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Marchwinski v Oliver Tyrone Corp

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25 Fair Empl.Prac.Cas. (BNA) 1729, 20 Empl. Prac. Dec. P 30,093, 1979-2 Trade Cases P 62,872

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Marchwinski v. Oliver Tyrone Corp., 83 F.R.D. 606 (1979)

25 Fair Empl.Prac.Cas. (BNA) 1730, 21 Empl. Prac. Dec. P 30,305...

83 F.R.D. 606

United States District Court, W. D. Pennsylvania.

Eleanor P. MARCHWINSKI and Margaret A. Samson, on behalf of themselves and on behalf of all other persons similarly situated, Plaintiffs,

v.

OLIVER TYRONE CORPORATION, Oliver Realty, Inc., Pittsburgh Buildings Association, on behalf of themselves and Oliver Tyrone Corporation, on behalf of all other persons similarly situated, and Building Service Employees' International Union, AFL-CIO, Pittsburgh Local #29, Defendants.

Civ. A. No. 76-72.

|

Sept. 24, 1979.

Synopsis

Women employed as cleaning personnel brought sex discrimination complaint against union and building owners who employed members of putative plaintiff class. The District Court, Cohill, J., held that: (1) complaint failed to allege antitrust cause of action against building owners on the ground that building owners combined and conspired to boycott women and to keep women in lower paying jobs; (2) suit against union would be certified as class action with class composed of all present and past female union members who had been employed as cleaning personnel under bargaining agreement negotiated by union and who could have filed charges with the Equal Employment Opportunity Commission; and (3) suit against building owners would be certified as class action with class composed of all present and past female union members who were employed as cleaning personnel under bargaining agreement negotiated by union and who had been employed in buildings owned, operated or managed by defendants.

Order accordingly.

West Headnotes (6)

[1] **Conspiracy** 🔑 Labor and employment

91 Conspiracy



91III Civil Liability

91III(C) Civil Rights Conspiracies

91k548 Particular Rights or Privileges; Particular Deprivations

91k557 Labor and employment

(Formerly 91k7.5(2), 91k7.6)

Deprivation of rights created by Title VII cannot be the basis for cause of action under federal civil rights statute which establishes cause of action for person injured by conspiracy to deprive him of equal protection of civil rights or equal privileges and immunities under the laws.  42 U.S.C.A. § 1985(3); Civil Rights Act of 1964, § 701 et seq.,  42 U.S.C.A. § 2000e et seq.

[2] **Civil Rights** 🔑 Purpose and construction in general


78 Civil Rights

78II Employment Practices

78k1102 Constitutional and Statutory Provisions

78k1104 Purpose and construction in general

(Formerly 78k102.1, 78k102, 78k2)

Title VII was enacted specifically to insure equality of employment opportunities by eliminating those practices and devices that discriminate on the basis of race, color, religion, sex, or national origin. Civil Rights Act of 1964, § 701 et seq.,  42 U.S.C.A. § 2000e et seq.

[3] **Commerce** 🔑 Monopolies and Anti-Trust Laws in General

83 Commerce

83II Application to Particular Subjects and Methods of Regulation

83II(C) Monopolies and Trade Regulation

83k62.10 Monopolies and Anti-Trust Laws in General



83k62.10(1) In general

(Formerly 83k62.10, 265k12(1.1))

Purpose of the antitrust laws is to prevent restraint in business and commerce which tend to restrict production, raise prices or otherwise control the market to the detriment of purchasers

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or consumers of goods and services. Sherman Anti-Trust Act, § 1,  15 U.S.C.A. § 1; Clayton Act, § 4,  15 U.S.C.A. § 15.

[1 Cases that cite this headnote](#)

[4] Antitrust and Trade

Regulation  **Complaint**

29T Antitrust and Trade Regulation
29TXVII Antitrust Actions, Proceedings, and Enforcement
29TXVII(B) Actions
29Tk972 Pleading
29Tk972(2) Complaint
29Tk972(3) In general
(Formerly 265k28(6.3))


Complaint filed by women employed as cleaning personnel failed to allege antitrust cause of action against building owners on the ground that building owners combined and conspired to boycott women and to keep women in lower paying jobs, in view of plaintiffs' failure to allege and prove antitrust injury of the type the antitrust laws were intended to prevent. Sherman Anti-Trust Act, § 1,  15 U.S.C.A. § 1; Clayton Act, § 4,  15 U.S.C.A. § 15.

[3 Cases that cite this headnote](#)

[5] Federal Civil Procedure  **Sex discrimination actions**

170A Federal Civil Procedure
170AII Parties
170AII(D) Class Actions
170AII(D)3 Particular Classes Represented
170Ak184 Employees
170Ak184.15 Sex discrimination actions
(Formerly 170Ak184)


Sex discrimination suit brought by two women employed as cleaning personnel against union would be certified as class action with class composed of all present and past female union members who had been employed as cleaning personnel under bargaining agreement negotiated by union and who could have

filed charges with the Equal Employment Opportunity Commission, since number of similarly situated females, from 100 to 600 persons, was sufficient to meet numerosity requirement, the commonality of questions and typicality of claims requirements were met, requirement of adequacy of representation was satisfied, and plaintiffs alleged that defendant union acted or refused to act on grounds generally applicable to the class.  Fed.Rules Civ.Proc. rule 23(a)(4), (b)(2), 28 U.S.C.A.

[1 Cases that cite this headnote](#)

[6] Federal Civil Procedure  **Sex discrimination actions**

170A Federal Civil Procedure
170AII Parties
170AII(D) Class Actions
170AII(D)3 Particular Classes Represented
170Ak184 Employees
170Ak184.15 Sex discrimination actions
(Formerly 170Ak184)

Sex discrimination suit brought by two women employed as cleaning personnel against building owners would be certified as class action with class composed of all present and past female union members who were employed as cleaning personnel under bargaining agreement negotiated by union and who had been employed in buildings owned, operated or managed by defendants, since number of females similarly situated, from 100 to 600 persons, met numerosity requirement, commonality of questions and typicality of claims requirements were met, requirement of adequacy of representation was satisfied, and plaintiffs alleged that defendants acted or refused to act on grounds generally applicable to the class.  Fed.Rules Civ.Proc. rule 23(a)(4), (b)(2), 28 U.S.C.A.

[2 Cases that cite this headnote](#)

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All Citations

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