

ORIGINAL

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FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

JUN 11 1999

JAMES B. LARSEN, CLERK

CK DEPUTY

Attorneys for Plaintiff

8 UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF WASHINGTON
10 AT SPOKANE

11 EQUAL EMPLOYMENT OPPORTUNITY
12 COMMISSION,

Plaintiff,

v.

14 KAISER ALUMINUM & CHEMICAL
15 CORPORATION,

Defendant.

CIVIL NO.

COMPLAINT

CS-99-0169-EFS

17 NATURE OF THE ACTION

18 This is an action under Title VII of the Civil Rights Act of 1964 and Title I
19 of the Civil Rights Act of 1991 to correct unlawful employment practices on the
20 basis of sex, and to provide appropriate relief to Kelly Flynn and a group of
21 similarly situated female applicants who were adversely affected by Kaiser
22 Aluminum & Chemical Corporation's use of a pre-employment physical test that
23 has a disparate impact on women that cannot be justified by business necessity or
24 job-relatedness.
25

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1 JURISDICTION AND VENUE

2 1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§451,
3 1331, 1337, 1343 and 1345. This action is authorized and instituted pursuant to
4 Section 706(f)(1) and (3) of Title VII of the Civil Rights Act of 1964, as amended,
5 42 U.S.C. §2000e-5(f)(1) and (3) ("Title VII") and Section 102 of the Civil Rights
6 Act of 1991, 42 U.S.C. §1981A.

7 2. The employment practices alleged to be unlawful were committed
8 within the jurisdiction of the United States District Court for the Eastern District
9 of Washington at Spokane.

10 PARTIES

11 3. Plaintiff, the Equal Employment Opportunity Commission (the
12 "Commission"), is the agency of the United States of America charged with the
13 administration, interpretation and enforcement of Title VII and is expressly
14 authorized to bring this action by Section 706(f)(1) and (3) of Title VII, 42 U.S.C.
15 §§2000e-5(f)(1) and (3).

16 4. At all relevant times, defendant, Kaiser Aluminum & Chemical
17 Corporation, (the "Employer"), has continuously been a Delaware corporation
18 doing business in the State of Washington, and has continuously had at least 15
19 employees.

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

24 STATEMENT OF CLAIMS

25 6. More than thirty days prior to the institution of this lawsuit, Kelly

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1 Flynn filed a charge with the Commission alleging violations of Title VII by
2 defendant Employer. All conditions precedent to the institution of this lawsuit
3 have been fulfilled.

4 7. Since at least 1995, defendant Employer has engaged in unlawful
5 employment practices at its Trentwood, Washington facility, in violation of 703(a)
6 of Title VII, 42 U.S.C. §2000e-2(a). These practices include Kaiser's use of a pre-
7 employment physical test that has an adverse impact on female applicants that
8 cannot be justified by business necessity or job-relatedness.

9 8. The effect of the practices complained of in paragraph 7 above has
10 been to deprive Kelly Flynn and a group of similarly situated female applicants of
11 equal employment opportunities and otherwise adversely affect their status as
12 applicants, because of their sex (female).

13 **PRAYER FOR RELIEF**

14 Wherefore, the Commission respectfully requests that this Court:

15 A. Grant a permanent injunction enjoining defendant Employer, its
16 officers, successors, assigns, and all persons in active concert or participation with
17 it, from engaging in any employment practice which discriminates on the basis of
18 sex.

19 B. Order defendant Employer to institute and carry out policies,
20 practices, and programs which provide equal employment opportunities for female
21 applicants, and which eradicate the effects of its past and present unlawful
22 employment practices.

23 C. Order Defendant Employer to make whole Kelly Flynn and a group
24 of similarly situated female applicants for positions with Defendant, by providing
25 appropriate backpay with prejudgment interest, in amounts to be determined at

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1 trial, and other affirmative relief necessary to eradicate the effects of its unlawful
2 employment practices.

3 D. Grant such further relief as the Court deems necessary and proper in
4 the public interest.

5 E. Award the Commission its costs of this action.

6 DATED this 7th day of June, 1999.

7 A. LUIS LUCERO, JR.
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9 CLAIRE CORDON
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