

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MISSOURI  
SOUTHWESTERN DIVISION**

|                                     |   |                            |
|-------------------------------------|---|----------------------------|
| <b>EQUAL EMPLOYMENT OPPORTUNITY</b> | ) |                            |
| <b>COMMISSION,</b>                  | ) |                            |
|                                     | ) |                            |
| <b>Plaintiff,</b>                   | ) |                            |
|                                     | ) | <b>CIVIL ACTION NO.</b>    |
| <b>v.</b>                           | ) |                            |
|                                     | ) | <b><u>COMPLAINT</u></b>    |
| <b>SAFEWAY, INC.,</b>               | ) |                            |
|                                     | ) | <b>JURY TRIAL DEMANDED</b> |
| <b>Defendant.</b>                   | ) |                            |

**NATURE OF THE ACTION**

This is an action under the Equal Pay Act of 1963, Title VII of the Civil Rights Act of 1964 and Title I of the Civil Rights Act of 1991 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 due to employees as a result of such unlawful practices. The Equal Employment Opportunity Commission alleges that Safeway, Inc. paid its female workers employed in the position of Plant Accounting Clerk II at wage rates that are less than the rates it paid to its male employee performing substantially equal work, and otherwise discriminated against those female employees because of their sex.

**JURISDICTION AND VENUE**

1. The 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 Section 16(c) and 17 of the Fair Labor Standards Act of 1938 (the "FLSA"), as amended, 29 U.S.C. §§ 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. § 206(d),

and pursuant to Section 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”). This action is also authorized and instituted pursuant to Section 102 of Title I of the Civil Rights Act of 1991, 42 U.S.C. § 1981a.

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

### **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. §§ 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 Section 706(f)(1) and (3) of Title VII, 42 U.S.C. § 2000e-5(f)(1) and (3).

4. At all relevant times, Defendant Safeway, Inc. (“Safeway”) has continuously been a Delaware corporation doing business in the State of Missouri and the City of Joplin, and has continuously had at least 15 employees.

5. At all relevant times, Safeway 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, Safeway 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, Safeway 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) and 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 \$500,000.

### **STATEMENT OF CLAIMS**

8. More than thirty days prior to the institution of this lawsuit, Kerrie Lorenz filed a charge with the Commission alleging violations of Title VII and the Equal Pay Act by Safeway. All conditions precedent to the institution of this lawsuit have been fulfilled.

9. Since at least December 1998, Safeway has engaged in unlawful employment practices at its Joplin, Missouri plant, in violation of Section 706(f)(1) of Title VII, 42 U.S.C. § 2000e-5(f)(1). The Commission alleges that Safeway paid female workers employed as Plant Accounting Clerk II less than it paid a male employee who was employed as a Plant Accounting Clerk II because of the female employees' sex.

10. The effect of the practice complained of in paragraph 9 above has been to deprive Kerrie Lorenz and other females employed as Plant Accounting Clerk II of equal employment opportunities and otherwise adversely affect their status as employees because of their sex.

11. The unlawful employment practices complained of in paragraph 9 above were intentional.

12. The unlawful employment practices complained of in paragraph 9 above were done with malice or with reckless indifference to the federally protected rights of Kerrie Lorenz and other females employed as Plant Accounting Clerk II.

13. Since at least December 1998, Safeway violated Sections 6(d)(1) and 15(a)(2) of the FLSA, 29 U.S.C. §§ 206(d)(1) and 215(a)(2), by paying wages to its female Plant Accounting Clerks II in its Joplin, Missouri plant at rates less than the rates paid to male employees in the same plant for substantially equal work on jobs the performance of which requires equal skill, effort, and responsibility, and which are performed under similar working conditions.

14. As a result of the acts complained of in paragraph 13 above, Safeway unlawfully withheld the payment of wages due to Kerri Lorenz and other females employed as Plant Accounting Clerk II.

15. The unlawful practices complained of in paragraph 13 above were willful.

**PRAYER FOR RELIEF**

**WHEREFORE**, the Commission requests that this Court:

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

B. Grant a permanent injunction enjoining Safeway, 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 paying wages to employees of one sex at rates less than the rates at which it pays wages to employees of the opposite sex for substantially equal work on jobs the

performance of which requires equal skill, effort, and responsibility, and which are performed under similar working conditions.

D. Order Safeway to institute and carry out policies, practices and programs which provide equal employment opportunities for women and which eradicate the effects of its unlawful employment practices.

E. Order Safeway to make whole Kerrie Lorenz and other females employed as Plant Accounting Clerk II, 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.

F. Order Safeway to make whole Kerri Lorenz and other females employed as Plant Accounting Clerk II by providing compensation for pecuniary losses resulting from the unlawful practices described in paragraph 9 above, in amounts to be determined at trial.

G. Order Safeway to make whole Kerri Lorenz and other females employed as Plant Accounting Clerk II by providing compensation for nonpecuniary losses resulting from the unlawful practices described in paragraph 9 above, in amounts to be determined at trial.

H. Order Safeway to pay punitive damages for its malicious and/or reckless conduct described in paragraph 9 above, in an amount to be determined at trial.

I. Grant a judgment requiring Safeway to pay appropriate back wages in amounts to be determined at trial, and an equal sum as liquidated damages or prejudgment interest in lieu thereof, to employees whose wages were unlawfully withheld as a result of the acts complained of in paragraph 13

above, including but not limited to Kerrie Lorenz and other females employed as Plant Accounting Clerk

II.

- J. Grant such further relief as this Court deems necessary and proper in the public interest.
- K. 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,

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