

2001 WL 34625802 (N.D.Ill.) (Trial Pleading)  
United States District Court, N.D. Illinois.

Diana CHAPMAN, Doris Heibner, Minnie Isom, & Mary J. Spence, Individually and on behalf of Similarly  
Situated Individuals, Plaintiffs,

v.

DAIMLER CHRYSLER CORPORATION, Defendants.

No. 00 C 50250.

May 15, 2001.

Amended Complaint

Judge Phillip G. Reinhard.

Mag. Judge P. Michael Mahoney.

Now Comes the Plaintiffs, Diana Chapman, Doris Heibner, Minnie Isom, and Mary J. Spence, by and through their counsel of record, The Sharp Law Offices, P.C., and pursuant to Rule 15 of the Federal Rules of Civil Procedure, hereby amend plaintiffs' complaint as follows:

*JURISDICTION AND VENUE*

1. This Court has original jurisdiction to hear this Complaint and adjudicate the claims stated herein under 28 U.S.C. §§ 1331, 1343 (a) (4), 42 U.S.C. 2000e-5(f), for actions arising under the Civil Rights Act of 1866, 42 U.S.C. § 1981, the Civil Rights Act of 1964 as amended, ("Title VII"), and the Civil Rights Act of 1991, Pub. L. 102-166, 105 Stat. 1071 (Nov. 21, 1991), 42 U.S.C. § 12117, for actions arising under the Americans with Disabilities Act ("ADA"), the Age Discrimination in Employment Act, 29 U.S.C.A. § 621 et seq. ("ADEA"), to redress and enjoin the employment practices of DaimlerChrysler. All of the plaintiffs have filed timely Title VII administrative charges of discrimination with the U.S. Equal Employment Opportunity Commission, ("EEOC"). Plaintiffs Diana Chapman, Doris Heibner, Minnie Isom, and Mary J. Spence have received Notices of Right to Sue letters from the EEOC.

2. Venue is proper in this District by reason of 28 U.S.C. § 1391 (b) because DaimlerChrysler resides in this district and the actions and omissions giving rise to this cause of action occurred in this district.

*PARTIES*

3. Plaintiff Diana Chapman is an African-American female resident of Belvidere, Illinois. She has been employed by DaimlerChrysler since 1989 as an assembly line worker, and currently works in department 9150.

4. Plaintiff Doris Heibner is a white female resident of Kirkland, Illinois. She was employed by DaimlerChrysler in 1973, and at the time of filing her charge of discrimination with the EEOC, she was 51 years old and worked in the position of fork lift truck driver.

5. Plaintiff Minnie Isom is an African-American female resident of Rockford, Illinois. She was employed by

DaimlerChrysler in 1978 as an assembly line worker, and at the time of filing her charge of discrimination with the EEOC, she occupied the position of toolmaker apprentice.

6. Plaintiff Mary J. Spence is an African-American female resident of Rockford, Illinois. She was employed by DaimlerChrysler in 1980 as an assembly line worker.

#### *DISCRIMINATORY PRACTICES*

7. Plaintiffs and class members have been subjected to a continuous pattern and practice of sex and race discrimination by DaimlerChrysler. DaimlerChrysler's supervisor's and managers have created and condoned a work environment that is hostile to women and African-American employees including the plaintiffs.

8. DaimlerChrysler's supervisors and managers, and employees with the knowledge of management, have made sexually and racially derogatory, demeaning and discriminatory statements to plaintiffs and other class members.

9. DaimlerChrysler has followed a general practice of discriminating against women and African-Americans with regard to promotion, training, and skills qualification. Women and African-Americans, including the plaintiffs, are expressly and impliedly discouraged from seeking higher paying positions and higher responsibility positions, and are maintained in lower paying subordinate positions, and are denied training and opportunities to demonstrate the qualifications necessary to obtain higher paying jobs and higher responsibility positions, and the opportunity to apply for those jobs and positions. The result has been a significantly segregated work force.

10. The discriminatory practices of DaimlerChrysler have affected the plaintiffs and the proposed class members in the following ways, among others:

a. DaimlerChrysler has restricted or excluded women and African-Americans from positions and assignments because of their sex and race and generally assign women and African-Americans to positions and assignments of lower pay, lower responsibility and fewer opportunities for advancement and recognition than positions to which similarly or lesser qualified men or whites were assigned;

b. DaimlerChrysler has kept and keeps women and African-Americans in lower paying jobs by preventing and discouraging them from seeking training and skills, qualification needed to obtain higher responsibility work, and generally has not promoted or permitted women or African-Americans to transfer or otherwise obtain higher responsibility work;

c. DaimlerChrysler has failed to provide women and African-Americans with training and skills qualification opportunities in the same manner and to the same extent as those provided to men and whites;

d. DaimlerChrysler's policies and practices have produced an adverse impact against women and African-American employees in advancement;

e. and other related ways.

#### *CLASS ALLEGATIONS*

11. Plaintiffs bring this action on their own behalf, and on behalf of a class consisting of all women and African-Americans who have been employed by Daimler Chrysler at the Belvedere Assembly Plant in Belvedere, Illinois, at any time during the liability period. Plaintiff Diana Chapman also brings this action on her own behalf, and on behalf of a class consisting of all employees who have a disability as defined by the ("ADA"). Plaintiff Doris Heibner also brings this action on her own

behalf, and on behalf of a class consisting of all employees over the age of 40.

12. At all times during the liability period, there were numerous employees at DaimlerChrysler's Belvedere Assembly Plant, the vast majority of whom would constitute members of the proposed classes. It would be impracticable to bring so many persons before the Court as plaintiffs.

13. There are questions of law and fact common to the members of the classes, including but not limited to:

a. whether DaimlerChrysler discriminated against female employees because of their sex, with regard to promotions, work assignments, transfer, compensation, and training;

b. whether DaimlerChrysler discriminated against African-American employees because of their race, with regard to promotions, work assignments, transfer, compensation, and training;

c. whether DaimlerChrysler discriminated against employees because of their disability, with regard to providing reasonable accommodations thereto;

d. whether DaimlerChrysler discriminated against employees over the age of 40, with regard to promotions, work assignments, transfer, compensation, and training;

e. and in other respects.

14. The claims of the named plaintiffs are typical of the claims of the proposed classes. All of the named plaintiffs have been subjected to the discrimination alleged herein which they need to show on behalf of the classes.

15. The plaintiffs will fairly and adequately protect the interests of the proposed classes. They have no conflict of interest with the members of the proposed classes and they are represented by counsel that is both competent and experienced in employment discrimination litigation.

16. DaimlerChrysler's failure to take prompt and effective action to bring an end to the discrimination complained of herein, and its failure to take effective action to limit the effects thereof, were not based on grounds peculiar to any individual plaintiff or class member, but on grounds generally applicable to all of the members of the proposed classes, making appropriate final monetary relief, in the form of compensatory and punitive damages, with respect to each proposed class as a whole.

17. The questions of law and fact common to the compensatory damages claims of the proposed classes predominate over any questions affecting only individual class members, so that the certification of each proposed class is superior to other available methods for the fair and efficient adjudication of the controversy.

18. The proposed classes may be certified under Rule 23(b)(2) as to the claims for punitive damages, and under Rule 23(b)(3) as to the claims for compensatory damages.

#### *ALLEGATIONS OF THE PLAINTIFFS*

19. Plaintiff Diana Chapman has herself experienced or observed discrimination on the basis of her disability, i.e., diabetes. She has been exposed to a discriminatory hostile work environment because of her disability.

20. Plaintiff Diana Chapman alleges that the defendant DaimlerChrysler Corporation violated the Americans with Disabilities Act in regards to its actions concerning her stated disability.

21. The Defendant failed to accommodate Ms. Chapman's diabetic condition by refusing to allow her to take ten-minute breaks to perform a blood sugar test and administer any needed medication prior to the Defendant's own scheduled breaks.
22. On August 27, 1999, Ms. Chapman requested a break to check her blood sugar levels. She was not given a break and subsequently passed out on the job. She was hospitalized.
23. On August 30, 1999, Ms. Chapman returned to work with a medical slip that indicated that she needed three (3) ten minute breaks each day to check her blood sugar levels. The slip indicated that the checks should be done at 8 a.m., 10 a.m., and 1 p.m.
24. On August 31, 1999, Ms. Chapman was again not given her breaks as prescribed and she went to Defendant's medical department.
25. On September 23, 1999, a notice of work schedule adjustment was posted. The adjustments were to go into effect on September 27, 1999. Department 9150's breaks were to occur from 8:00 to 8:26 a.m., 10:30 to 11:00 a.m., and 1:00 to 1:20 p.m.
26. According to the schedule, at those break times departments 9130, 9150, 9171, 9190, and 3210 all go on break. That would account for a large number of production workers including a number of women all going on break, using a limited number of bathrooms at one time.
27. Ms. Chapman would have to wait in line to use the bathroom in order to check her blood sugar levels because there is a limited number of bathroom stalls, and during a majority of the times, the ten minute break period would have expired to allow her to check her blood sugar level. Ms. Chapman would either be late getting back to the assembly line or would attempt to check her blood sugar levels while working on the assembly line.
28. Ms. Chapman would be reprimanded by her superiors for attempting to check her blood sugar levels while on the assembly line or for returning to the assembly line late.
29. Consequently, this created a hostile or abusive work environment for Ms. Chapman because the Defendant has refused to give her another place to check her blood sugar levels except the common bathroom during defendant's scheduled break periods. Therefore, the Defendant has failed to make an effective and reasonable accommodation for Ms. Chapman's disability in violation of the Americans with Disabilities Act.
30. On January 7, 2000, Ms. Chapman filed a Charge of Discrimination with the U.S. Equal Employment Opportunity Commission reiterating the above allegations of a continuing nature in that the defendant failed to make a reasonable accommodation for her disability in violation of the Americans with Disabilities Act.
31. On October 3, 2000, the U.S. Equal Employment Opportunity Commission issued a determination on the merits of Ms. Chapman's Charge of Discrimination.
32. The Commission determined that the evidence obtained in its investigation established reasonable cause to believe that the defendant discriminated against Ms. Chapman because of her disability in that it failed to provide her with a reasonable accommodation in violation of the Americans with Disabilities Act.
33. Moreover, on April 30, 2001, Ms. Chapman received a notice of right to sue from the U.S. Equal Employment Opportunity Commission in which this cause of action ensues to redress the violation of her federally protected rights.
34. Plaintiff Doris Heibner has herself experienced or observed discrimination on the basis of her sex and age in training, work assignments, promotions and compensation.
35. At the time of filing her first Charge of Discrimination with the EEOC, Ms. Heibner, a white female was 51 years of age.

36. in 1993, Ms. Heibner applied for the Skilled Trade Apprentice Program which would have been a promotion over the fork lift driver position which she occupied. Ms. Heibner was told by a DaimlerChrysler representative that her name would be placed on a list for future openings in the program.

37. However, in August of 1999, DaimlerChrysler selected or hired for this program, but Ms. Heibner was not selected or hired therein, and the defendant either failed or refused to give her an explanation for denying her the position.

38. Moreover, Ms. Heibner alleges that over the years, DaimlerChrysler hired only males into the Skilled Trade Apprentice Program, and that it began a pattern and practice of hiring only younger individuals with more math skills.

39. On February 22, 2000, Ms. Heibner amended her Charge of Discrimination to allege that DaimlerChrysler's conduct towards her was a pattern and practice of sex and age discrimination which constituted class-wide discrimination against other similarly situated individuals.

40. Plaintiff Minnie Isom has herself experienced or observed discrimination on the basis of her sex in training, work assignments, promotions and compensation. She has also been exposed to a sexually hostile work environment

41. Ms. Isom alleges, that DaimlerChrysler discriminated against her on the basis of her sex in promoting her into the Skilled Trade Apprentice Program.

42. In 1992, Ms. Isom took the Skilled Trade Apprenticeship test and on February 2, 1998, six years later, she was hired into the position as a toolmaker apprentice.

43. Ms. Isom attributes the six year delay in being hired as a toolmaker apprentice to the fact that less qualified males, and particularly the children of management and union officials were hired into the position over her and were less qualified than she.

44. Ms. Isom also alleges, that DaimlerChrysler discriminated against her on the basis of her sex in failing to hire her into the union appointed position of benefits representative.

45. On November 11, 1998, Ms. Isom qualified and applied for the position of benefits representative. On November 18, 1998, she interviewed for the position, but on April 20, 1999, the position was given to a less qualified male with less seniority than she.

46. Plaintiff Mary J. Spence has herself experienced or observed discrimination on the basis of her sex in training, work assignments, promotions and compensation. On June 6, 1980, she was hired by DaimlerChrysler as an assembler.

47. in 1993, she took and passed the Skilled Trade Apprenticeship test. She and other female employees were not promoted to the skilled trade position, yet other male employees who passed the test in 1993 have since been promoted to skilled trade positions.

#### PLAINTIFF'S CLAIMS

##### *The Civil Rights Act of 1866, 42 U.S.C. § 1981*

48. Plaintiffs' restate and reallege paragraphs 1-47, inclusive, as though set forth here in full.

49. DaimlerChrysler has discriminated against plaintiffs and all members of the proposed class by denying them the same rights as enjoyed by white employees as respects the making, performance, modification and termination of their employment relationship with DaimlerChrysler and to the enjoyment of all benefits, privileges, terms and conditions of that

relationship, in violation of the Civil Rights Act of 1866, 42 U.S.C. § 1981 as amended.

50. DaimlerChrysler's conduct has been intentional, deliberate, willful and conducted in callous disregard of the rights of plaintiffs and members of the proposed classes.

51. By reason of DaimlerChrysler's discrimination, plaintiffs and members of the proposed classes are entitled to all legal and equitable remedies available under Section 1981, including but not limited to damages for mental anguish and punitive damages.

*Title VII of the Civil Rights Act of 1964. 42 U.S.C. § 2000e*

52. Plaintiffs' restate and reallege paragraphs 1-47, inclusive, as though set forth here in full.

53. DaimlerChrysler has discriminated against plaintiffs and all members of the proposed class with respect to the terms and conditions of employment because of their race and sex in violation of Title VII of the Civil Rights Act of 1964, Title 42 U.S.C. § 2000e-2 as amended by the Civil Rights Act of 1991.

54. DaimlerChrysler's conduct has been intentional, deliberate, willful and conducted in callous disregard of the rights of plaintiffs and members of the proposed class.

55. DaimlerChrysler's policies and practices have produced disparate impact against class members with respect to the terms and conditions of employment.

56. By reason of DaimlerChrysler's discrimination, plaintiffs and members of the proposed class are entitled to all legal and equitable remedies available under Section 2000e.

*Americans with Disabilities Act 42 U.S.C. § 12101*

57. Plaintiffs' restate and reallege paragraphs 1-47, inclusive, as though set forth here in full.

58. DaimlerChrysler has discriminated against plaintiffs and all members of the proposed class by failing to accommodate their disability as required by the Americans with Disabilities Act, 42 U.S.C. § 12117.

59. DaimlerChrysler's conduct has been intentional, deliberate, willful and conducted in callous disregard of the rights of plaintiffs and members of the proposed class.

60. DaimlerChrysler's policies and practices have produced disparate impact against class members with requiring reasonable accommodations for their disability.

61. By reason of DaimlerChrysler's discrimination, plaintiffs and members of the proposed class are entitled to all legal and equitable remedies available under Section 12117(a), including but not limited to damages for mental anguish.

*Age Discrimination in Employment Act, 29 U.S.C.A. § 621 et seq.*

62. Plaintiffs' restate and reallege paragraphs 1-47, inclusive, as though set forth here in full.

63. DaimlerChrysler has discriminated against plaintiffs and all members of the proposed class with regard to employees 40 years of age and over in violation of the Age Discrimination in Employment Act, 29 U.S.C.A. § 621 et seq.

64. DaimlerChrysler's conduct has been intentional, deliberate, willful and conducted in callous disregard of the rights of plaintiffs and members of the proposed class.

65. DaimlerChrysler's policies and practices have produced disparate impact against class members with respect to employees 40 years of age and over.

66. By reason of DaimlerChrysler's discrimination, plaintiffs and members of the proposed class are entitled to all legal and equitable remedies available under Section 12117(a), including liquidated damages.

*PRAYER FOR RELIEF*

WHEREFORE, plaintiffs respectfully pray that the Court:

- a. adjudge, decree and declare the practices of DaimlerChrysler complained of herein to be violative of the rights secured to plaintiffs and members of the proposed class;
- b. issue a permanent prohibitory injunction prohibiting DaimlerChrysler and its officers, agents, employees, and successors from engaging in the practices complained of herein;
- c. issue a permanent mandatory injunction requiring DaimlerChrysler to adopt and implement policies and practices that ensure equal treatment to all women and African Americans employees that reduce the opportunity for supervisory level employees to violate the requirements of Title VII, Americans with Disabilities Act (ADA), and 42 U.S.C. § 1981;
- d. order DaimlerChrysler to provide appropriate job relief to plaintiffs and class members in the form of promotions for persons who should have been in higher level jobs than they are at the time of judgment and any other job relief determined to be appropriate;
- e. enter judgment in favor of plaintiffs and class members against DaimlerChrysler for all damages available under the law, including but not limited to back pay, front pay, and past and future mental anguish, pain and suffering in amounts to be determined at trial;
- f. order DaimlerChrysler to pay punitive damages to plaintiffs and class members in amounts to be determined at trial;
- g. order DaimlerChrysler to pay attorneys' fees, costs and expenses and expert witness fees of plaintiffs and class members associated with this action;
- h. grant such other and further legal and equitable relief as may be found appropriate and as the Court may deem just or equitable; and
- i. retain continuing jurisdiction over this matter until such time as the Court is satisfied that DaimlerChrysler has remedied the practices complained of herein and is determined to be in full compliance with the law.