

HONORABLE ROBERT S. LASNIK

CC: TO JUDGE JK

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SEP 6 2000 JK

BY \_\_\_\_\_  
CLERK US DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON

JENNIFER ERICKSON, on behalf of herself  
and all others similarly situated,

Plaintiff,

v.

THE BARTELL DRUG COMPANY,

Defendant.

No. C00-1213L

AMENDED COMPLAINT - CLASS  
ACTION

Plaintiff Jennifer Erickson, through her undersigned attorneys, brings this Class Action Complaint against the Bartell Drug Company ("Bartell") and in support thereof states the following upon information and belief:

I. Introduction

1. This is an employment discrimination action, arising under the Civil Rights Act of 1964 as amended, 42 U.S.C. § 2000e et seq. ("Title VII"), and specifically as amended by the Pregnancy Discrimination Act of 1978, 42 U.S.C. § 2000e(k) (the "PDA").

2. Bartell singles out female employees for disadvantageous treatment by excluding prescription contraceptives from an employee benefit plan while including benefits for other

AMENDED COMPLAINT - 1

ORIGINAL

ROBERTA RILEY WSBA #16841  
PLANNED PARENTHOOD  
OF WESTERN WASHINGTON  
2801 EAST MADISON  
SEATTLE, WASHINGTON 98122-2959  
TELEPHONE (206) 328-6805

1 preventive medical services, including other preventive prescription medications and devices.  
2 Prescription contraception, which is available for use only by women, is basic medical care for  
3 women who have the potential to become pregnant but who wish to control that potential by  
4 reversible means. The failure to provide coverage for prescription contraception treats medication  
5 needed for a pregnancy-related condition less favorably than medication needed for other medical  
6 conditions; it therefore constitutes facial sex discrimination.

7 3. In addition, Bartell's exclusion of prescription contraception has an adverse disparate  
8 impact on Ms. Erickson and other members of the proposed class. Because prescription  
9 contraceptives are available for use only by women, Bartell's failure to provide coverage for  
10 prescription contraception forces its female employees to choose between paying their own out-of-  
11 pocket prescription costs, or bearing the physical, emotional and financial costs of unplanned  
12 pregnancy.

13 4. As a result of Bartell's decision to exclude contraceptives from its non-union employee  
14 benefit plan, Ms. Erickson and other members of the proposed class are being discriminated against  
15 in the terms and conditions of employment, which includes the receipt of benefits under fringe  
16 benefit programs, because of their potential for pregnancy. This violates Title VII.

17 5. To remedy this discrimination, Ms. Erickson and the Class she represents seek equitable,  
18 declaratory and injunctive relief against Bartell.

## 19 II. Jurisdiction and Venue

20 6. Jurisdiction is conferred on this Court by 28 U.S.C. § 1331 (federal question); and 42  
21 U.S.C. § 2000e-5(f)(3) (Title VII).

22 7. Ms. Erickson's claim for declaratory and injunctive relief is authorized by 28 U.S.C. §§  
23 2201 and 2202, Rules 57 and 65 of the Federal Rules of Civil Procedure, and the general legal and  
24 equitable powers of this Court.

25 8. Venue is appropriate under 28 U.S.C. § 1391(b) and (c), and 42 U.S.C. § 2000e-5(f)(3)  
26 because the unlawful employment practices giving rise to this claim were committed in this district

1 and Bartell resides in this district.

2 III. Parties

3 9. Jennifer Erickson has been employed on a full-time basis by Bartell as a licensed  
4 pharmacist since February, 1999. As part of the terms and conditions of her employment, Ms.  
5 Erickson receives health insurance coverage, including coverage of prescription drugs and devices.  
6 Ms. Erickson sues on her own behalf and as a representative of the proposed class of employees who  
7 are discriminated against by the exclusion of contraception from Bartell's benefit plan.

8 10. Ms. Erickson is 26 years old, has been married for one year, and has no children. She  
9 and her husband plan to have children some day, but they are not yet ready to do so. In order to  
10 avoid unplanned pregnancy, Ms. Erickson uses a reversible contraceptive: birth control pills (also  
11 known as oral contraceptives). Because prescription contraceptives are excluded by Bartell's non-  
12 union employee health plan, Ms. Erickson must pay out-of-pocket for her prescription contraceptives  
13 or risk the physical, emotional and financial costs of an unplanned pregnancy.

14 11. On or about June 30, 1999, Ms. Erickson wrote to Bartell's Benefits Department  
15 requesting that the company change its Health Plan to include insurance coverage for contraception.  
16 She received a letter back indicating that contraception was not part of the Prescription Benefit Plan.

17 12. On December 29, 1999, Ms. Erickson filed a charge with the EEOC in Seattle,  
18 Washington alleging that Bartell's failure to provide her with health insurance coverage for  
19 prescription contraceptives constitutes unlawful discrimination on the basis of sex.

20 13. On July 10, 2000, Ms. Erickson received a right-to-sue letter from the EEOC. A copy of  
21 that letter is annexed hereto as Exhibit A.

22 14. Bartell is a corporation organized under the laws of Washington, with its principal place  
23 of business in Seattle, Washington. On information and belief, Bartell employs approximately 1,380  
24 individuals.

25 IV. Bartell's Health Plan

26 15. As a term and condition of her employment, Bartell offers Ms. Erickson the opportunity

1 to enroll in one of two health plans. Upon information and belief, Bartell self-insures and controls  
2 all of the terms and conditions of these plans. Both health plans offered by Bartell are administered  
3 by Regence Blue Shield. Both plans exclude prescription drugs other than those provided on an  
4 inpatient basis. However, as a term and condition of her employment, Bartell also offers Ms.  
5 Erickson the opportunity to enroll in the Bartell Drug Prescription Benefit Plan for Non-Union  
6 Employees, which is the only outpatient prescription coverage available to her as a non-union  
7 employee of Bartell. Upon information and belief, Bartell self-insures and controls all of the terms  
8 and conditions of the Bartell Drug Prescription Benefit Plan for Non-Union Employees  
9 (“Prescription Benefit Plan”). The Prescription Benefit Plan requires employees to fill all  
10 prescriptions at a Bartell Pharmacy (unless an emergency arises when the employee is out of the  
11 service area served by Bartell).

12 16. As of May 1, 1999, Ms. Erickson enrolled in one of the Regence-administered health  
13 plans and the Bartell Drug Prescription Benefit Plan for Non-Union Employees (together, the  
14 “Health Plan”). Under the Health Plan, Ms. Erickson’s benefits include coverage of many  
15 preventive services and prescription drugs, including but not limited to coverage of: routine exams,  
16 immunizations, well child care, cancer screenings, routine hearing and vision exams, preventive and  
17 diagnostic dental services, smoking cessation care, blood-pressure and cholesterol-lowering  
18 prescription drugs, and hormone replacement therapy to prevent osteoporosis.

19 17. Despite covering other preventive medical services and prescriptions, the Health Plan  
20 does not cover prescription drugs and devices used by women to prevent pregnancy. The written  
21 Bartell Drug Prescription Benefit Plan for Non-Union Employees lists “contraceptive devices  
22 (including birth control pills)” as a “non-covered item.”

23 18. If Ms. Erickson were to become pregnant, the Health Plan would cover the costs of either  
24 an abortion or continuing the pregnancy to term – whichever she chose to do.

25 V. Harm to Ms. Erickson and Other Class Members

26 19. As a result of Bartell’s failure to cover contraception to prevent pregnancy, Ms. Erickson

1 must pay for her monthly supply of birth control pills on an out-of-pocket basis, or risk unintended  
2 pregnancy. Like many healthy women of reproductive age, contraception is the only prescription  
3 drug Ms. Erickson uses on a regular basis.

4 20. On information and belief, Bartell employs numerous women of reproductive age who  
5 use prescription contraception.

6 21. If contraception were treated on an equal basis with other prescriptions under the Health  
7 Plan, Ms. Erickson and other class members would pay a co-pay of either \$5 (generic) or \$10 (brand  
8 name) for a 34-day supply of contraception.

9 VI. Factual Framework

10 22. For over thirty years of their lives, women have the biological potential for pregnancy.  
11 Contraception is a drug or device that prevents pregnancy. Without contraception, the average  
12 woman would be expected to have between 12 and 15 pregnancies in her lifetime. In any given  
13 year, 85 out of 100 sexually active women of reproductive age who do not use contraception will  
14 become pregnant. Most American women want only two children. To achieve that goal, the typical  
15 American woman spends roughly three decades- or about 75% of her reproductive life- trying to  
16 avoid unintended pregnancy. Of the 60.2 million women of reproductive age, 64% currently use  
17 contraception. Ninety-four percent of American women use contraception at some point during their  
18 reproductive years. Among all women aged 20-44 who have ever had sexual intercourse, 85% have  
19 used prescription oral contraceptives.

20 23. The Food and Drug Administration (FDA) has approved five methods of reversible  
21 prescription contraception: oral contraception; Norplant; Depo-Provera; intra-uterine device  
22 ("IUD"); and the diaphragm. Only women can use these methods of prescription contraception.  
23 Other forms of contraception are sold over the counter (OTC) and thus generally are not covered by  
24 health insurance. The OTC methods include the male condom and five female methods: spermicidal  
25 foam, jelly, film, suppositories and the female condom. All methods work either by preventing  
26 fertilization of a woman's ovum or by preventing implantation of the blastocyst in the uterine wall.

1 24. Women bear all of the physical burdens of pregnancy, which are quite substantial.  
2 Pregnancy itself can put a woman's life at risk. Ectopic pregnancy is the deadliest complication in  
3 the early stages of pregnancy. The three deadliest complications of full-term pregnancy are  
4 hemorrhage, hypertension and thrombosis. In the United States today, for every 100,000 births, 8-22  
5 women (depending on their county of residence) die as a result of pregnancy-related complications.

6 25. Pregnancy also poses non-life threatening health risks for women. The morbidity rate  
7 during pregnancy is quite high. Twenty-two percent of all pregnant women are hospitalized before  
8 delivery because of various complications. Pre-term labor is one of the most common reasons  
9 women are hospitalized before delivery. In such instances, the medical interventions a woman must  
10 undergo often include long-term bed rest and administration of various drugs, some of which have  
11 significant side effects for the woman.

12 26. The more pregnancies she bears, the greater the likelihood a woman will suffer one or  
13 more of the myriad life and/or health-threatening complications of pregnancy. Women who  
14 experience a large number of pregnancies are known to be at far greater risk for certain permanent  
15 health problems such as uterine prolapse (downward displacement of the uterus so that some or all of  
16 the uterus comes outside of the vagina), rectocele (hernial protrusion of the rectum into the vagina),  
17 cystocele (hernial protrusion of the urinary bladder through the vaginal wall), pelvic floor disorders  
18 and varicose veins.

19 27. For women with pre-existing medical conditions, even one pregnancy can pose grave  
20 health risks. Preexisting medical conditions that are exacerbated by pregnancy include: certain  
21 blood diseases, including sickle-cell disease; heart disease; cancer; endocrine disorders such as  
22 diabetes; diseases of the nervous system such as epilepsy; kidney and liver diseases; connective  
23 tissue disorders such as systemic lupus erythematosus and rheumatoid arthritis; chronic  
24 hypertension; respiratory disease including asthma and pneumonia; and HIV present in the blood  
25 stream.

26 28. Unintended pregnancy poses far greater health risks to women and children than does

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1 intended pregnancy. The medical risks of unintended pregnancy are well documented. In general,  
2 women who become pregnant unexpectedly are less likely to receive adequate pre-natal care and  
3 thus have less opportunity to manage pre-existing medical conditions and other risks during  
4 pregnancy. For instance, unintended pregnancy is quite dangerous, and may even be deadly, for  
5 women with hypertension or diabetes. These conditions are best managed when medical care is  
6 begun before conception. In addition, women who become pregnant unexpectedly forego the  
7 opportunity to receive pre-conception counseling to improve the health of the fetus and are more  
8 likely to have low birth weight babies and experience a higher rate of neonatal mortality.

9 29. Unintended pregnancy is both frequent and widespread in the United States. Forty-nine  
10 percent of all pregnancies in the United States are unintended. Among Western Nations, the United  
11 States has one of the highest rates of unintended pregnancy. Unintended pregnancy affects all  
12 segments of society. Four out of ten pregnancies among married women are unintended. Low-  
13 income women and unmarried women experience even higher rates of unintended pregnancy.

14 30. Contraception enables women to plan their pregnancies and time the spacing between  
15 pregnancies. The shorter the interval between her pregnancies, the greater the likelihood a woman  
16 will experience pre-term labor, depression and other health problems. Recognizing that  
17 contraception is central to the health and well-being of women and their children, the Center for  
18 Disease Control and Prevention has recognized that “[s]maller families and longer birth intervals  
19 have contributed to the better health of infants, children, and women, and have improved the social  
20 and economic role of women.”

21 31. Furthermore, even in an otherwise healthy woman, pregnancy poses medical risks that  
22 are significantly greater than the risks of using contraception. In any given year, the average risk of  
23 death from pregnancy is 1 in 11,000 while the risk of death from contraception is much less: 1 in  
24 63,000 for non-smoking oral contraceptive users; 1 in 100,000 for IUD users; and no risk of death  
25 for diaphragm users.

26 32. Due to the wide variation in effectiveness, cost, and medical appropriateness of available

1 forms of contraception, choice of contraceptive method is essential to successful pregnancy  
2 prevention. Other factors that contribute to what type of contraception a woman chooses to use are  
3 whether the woman intends to delay, space, or entirely prevent future childbearing.

4 33. Women with medical conditions that require pregnancy avoidance, in particular, require a  
5 full range of contraceptive options because their medical conditions often preclude the use of one or  
6 more contraceptive methods. For example, birth control pills are medically contraindicated for  
7 smokers over age 35 and women who are at risk of cardiovascular problems, such as stroke, heart  
8 attack, blood clots, and hypertension, as well as women who have, or are at risk of, depression or  
9 hepatic adenomas.

10 34. For all of the above reasons, a recent study by the Institute of Medicine recommends  
11 improving contraceptive coverage in health plans in order to reduce the number of unintended  
12 pregnancies and to improve health outcomes for women and children. Similarly, the United States  
13 Department of Health and Human Services has adopted the goal of improving pregnancy planning  
14 and spacing and preventing unintended pregnancy. Moreover, the Guidelines for Women's Health  
15 Care published by the American College of Obstetricians and Gynecologists (ACOG), which  
16 represents 38,000 physicians in this country, advises that "prevention of unwanted pregnancy" and  
17 "contraceptive options" be discussed with all women over the age of 13 during routine primary care  
18 assessments. In sum, contraception is basic to women's health and well-being.

19 35. The physical burdens of pregnancy increase the risk of interruption to a woman's  
20 education, career and professional development opportunities. The ability to control her biological  
21 potential for pregnancy is central to a woman's ability to participate in the workplace on an equal  
22 basis with men.

23 36. Inadequate insurance coverage of contraception has substantial adverse economic  
24 consequences for the 67% of American women of reproductive age who rely on employer-sponsored  
25 health insurance coverage. These women pay 68% more in out-of-pocket expenditures for health  
26 care services than men, and reproductive health services account for much of that difference.

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1 VII. Statutory Framework

2 37. Title VII provides that: "It shall be an unlawful employment practice for an employer to  
3 . . . discriminate against any individual with respect to his compensation, terms, conditions, or  
4 privileges of employment, because of such individual's . . . sex." 42 U.S.C. § 2000e-2(1).

5 38. In 1978, Congress enacted the Pregnancy Discrimination Act ("PDA") which provides  
6 that the term "because of sex" in Title VII includes, but is not limited to, "because of or on the basis  
7 of pregnancy, childbirth, or related medical conditions." 42 U.S.C. § 2000e(k). The PDA further  
8 states that "women affected by pregnancy, childbirth, or related medical conditions shall be treated  
9 the same for all employment-related purposes, including receipt of benefits under fringe benefit  
10 programs as other persons not so affected but similar in their ability or inability to work." *Id.* Thus,  
11 Title VII specifically mandates that employers may not single out employees for disadvantageous  
12 treatment based on "pregnancy, childbirth, or related medical conditions."

13 39. Contraception is "pregnancy-related" within the meaning of the PDA because it is  
14 medical treatment that provides women with the ability to control their biological potential for  
15 pregnancy. Exclusion of contraception from a health plan is sex discrimination in violation of the  
16 PDA because it treats women differently on the basis of their potential to become pregnant. The  
17 exclusion of contraception from the Health Plan is, therefore, sex discrimination on its face in  
18 violation of Title VII, as amended by the PDA.

19 40. The exclusion of contraception from the Health Plan also has an adverse disparate impact  
20 on women in violation of Title VII because it forces them either to pay for prescription  
21 contraceptives out of pocket, despite having prescription insurance coverage, or to bear the physical,  
22 emotional and financial burdens of unplanned pregnancy. Bartell's policy of excluding  
23 contraceptive coverage cannot be justified as job-related and consistent with business necessity.

24 VIII. Class Action Allegations

25 41. Pursuant to Fed. R. Civ. P. 23(b)(2), Ms. Erickson seeks declaratory and injunctive relief  
26 on behalf of herself and all other persons similarly situated, defined as:

1 All female employees of Bartell who at any time after December 29,  
2 1997 were enrolled in Bartell's prescription benefit plan for non-union  
employees while using prescription contraceptives.

3 42. This action is properly maintainable as a class action under Fed. R. Civ. P. 23(a).

4 (a) Plaintiff is informed and believes that the class is so numerous that joinder of all  
5 members is impracticable. Bartell employs approximately 1,380 people in  
6 Washington State, about one-half of whom are non-union employees eligible to  
7 participate in the prescription benefit plan at issue in this case. Given the number  
8 of qualifying employees and the well-documented utilization rates for prescription  
9 contraceptive drugs and devices, plaintiff is informed and believes that the class  
10 consists of at least 100 persons.

11 (b) There are questions of law or fact common to the class, including: whether  
12 Bartell's conduct violates Title VII as amended by the Pregnancy Discrimination  
13 Act, which prohibits discrimination based on "pregnancy, childbirth or related  
14 medical conditions"; whether Bartell's conduct has an adverse disparate impact  
15 on a protected class in violation of Title VII; whether Bartell's conduct is justified  
16 by any recognized legal defense; the nature and scope of injunctive relief  
17 necessary to prevent further violations of federal law; the nature and scope of  
18 equitable relief appropriate to complement the injunctive relief awarded by the  
19 Court; and the nature and scope of declaratory relief appropriate in this case.

20 (c) The claims of the representative parties are typical of the claims of the class. Ms.  
21 Erickson was enrolled in Bartell's prescription benefit plan for non-union  
22 employees during the class period. A health care professional prescribed  
23 contraceptives for Ms. Erickson's use. Like every other member of the class, Ms.  
24 Erickson has been denied benefits of her employment based on a pregnancy-  
25  
26

1 related medical condition. Furthermore, the Bartell contraception exclusion has  
2 had an adverse disparate impact on her, as it has on other female employees of  
3 Bartell.

4 (d) Ms. Erickson will fairly and adequately protect the interests of the class. She will  
5 pursue this litigation with diligence and vigor, and she has retained counsel  
6 experienced in Title VII and other class action litigation. Ms. Erickson has  
7 exhausted administrative remedies on behalf of herself and the class.

8 43. This action is properly maintainable as a class action under Fed. R. Civ. P. 23(b)(2)  
9 because Bartell has acted or refused to act on grounds generally applicable to the class, thereby  
10 making declaratory, injunctive and other equitable relief appropriate for the class as a whole.

11 IX. First Claim for Relief: Disparate Treatment

12 44. Plaintiff hereby incorporates by reference Paragraphs 1 through 43 above.

13 45. By providing Ms. Erickson and the Class with health insurance benefits that selectively  
14 exclude all FDA-approved prescription contraception, Bartell discriminates on the basis of sex in  
15 violation of Title VII as amended by the PDA.

16 X. Second Claim for Relief: Disparate Impact

17 46. Plaintiff hereby incorporates by reference Paragraphs 1 through 45 above.

18 47. By providing Ms. Erickson and the Class with health insurance benefits that selectively  
19 exclude all FDA-approved prescription contraception, Bartell engages in an employment practice  
20 that has an adverse disparate impact on Ms. Erickson and the Class, thus constituting illegal  
21 employment discrimination on the basis of sex in violation of Title VII.

22 XI. Prayer for Relief

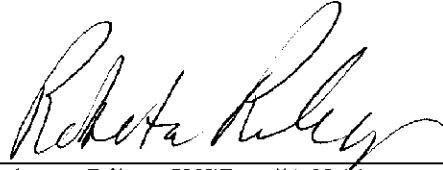
23 48. On behalf of herself and all other persons similarly situated, Jennifer Erickson seeks the  
24 following relief:

25 (a) That an order be entered certifying the Class pursuant to Fed. R. Civ. P.  
26

1 23(b)(2).

- 2 (b) That a declaratory judgment be entered declaring that Bartell has violated the  
3 civil rights of Ms. Erickson and the Class she represents as guaranteed by 42  
4 U.S.C. § 2000e.
- 5 (c) That a permanent injunction be entered prohibiting Bartell from engaging in  
6 the illegal and discriminatory conduct alleged herein and requiring Bartell to  
7 issue and disseminate to all eligible employees a revised prescription coverage  
8 plan that covers all FDA-approved prescription contraceptive drugs and  
9 devices.
- 10 (d) That the Court award equitable relief to Ms. Erickson and the Class in the  
11 form of nominal damages, incidental monetary relief, back pay, attorneys fees  
12 and costs.
- 13 (e) That the Court award Ms. Erickson and the Class their attorneys' fees and  
14 costs pursuant to 42 U.S.C. § 2000e-5(k).
- 15 (f) That the Court award such other and further relief as it deems just and proper  
16 under the circumstances.

17 DATED this 6th day of September 2000.

18 By   
19 Roberta Riley, WSBA #16841  
20 PLANNED PARENTHOOD OF WESTERN  
21 WASHINGTON  
22 2001 East Madison  
23 Seattle, Washington 98122-2959  
24 Telephone: (206) 328-6805

25 AMENDED COMPLAINT - 12

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AMENDED COMPLAINT - 13

EXHIBIT A

EEOC Form 151-B (10/96)

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

NOTICE OF RIGHT TO SUE (ISSUED ON REQUEST)

To: Jennifer Erickson
406 118th Avenue SE, Apt. 21
Bellevue, WA 98005

From: EEOC - Seattle District Office
909 First Avenue, Suite 400
Seattle, WA 98104-1061

On behalf of person(s) aggrieved whose identity is
CONFIDENTIAL (29 CFR § 1601.7(a))

Table with 3 columns: Charge No., EEOC Representative, Telephone No.
380A00357, Mark Lofstead, Investigator, (206) 220-6893

(See also the additional information attached to this form.)

NOTICE TO THE PERSON AGGRIEVED:

Title VII of the Civil Rights Act of 1964 and/or the Americans with Disabilities Act (ADA): This is your Notice of Right to Sue, issued under Title VII and/or the ADA based on the above-numbered charge. It has been issued at your request. Your lawsuit under Title VII or the ADA must be filed in federal or state court WITHIN 90 DAYS of your receipt of this Notice. Otherwise, your right to sue based on this charge will be lost. (The time limit for filing suit based on a state claim may be different.)

- [ X ] More than 180 days have passed since the filing of this charge.
[ ] Less than 180 days have passed since the filing of this charge, but I have determined that it is unlikely that the EEOC will be able to complete its administrative processing within 180 days from the filing of the charge.
[ X ] The EEOC is terminating its processing of this charge.
[ ] The EEOC will continue to process this charge.

Age Discrimination in Employment Act (ADEA): You may sue under the ADEA at any time from 60 days after the charge was filed until 90 days after you receive notice that we have completed action on the charge. In this regard, the paragraph marked below applies to your case:

- [ ] The EEOC is closing your case. Therefore, your lawsuit under the ADEA must be filed in federal or state court WITHIN 90 DAYS of your receipt of this Notice. Otherwise, your right to sue based on the above-numbered charge will be lost.
[ ] The EEOC is continuing its handling of your ADEA case. However, if 60 days have passed since the filing of your charge you may file suit in federal or state court under the ADEA at this time.

Equal Pay Act (EPA): You already have the right to sue under the EPA (filing an EEOC charge is not required.) EPA suits must be brought in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.

If you file suit based on this charge, please send a copy of your court complaint to this office.

On behalf of the Commission

JUL 10 2000

Clare Carlson, ADD

Enclosure(s)

Jeanette M. Leino, District Director

(Date Mailed)

cc:

EXHIBIT A

**INFORMATION RELATED TO FILING  
UNDER THE LAWS ENFORCED BY THE EEOC**

*(This information relates to filing suit in Federal or State court under Federal law. If you also plan to sue claiming violations of State law, please be aware that time limits and other provisions of State law may be shorter or more limited than those described below.)*

**PRIVATE SUIT RIGHTS -- Title VII of the Civil Rights Act, the Americans with Disabilities Act (ADA), or the Age Discrimination in Employment Act (ADEA):**

In order to pursue this matter further, you must file a lawsuit against the respondent(s) named in the charge within 90 days of the date you *receive* this Notice. Therefore, you should keep a record of this date. Once this 90-day period is over, your right to sue based on the charge referred to in this Notice will be lost. If you intend to consult an attorney, you should do so promptly. Give your attorney a copy of this Notice, and its envelope, and tell him or her the date you received it. Furthermore, in order to avoid any question that you did not act in a timely manner, it is prudent that your suit be filed within 90 days of the date this Notice was mailed to you (as indicated where the Notice is signed) or the date of the postmark, if later.

Your lawsuit may be filed in U.S. District Court or a State court of competent jurisdiction. (Usually, the appropriate State court is the general civil trial court.) Whether you file in Federal or State court is a matter for you to decide after talking to your attorney. Filing this Notice is not enough. You must file a "complaint" that contains a short statement of the facts of your case which shows that you are entitled to relief. Your suit may include any matter alleged in the charge or, to the extent permitted by court decisions, matters like or related to the matters alleged in the charge. Generally, suits are brought in the State where the alleged unlawful practice occurred, but in some cases can be brought where relevant employment records are kept, where the employment would have been, or where the respondent has its main office. If you have simple questions, you usually can get answers from the office of the clerk of the court where you are bringing suit, but do not expect that office to write your complaint or make legal strategy decisions for you.

**PRIVATE SUIT RIGHTS -- Equal Pay Act (EPA):**

EPA suits must be filed in court within 2 years (3 years for willful violations) of the alleged EPA underpayment: backpay due for violations that occurred more than 2 years (3 years) before you file suit may not be collectible. For example, if you were underpaid under the EPA for work performed from 7/1/96 to 12/1/96, you should file suit before 7/1/98 -- not 12/1/98 -- in order to recover unpaid wages due for July 1996. This time limit for filing an EPA suit is separate from the 90-day filing period under Title VII, the ADA or the ADEA referred to above. Therefore, if you also plan to sue under Title VII, the ADA or the ADEA, in addition to suing on the EPA claim, suit must be filed within 90 days of this Notice and within the 2- or 3-year EPA backpay recovery period.

**ATTORNEY REPRESENTATION -- Title VII and the ADA:**

If you cannot afford or have been unable to obtain a lawyer to represent you, the U.S. District Court having jurisdiction in your case may, in limited circumstances, assist you in obtaining a lawyer. Requests for such assistance must be made to the U.S. District Court in the form and manner it requires (you should be prepared to explain in detail your efforts to retain an attorney). Requests should be made well before the end of the 90-day period mentioned above, because such requests do not relieve you of the requirement to bring suit within 90 days.

**ATTORNEY REFERRAL AND EEOC ASSISTANCE -- All Statutes:**

You may contact the EEOC representative shown on your Notice if you need help in finding a lawyer or if you have any questions about your legal rights, including advice on which U.S. District Court can hear your case. If you need to inspect or obtain a copy of information in EEOC's file on the charge, please request it promptly in writing and provide your charge number (as shown on your Notice). While EEOC destroys charge files after a certain time, all charge files are kept for at least 6 months after our last action on the case. Therefore, if you file suit and want to review the charge file, please make your review request within 6 months of this Notice. (Before filing suit, any request should be made within the next 90 days.)

***IF YOU FILE SUIT, PLEASE SEND A COPY OF YOUR COURT COMPLAINT TO THIS OFFICE.***