

571 F.2d 337  
United States Court of Appeals,  
Fifth Circuit.

Brian F. WEBER, Individually and on behalf of all  
other persons similarly situated,  
Plaintiffs-Appellees,

v.

KAISER ALUMINUM & CHEMICAL  
CORPORATION and United Steelworkers of  
America, AFL-CIO, Defendants-Appellants.

No. 76-3266.

|

April 17, 1978.

\*337 Appeals from the United States District Court for  
the Eastern District of Louisiana; Jack M. Gordon, Judge.

#### **Attorneys and Law Firms**

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Southeastern Legal Foundation, amicus curiae.

#### **ON PETITIONS FOR REHEARING AND PETITIONS FOR REHEARING EN BANC**

(Opinion Nov. 17, 1977, 5 Cir., 1977, 563 F.2d 216).

Before WISDOM,\* GEE and FAY, Circuit Judges.

#### **Opinion**

PER CURIAM:

The Petitions for Rehearing are DENIED<sup>1</sup> and the Court  
having been polled at the request of one of the members  
of the Court and a majority of the Circuit Judges who are  
in regular active service not having voted in favor of it,  
(Rule 35 Federal Rules of Appellate Procedure; Local  
Fifth Circuit Rule 12) the Petitions for Rehearing En Banc  
are also DENIED.

#### **All Citations**

571 F.2d 337 (Mem), 17 Fair Empl.Prac.Cas. (BNA) 347,  
17 Empl. Prac. Dec. P 8380

#### **Footnotes**

\* Wisdom, J., dissents from the denial of Petition for Rehearing for the reasons stated in his dissenting opinion at 563

F.2d 227-38.

- <sup>1</sup> On rehearing it is suggested that our quotation from the panel opinion in *Carter v. Gallagher*, 452 F.2d 315, 325 (8th Cir. 1971) is inappropriate since the en banc court, 452 F.2d 327 et seq., in fact instituted a modified minority hiring quota on rehearing. *Carter*, however, was a case in which past racial discrimination in hiring at the “plant” in that instance a fire department was established. Our case is the contrary, and we are not persuaded that the en banc determination there is at variance with our decision here. At all events, we agree with the quotation as applied to our context.