

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

EQUAL EMPLOYMENT OPPORTUNITY)	
COMMISSION,)	
)	
Plaintiff,)	CIVIL ACTION NO.
)	
v.)	COMPLAINT
)	
CROTHALL SERVICES GROUP, INC.,)	
)	
Defendant.)	
_____)	

NATURE OF THE ACTION

This is an action under Title VII of the Civil Rights Act of 1964, as amended, for injunctive relief to compel compliance with Section 709(c) of Title VII and the Commission's recordkeeping regulations, found at 29 CFR part 1607, which require a user of selection procedures to maintain and have available records or other information which will disclose the impact which its selection procedures have upon employment opportunities of persons by identifiable race, sex, and ethnic group.

JURISDICTION AND VENUE

1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. Sections 451, 1331, 1337, 1343 and 1345. This action is authorized and instituted pursuant to Section 709(c) of Title VII of the Civil Rights Act of 1964, as amended ("Title VII") to enforce recordkeeping regulations promulgated pursuant to Section 709(c) of Title VII.

PARTIES

2. 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 Title VII, and is expressly authorized to bring this action by Section 709(c) of Title VII.

3. At all relevant times, Defendant Crothall Services Group, Inc. (the “Employer”), a Pennsylvania corporation, has continually been doing business in the State of Pennsylvania and the City of Wayne, and has continuously had at least 15 or more employees.

4. 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. Sections 2000e(b), (g), and (h).

STATEMENT OF CLAIMS

5. Defendant has failed, in violation of Section 709(c) of Title VII, 42 U.S.C. Section 2000e-8(c) (“Section 709(c)”), to make and keep such records relevant to the determinations of whether unlawful employment practices are being committed and to make and keep records as prescribed by the Commission by regulations promulgated pursuant to Section 709(c) of Title VII and found at 29 CFR part 1607.

6. Defendant Employer is an employer subject to the provisions of Title VII and has more than 100 employees.

7. Defendant Employer bases hiring decisions for certain positions on criminal background checks and assessments of an applicant’s criminal history (hereinafter “criminal history assessments”).

8. Defendant’s use of criminal history assessments constitutes the use of a test or selection procedure, as defined by 29 CFR part 1607, Section 2C and part 1607, Section 16Q, and therefore, Defendant Employer is a user of tests or selection procedures as defined by 29 CFR part 1607.

9. Section 709(c) of Title VII and 29 CFR part 1607, Section 4 require a user of tests or other selection procedures to make, keep, and have available for inspection records or other information which will disclose the impact which its tests or other selection procedures have upon employment opportunities of persons identifiable by race, sex, or ethnic group.

10. Section 709(c) of Title VII and 29 CFR part 1607, Section 4 require a user of tests or other selection procedures to make, keep, and have available for inspection records or other information which will disclose the impact which its tests or other selection procedures have upon employment opportunities of black persons, Hispanic persons, and males.

11. On September 8, 2010, EEOC received a Commissioner's Charge filed by EEOC Commissioner Chai R. Feldblum alleging a reason to believe that Defendant Employer's use of criminal history assessments has an unlawful disparate impact on black, Hispanic, and male applicants and employees and, therefore, violates Title VII.

12. In 2013, EEOC filed a subpoena enforcement action in the United States District Court for the Eastern District of Pennsylvania (*EEOC v. Crothall Services Group*, Case No. 2:13-mc-00027-AB). EEOC's subpoena, issued in connection with the above referenced Commissioner's Charge, sought from Defendant Employer records which disclose the impact which Defendant's criminal history assessments have upon employment opportunities of persons by identifiable race, sex, and ethnic origin.

13. Arising out of the Commission's investigation of the Commissioner's Charge, and in connection with the filing of EEOC's subpoena enforcement action, it was discovered that Defendant Employer does not make or keep records or other information which will disclose the impact which its criminal history assessments have upon employment opportunities of persons identifiable by race, sex, or ethnic group, in compliance with Section 709(c) of Title VII and 29 CFR part 1607, Section 4.

14. More specifically, Defendant Employer does not make or keep records: (1) which will disclose persons by identifiable race, sex, and ethnic group who are subjected to Defendant Employer's criminal history assessments; (2) which will disclose the employment decisions made by Defendant Employer based on the criminal history assessments of persons by identifiable race, sex, and ethnic group; and (3) which are otherwise necessary to disclose the impact which Defendant Employer's criminal history assessments have upon employment opportunities of persons by identifiable race, sex, and ethnic group.

15. Defendant Employer continues to fail to make or keep the records described above in Paragraphs 13 and 14 and, therefore, is not complying with Section 709(c) of Title VII and 29 CFR part 1607.

PRAYER FOR RELIEF

Wherefore, the Commission respectfully requests that this Court compel Defendant Employer to fully comply with Section 709(c) of Title VII and 29 CFR part 1607, and to issue the following injunctive relief.

A. Order Defendant to make and keep records which will disclose the impact which Defendant's criminal history assessments have upon employment opportunities of persons by identifiable race, sex, and ethnic group, as set forth in Section 709(c) of Title VII and 29 CFR 1607, Section 4.

B. Order Defendant to make and keep, in accordance with Section 709(c) of Title VII and 29 CFR part 1607, records: (1) which will disclose persons by identifiable race, sex, and ethnic group who are subjected to Defendant Employer's criminal history assessments; (2) which will disclose the employment decisions made by Defendant Employer based on the criminal history assessments of persons by identifiable race, sex, and ethnic group; and (3) which are otherwise necessary to disclose the impact which Defendant Employer's criminal history

assessments have upon employment opportunities of persons by identifiable race, sex, and ethnic group.

- C. Grant further relief as the Court deems necessary and proper in the public interest.
- D. Award the Commission its costs of this action.


Respectfully submitted,


U.S. EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION
Washington, D.C.

P. DAVID LOPEZ
General Counsel

JAMES L. LEE
Deputy General Counsel

GWENDOLYN Y. REAMS
Associate General Counsel


DEBRA LAWRENCE
Regional Attorney, Philadelphia District Office


KATE NORTHRUP
Supervisory Trial Attorney, Baltimore Field Office
kate.northrup@eeoc.gov

U.S. EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION
Baltimore Field Office
10 S. Howard St., 3rd Floor
Baltimore, MD 21201
Tel. (410) 209-2722


MELANIE M. PETERSON
Senior Trial Attorney, Philadelphia District Office
melanie.peterson@eeoc.gov

U.S. EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION
Philadelphia District Office

801 Market Street, Suite 1300
Philadelphia, PA 19107-3127
Tel. (215) 440-2689

A handwritten signature in blue ink that reads "Melanie M. Petersen for Jessi Isenhart". The signature is written over the printed name "JESSI ISENHART".

JESSI ISENHART
Trial Attorney, Cleveland Field Office
jessi.isenhart@eeoc.gov

U.S. EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION
Cleveland Field Office
Anthony J. Celebrezze Federal Building
1240 E. 9th Street, Suite 3001
Cleveland, OH 44199
Tel. (216) 522-7676