuously employed employees engaged in commerce or in the production of goods for commerce within the meaning of Sections 3(b), (i) and (j) of the FLSA, 29 U.S.C. §§ 203(b), (i) and (j).

STATEMENT OF CLAIMS

8. More than thirty days prior to the institution of this lawsuit, Laurie Atkinson filed a charge with the Commission alleging violations of Title VII by Defendant Employer. All conditions precedent to the institution of this lawsuit have been fulfilled.

9. Since at least August 4, 1997, Defendant Employer has engaged in unlawful employment practices at its Wilson, North Carolina facility, in violation of Section 703(a) of Title VII, 42 U.S.C. § 2000e-2(a). Specifically, Defendant subjected Laurie Atkinson, the only female production supervisor, to unequal wages by paying her lower wages than her male counterparts for substantially equal work under similar working conditions.

10. The effect of the practices complained of in paragraph 9 above has been to deprive Laurie Atkinson of equal employment opportunities and otherwise adversely affect her status as an employee, because of her sex.

11. The unlawful employment practices complained of in paragraph 9 above were intentional.

12. The unlawful employment practices complained of in paragraph 9 above were done with malice or with reckless indifference to the federally protected rights of Laurie Atkinson.

13. Since at least August 4, 1997, Defendant Employer has violated Sections 6(d)(1) and 15 (a)(2) of the FLSA, 29 U.S.C. §§ 206(d)(1) and 215(a)(2), by paying wages to its female production supervisors, in its Wilson, North Carolina facility, at rates less than the rates paid to

male employees in the same establishment for substantially equal work on jobs the performance of which requires equal skill, effort and responsibility, and which are performed under similar working conditions.

14. At a result of the acts complained of above, Defendant Employer unlawfully has withheld and is continuing to withhold the payment of wages to Laurie Atkinson.

15. The unlawful practices complained of in paragraph 13 above were willful.

PRAYER FOR RELIEF

Wherefore, the Commission respectfully requests that this Court:

A. Grant a permanent injunction enjoining Defendant Cott Beverage USA, Inc., its officers, successors, assigns, and all persons in active concert or participation with it, from engaging in the payment of unequal wages on the basis of sex and any other employment practice which discriminates on the basis of sex.

B. Grant a permanent injunction enjoining the Defendant Cott Beverage USA, Inc., its officers, successors, assigns and all persons in active concert or participation with it, from discriminating within any of its establishments between employees on the basis of sex, by paying wages to employees of one sex at rates less than the rates at which it pays wages to employees of the opposite sex for substantially equal work on jobs the performance of which require equal skill, effort, and responsibility, and which are performed under similar working conditions.

C. Order Defendant Cott Beverage USA, Inc. to institute and carry out policies, practices, and programs which provide equal employment opportunities for women, and which eradicate the effects of its past and present unlawful employment practices.

D. Order Defendant Cott Beverage USA, Inc. to make whole Laurie Atkinson, by providing appropriate backpay with prejudgment interest, in amounts to be determined at trial, and other affirmative relief necessary to eradicate the effects of its unlawful employment practices.

E. Order Defendant Cott Beverage USA, Inc. to make whole Laurie Atkinson, by providing compensation for past and future pecuniary losses resulting from the unlawful employment practices described in paragraph 9 above, in amounts to be determined at trial.

F. Order Defendant Cott Beverage USA, Inc. to make whole Laurie Atkinson by providing compensation for past and future nonpecuniary losses resulting from the unlawful practices complained of in paragraph 9 above, in amounts to determined at trial.

G. Order Defendant Cott Beverage USA, Inc. to pay Laurie Atkinson punitive damages for its malicious and reckless conduct described in paragraph 9 above, in amounts to be determined at trial.

H. Grant a judgment requiring Defendant Cott Beverage USA, Inc. to pay appropriate back wages in amounts to be determined at trial, an equal sum as liquidated damages, and prejudgment interest to employees whose wages are being unlawfully withheld as a result of the acts complained of above, including but not limited to Laurie Atkinson.

I. Grant such further relief as the Court deems necessary and proper in the public interest.

J. Award the Commission its costs of this action.

JURY TRIAL DEMAND

The Commission requests a jury trial on all questions of fact raised by its complaint.


DATED this 20th day of September 2000.

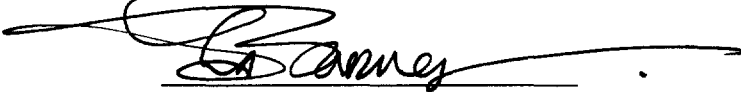
Respectfully submitted,

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