

IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA

EQUAL EMPLOYMENT OPPORTUNITY)
COMMISSION,)

Plaintiff,)

v.)

SCHOTT NORTH AMERICA, INC.)

Defendant.)

CIVIL ACTION NO.

FIRST AMENDED COMPLAINT
JURY TRIAL DEMANDED

NATURE OF THE ACTION

This is an action under Title VII of the Civil Rights Act of 1964 and Title I of the Civil Rights Act of 1991 to correct unlawful employment practices on the basis of sex, female, and to provide appropriate relief to Charging Parties Arlene Anderson, Carolyn Blockus, Laura Figueroa, Deborah Gdovin, Patricia Pavalonis, Yvonne Prywara, and a class of females who were adversely affected by such practices. As articulated with greater particularity in paragraphs 7 and 8 below, the Commission alleges that, due to a discriminatory layoff process, Defendant Employer unlawfully selected the Charging Parties and class members for layoff based on their gender. As a result of the termination of their employment with Defendant, the Charging Parties

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 § 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") and Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981A.

2. The employment practices alleged to be unlawful were and are now being committed within the jurisdiction of the United States District Court for the Middle District of Pennsylvania.

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 Title VII, and is expressly authorized to bring this action by Section 706(f)(1) and (3) of Title VII, 42 U.S.C. § 2000(e)-5(f) (1) and (3).

4. At all relevant times, Defendant, Schott North America, Inc. ("Schott") has continuously been and is now a Maryland corporation doing business in the State of Pennsylvania and the City of Duryea, and has continuously had at least fifteen (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).

STATEMENT OF CLAIMS

6. More than thirty days prior to the institution of this lawsuit, Charging Parties Arlene Anderson, Carolyn Blockus, Laura Figueroa, Deborah Gdovin, Patricia Pavalonis and

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Yvonne Prywara filed charges of discrimination with the Commission alleging violations of Title VII by Defendant Employer. All conditions precedent to the institution of this lawsuit have been fulfilled.

7. Since at least October 2004, Defendant Employer has engaged in unlawful employment practices at its Duryea, Pennsylvania facility in violation of Sections 703(a) (1) of Title VII, 42 U.S.C. § 2000e-2(a) (1) and 2000 (e)-3 (a) (1), by subjecting Charging Parties and a class of female employees to a discriminatory layoff process which resulted in the loss of their jobs due to their gender. The unlawful employment practices included the following:

- (a) Prior to the fall of 2004, in Defendant's Quality Assurance workforce in its glass production facility, hot end functions were predominately performed by male workers and the cold end functions, by females. Accordingly, the Quality Assurance workforce was generally segregated by gender. Female Quality Assurance workers were denied adequate training in the hot end functions, discouraged from applying for hot end positions, and were subjected to sex-based differential treatment when they were permitted to perform hot end jobs.
- (b) In or around September 2004, Defendant decided to combine its hot and cold end positions into one job, entitled Melting Line Operator. Defendant announced that it would create forty such positions, thirty-six full time and four part-time. To that end, Defendant developed a matrix system, which it indicated that it would use to evaluate the skills of the applicants to determine who should be selected for the new position.
- (c) Defendant's matrix system, which gave credit to the employees for their ability to perform hot and cold end functions, assessed the cold end duties as requiring

a lower level of skill than the male-dominated hot end functions, even though cold end jobs were in fact highly skilled and required continuous labor. In fact, cold end trainees were required to pass more than 26 tests and three different rotations prior to receiving authorization to work in the cold end section.

- (d) As part of the rating process, male applicants who had never worked in the cold end were given ratings indicating that they could “fully perform” certain cold end functions.
- (e) Male applicants who had never worked in either the hot end or the cold end areas were rated well on both hot and cold end functions. At least three male employees with no experience in hot or cold end functions were awarded Melting Line Operator positions.
- (f) Even though a training “Waiting List” demonstrated that male employees were scheduled to receive needed training on cold end functions, these male employees were rated as fully capable of performing cold end tasks, or in need of only minimal assistance to perform them, on the matrix system.
- (g) Defendant’s Human Resources Representative approached foremen in the Quality Assurance Department and directly asked them to provide male employees with higher scores on the matrix system.
- (h) Although 25 female employees were rated by the matrix system for the Melting Line Operator positions, only two were hired for full-time positions, while 34 males were hired for these full-time jobs.
- (i) The Charging Parties and other female class members who applied for the Melting Line Operator positions were not selected for these positions in or about October

2004, despite their qualifications for the job.

- (j) After one female employee was awarded a Melting Line Operator position, she trained male operators in cold end functions, and was then told that her position was eliminated; she was laid off in late 2004.

8. Since at 2004, Defendant Employer has engaged in unlawful employment practices at its Duryea, Pennsylvania facility in violation of Section 703(k) (1) of Title VII, 42 U.S.C. § 2000e-2, by subjecting Charging Parties and a class of female employees to a discriminatory layoff process caused a disparate impact based on gender. The unlawful employment practices included the following:

- (a) Defendant utilized a matrix system to evaluate and select employees for Melting Line Operator positions, and this selection procedure had an adverse impact on female applicants who were selected for layoff at a significantly higher rate than male employees.

9. The effect of the practices complained of in paragraphs 7 and 8 above, has been to deprive Charging Parties and a class of female employees of equal employment opportunities and otherwise adversely affect their status as employees because of their sex.

10. The unlawful employment practices complained of in paragraph 7 were intentional.

11. The unlawful employment practices complained of in paragraph 7 were done with malice or with reckless indifference to the federally protected rights of Charging Parties and a class of female employees.

PRAYER FOR RELIEF

Wherefore, the Commission respectfully requests that this Court:

A. Grant a permanent injunction enjoining Defendant Employer, its officers, successors, assigns, and all persons in active concert or participation with it, from engaging in sex discrimination, differential treatment based on sex, and any other employment practice which discriminates on the basis of gender, female.

B. Order Defendant Employer to institute and carry out policies, practices, and programs which provide equal employment opportunities for employees regardless of sex, which prohibit sex discrimination in the workplace, and which eradicate the effects of its past and present unlawful employment practices.

C. Order Defendant Employer to make whole Charging Parties and a class of female employees 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, including but not limited to rightful-place reinstatement or front pay.

D. Order Defendant Employer to make whole Charging Parties and a class of female employees by providing compensation for past and future pecuniary losses resulting from the unlawful employment practices described in paragraphs 7 and 8, including but not limited to out-of-pocket losses in amounts to be determined at trial.

E. Order Defendant Employer to make whole Charging Parties and a class of female employees by providing compensation for past and future nonpecuniary losses resulting from the unlawful practices complained of in paragraph 7, including pain and suffering, humiliation, anxiety, depression, trauma, and loss of life's pleasures, in amounts to be determined at trial.

F. Order Defendant Employer to pay Charging Parties and a class of female employees punitive damages for its malicious and reckless conduct described in paragraph 7, in amounts to be determined at trial.

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

H. 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.

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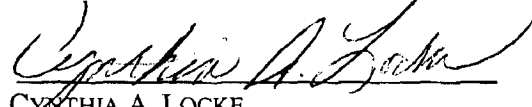
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