

10/11/95
P.S. 150
Bew

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

FILED
97 AUG 15 PM 4:48
NORTHERN DISTRICT OF OHIO
CLEVELAND

EQUAL EMPLOYMENT OPPORTUNITY)
COMMISSION,)

Plaintiff,)

v.)

AMERITECH SERVICES, INC.,)

and)

INTERNATIONAL BROTHERHOOD OF)
ELECTRICAL WORKERS, LOCAL NOS.)
165, 188, 336, 383 AND 399)

Defendants)

CIVIL ACTION NO.

11:34 CV 2100

COMPLAINT

JURY TRIAL DEMAND

JUDGE NATIA

MAG. JUDGE PERELMAN

NATURE OF THE ACTION

This is an action under Title VII of the Civil Rights Act of 1964, Title I of the Civil Rights Act of 1991 and the Equal Pay Act of 1963. The Commission alleges that Ameritech Services, Inc. discriminated on the basis of sex when it instituted a Pension Plan Enhancement Program on or about March 25, 1994, which denied immediate pension benefits to certain female employees for periods of time such employees spent on maternity leave prior to April 29, 1979 but did not deny such benefits to persons who took leave for other temporary disabilities. The Commission's action also seeks 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 to employees harmed as a result of such unlawful practices.

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 706(f)(1) and (3) and 707(a), (b) and (c) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. Sections 2000e-5(f)(1) and (3) and 2000e-6(a), (b) and (c) ("Title VII") and pursuant to Sections 16(c) and 17 of the Fair Labor Standards Act of 1938 (the "FLSA"), as amended, 29 U.S.C. Sections 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. Section 206(d).

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 Northern District of Ohio, Eastern 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. Sections 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 Sections 706(f)(1) and (3) and 707(a), (b) and (c) of Title VII, 42 U.S.C. Sections 2000e-5(f)(1) and (3) and 2000e(a), (b) and (c).

4. At all relevant times, Defendant, Ameritech Services, Inc. (the "Employer"), has continuously been a Delaware corporation, doing business in the State of Ohio and the City of Cleveland 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) or has continuously been an enterprise engaged in commerce or in the production of goods for commerce within the meaning of Sections 3(r) and (s) of the FLSA, 29 U.S.C. §§ 203(r) and (s), in that said enterprise has continuously been an enterprise whose annual gross volume of sales made or business done is not less than \$362,500.

RULE 19(a)(2) DEFENDANTS

8. The Communication Workers of America, AFL-CIO ("CWA") is a party to a collective bargaining agreement with Defendant Employer and is named as a Defendant pursuant to Rule 19(a)(2) of the Federal Rules of Civil Procedure, in that it has an interest in the outcome of this action.

9. The International Brotherhood of Electrical Workers, Local No. 165, ("Local 165"), Local No. 188 ("Local 188"), Local No. 336, ("Local 336"), Local No. 383 ("Local 383"), and Local No. 399 ("Local 399") are parties to collective bargaining agreements with Defendant Employer and are named as Defendants pursuant to Rule 19(a)(2) of the Federal Rules of Civil Procedure, in that they have an interest in the outcome of this action.

STATEMENT OF TITLE VII CLAIMS

10. More than thirty days prior to the institution of this lawsuit, Diana Crowley, and other similarly situated women, filed charges with the Commission alleging violations of Title VII by Defendant Employer. All conditions precedent to the institution of this lawsuit have been fulfilled.

11. Since at least January 1, 1994, Defendant Employer has engaged in an unlawful pattern of employment practices at its Cleveland, Ohio facility, as well as other facilities in Ohio and other states, in violation of Sections 703(a)(1) and 707(a) of Title VII, 42 U.S.C. § 2000e-2(a)(1) and 2000e-6(a). The unlawful pattern of employment practices includes instituting a Pension Plan Enhancement Program which denied immediate pension benefits to certain female employees by denying them service credit for periods of time such employees spent on maternity leave prior to April 29, 1979 but did not deny such benefits to persons who took leave for other temporary disabilities.

12. The effect of the pattern of employment practice(s) complained of in paragraph 11, above, has been to deprive Diana Crowley, and other similarly situated women, of equal employment opportunities and otherwise adversely affect their status because of their sex.

13. The unlawful pattern of employment practices complained of in paragraph 11, above, was and is intentional.

14. The unlawful pattern of employment practices complained of in paragraph 11, above, was and is now being committed with malice or with reckless indifference to the federally protected rights of Diana Crowley and other similarly situated women.

15. Since at least January 1, 1994, 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 instituting a Pension Plan Enhancement Program which differentiated in benefits on the basis of sex in that the Pension Enhancement Program denied immediate pension benefits to certain female employees by denying them service credit for periods of time such employees spent on maternity leave prior to April 29, 1979 but did not deny such benefits to persons who took leave for other temporary disabilities.

16. As a result of the acts complained of above, Defendant Employer unlawfully has withheld and is continuing to withhold the payment of fringe benefits to Diana Crowley and a class of other similarly situated women generally defined as all present and former female employees of Defendant Employer who took any maternity-related leave of absence which commenced on or after July

2, 1965 and before April 29, 1979 and who are now or were within the scope of the offer made by the March 25, 1994 Pension Plan Enhancement Program of Defendant Employer. On information and belief, the size of the class is in excess of 7,000 present and former employees of Defendant Employer, some of whom are named on Exhibit A, attached hereto.

17. The unlawful practices complained of in paragraphs 15 and 16, above, were and are willful.

PRAYER FOR RELIEF

Wherefore, the Commission requests that this Court:

A. Grant a permanent injunction enjoining the Defendant Employer, its officers, successors, assigns and all persons in active concert or participation with it, from engaging in the institution, maintenance and/or management of the March 1994 Pension Plan Enhancement Program, or any other similar plan, which discriminates on the basis of sex.

B. Grant a permanent injunction enjoining the Defendant Employer, 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 instituting, maintaining and/or managing the March 1994 Pension Plan Enhancement Program, or any other similar plan, which

differentiates in benefits on the basis of sex.

C. Order Defendant 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 pattern of unlawful employment practices.

D. Order Defendant Employer to make whole Diana Crowley, and other similarly situated women, by providing appropriate back pay with prejudgment interest, in amounts to be proved at trial, and other affirmative relief necessary to eradicate the effects of its unlawful pattern of employment practices, including but not limited to immediately modifying the March 1994 Pension Plan Enhancement Program to give immediate pension benefits to female employees for periods of time such employees spent on maternity leave prior to April 29, 1979.

E. Order Defendant Employer to make whole Diana Crowley by providing compensation for past and future pecuniary losses resulting from the unlawful pattern of employment practices described in paragraph 11, above, including past and future out of pocket costs suffered by aggrieved individuals as the result of Defendant's sex differentiated Pension Plan Enhancement Program, in amounts to be determined at trial.

F. Order Defendant Employer to make whole Diana Crowley, and

other similarly situated women, by providing compensation for past and future nonpecuniary losses resulting from the pattern of unlawful employment practices complained of in paragraph 11, above, including emotional pain, suffering, inconvenience, loss of enjoyment of life and humiliation, in amounts to be determined at trial.

G. Order Defendant Employer to pay Diana Crowley, and other similarly situated women, punitive damages for its malicious and/or reckless conduct described in paragraph 11, above, in an amount to be determined at trial.

H. Grant a judgment requiring Defendant Employer to pay appropriate back wages in amounts to be determined at trial, an equal sum as liquidated damages, or prejudgment interest in lieu thereof, to employees whose wages are being unlawfully withheld as a result of the acts complained of above, including but not limited to Diana Crowley and those employees named on Exhibit A, attached hereto. The Commission is seeking monetary relief for a class of female employees who have been adversely affected by Defendant's March 1994 Pension Plan Enhancement Program because of said Plan's differentiation of benefits based on sex.

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

J. Award the Commission its costs of this action.

JURY TRIAL DEMAND

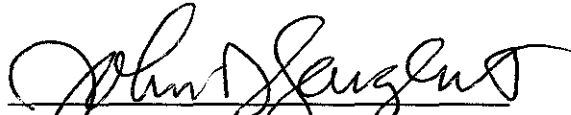
The Commission requests a jury trial on all questions of fact raised by its complaint.

Respectfully submitted
C. GREGROY STEWART
GENERAL COUNSEL

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION
1801 L STREET, N.W.
Washington, D.C. 20507



C. Larry Watson
Regional Attorney(#0031443)



John D. Sargent(#0021028)
Supervisory Trial Attorney



Solvita A. McMillan(#0040011)
Trial Attorney

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION

Cleveland District Office
1660 W. 2d St. Ste 850
Cleveland, Ohio 44113-1454
(216) 522-7453

EXHIBIT A

Linda Apling
Janet Appleton
Elaine Baer
Kathie Bair
Dorothy Baptista
Phyllis Barnes
Robertta Barrick
Joyce Benjamin
Bernadette Bernabei
Catherine Berry
Linda Bilbrey
Betty Bober
Deborah Briner
Sherri Brooks
Pam Brumfield
Joyce Burns
Barbara Burris
Carol Burton
Harriett Campbell
Carol Chovanec
Harriet Christian
Jackie Clay
Nancy Clemens
Linda Cochran
Karen Cousino
Kathleen Cox
Nancy Craig
Diana Crowley
Cheryl Cuprys
Barbara Dale-Collins
Susan Dattilo
Paula Davidson
Renee Eiland
Linda Engel
Mary Ann Enright
Evelyn Evans
Kathy Ewing
Vicki Fauth
Joan Fetters
Joyce Fogle
Arlene Foulk

Lenore Friedman
Phyllis Gaulden
Susan Gehlers
Mary Gonyer
Mirta Gonzalez
Marlene Gorka
Carla Grubb
Janice Hagemeyer
Judieth Hale
Betty Hardin
Janice Harding
Jane Harris
Janet Harris
Ravella Hartman
Rose Harvey
Carol Hays
Joyce Hicks
Victoria Higginbotham
Sandra Hughes
Angel Humphrey
Joan Hunnell
Saundra Holland
Madeline Honeycutt
Delois Johnson
Margaret Johnson
Sharon Johnson
Shirley Jones
Frances Kajfasz
Jackie Kendall
Pamela Kopena
Sharon Krajicek
Carol LaCourse
Lunceray Lamb
Patricia Lanzy
Jean Lefevre
Sandra Lentz
Mary Livingston
Linda Massengale
Patricia Mays
Marcia Matney
Mary McBride
Georgianna McKeever
Margaret McKinley

Mary Minnear
Sandra Moon
Susan Morel
Anita Moses
Sandra Mulhall
Pamela Murphy
Virginia Myszenski
Melba Nix
Nancy Nuding
Sharon Oehlers
Diane Parker
Bettie Peck
Ruth Pettit
Gilda Pitts
Betty Pope
Barbara Raglin
Carolyn Ray
Connie Ray
C. Retherford
Linda Rettig
Louise Richardson
Teresa Riddlebarger
Phyllis Riffle
Maryann Roberts
Brenda Rouchion
Margaret Ruminski
Janet Sagert
Ann Schmidt
Jean Schulte
Carol Sears
Karen Shearer
Betty Sherman
Sherry Sidner
Frances Smith
Janice Smith
Sandra Smith
Brenda Smitherman-Muir
Susan Spangler
Latricia Sparks
Harriet Spencer
Kathryn Strauss
Marsha Struckel
Wilma Teems

Ruth Tellings
Connie Thacker
Joanna Thurston
Barbara Tofstad
Rosalind Toyer
Karen Thompson
Janice Tudor
Leslie Turner
Sharon Tynan
Janet Vogelpohl
Elsie Whitfield
Marie Whitson
Francie Wingo
Joyce Wiczynski
Belinda Williams
Glenna Witt
Rita Wray
Karen Zawodny