

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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GENEVIEVE SUAREZ, individually and on behalf
of all others similarly situated,

Plaintiff,

CLASS ACTION COMPLAINT

vs.

JURY TRIAL DEMANDED

AMAZON.COM, INC., AMAZON.COM SALES,
INC., AMAZON.COM SERVICES, LLC,

Defendants.
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I. INTRODUCTION

1. Plaintiff, Genevieve Suarez, individually and on behalf of all others similarly situated, alleges that Defendants (collectively “Amazon”) violated her rights under the New York State Human Rights Law (“NYSHRL”), N.Y. Executive Law § 296(15).

II. SUMMARY OF THE CLAIMS

2. This case challenges the flawed, overbroad and discriminatory criminal conviction screening policies and practices used by Amazon to deny employment to otherwise qualified job applicants and hires, like Plaintiff, throughout New York State.

3. As reflected by the NYSHRL, New York State understands that the ability to find and maintain employment is an essential aspect of the rehabilitation process for residents with criminal histories. Employment reduces recidivism and promotes the successful reintegration of criminal offenders into society.

4. To that end, New York State prohibits any employer from denying employment to an individual with a criminal conviction unless the employer first performs a thorough and individualized analysis of specific “Article 23-A” factors and properly determines, based on that

analysis, that the individual poses an unreasonable risk or was convicted of a crime that is directly related to the ability to perform the job sought.

5. Amazon’s criminal history policies and practices do not comply with New York law.

6. Amazon has instituted a flawed process for evaluating applicants’ criminal histories that does not carefully weigh the Article 23-A factors as legally required, including upon information and belief, by using categorical bans on wide swaths of convictions before any individualized article 23-A analysis, and by failing to solicit relevant information from applicants before performing its analysis as required under the law.

7. Plaintiff brings this case on her own behalf, and on behalf of a proposed class of all others similarly situated, against Amazon for violating their rights under the NYSHRL, N.Y. Exec. Law § 296(15), and article 23-A of the New York State Correction Law.

III. STATUTORY BACKGROUND

8. “The public policy of [New York] state . . . [is] to encourage the licensure and employment of persons previously convicted of one or more criminal offenses.” N.Y. Corr. Law § 753(1)(a).

9. When the Correction Law was enacted in 1976, both the Legislature and the Governor recognized the need to “reverse the long history of employment discrimination against” people with criminal records by “eliminating many of the obstacles to employment.” Governor’s Bill Jacket, 1976, Ch. 931, Memorandum of Senator Ralph J. Marino & Assemblyman Stanley Fink in Support of S. 4222-C and A. 5393-C.

10. Overbroad and/or arbitrary bans on hiring based on conviction histories undermine and violate the State’s clearly articulated policy.

11. Further, such bans also result in discrimination on the basis of race, ethnicity, color and national origin because of racial and ethnic disparities in the criminal justice system.

12. New York State forbids employers from denying employment simply because a job applicant has a criminal record. Instead, employers must engage in an individualized evaluation of the factors set forth in Article 23-A of the Corrections Law.

13. Article 23-A specifically prohibits an employer from denying employment to any person because of a criminal conviction unless the employer can meet its burden of demonstrating one of two exceptions:

- (1) there is a direct relationship between one or more of the previous criminal offenses and the specific . . . employment sought or held by the individual; or
- (2) the issuance or continuation of . . . the employment would involve an unreasonable risk to property or to the safety or welfare of specific individuals or the general public.

N.Y. Correct. Law § 752.

14. Article 23-A further requires that before taking adverse action based on a prior criminal conviction, the employer must first consider all of the following factors:

- (a) The public policy of this state, as expressed in this act, to encourage the licensure and employment of persons previously convicted of one or more criminal offenses.
- (b) The specific duties and responsibilities necessarily related to the license or employment sought or held by the person.
- (c) The bearing, if any, the criminal offense or offenses for which the person was previously convicted will have on his fitness or ability to perform one or more such duties or responsibilities.
- (d) The time which has elapsed since the occurrence of the criminal offense or offenses.
- (e) The age of the person at the time of occurrence of the criminal offense or offenses.

- (f) The seriousness of the offense or offenses.
- (g) Any information produced by the person, or produced on his behalf, in regard to his rehabilitation and good conduct.
- (h) The legitimate interest of the public agency or private employer in protecting property, and the safety and welfare of specific individuals or the general public.

N.Y. Correct. Law § 753.

IV. PARTIES

15. Plaintiff and the proposed class members she seeks to represent each is a “person” within the meaning of the NYSHRL.

16. Plaintiff and the proposed class members she seeks to represent were each denied employment by Defendant because of their criminal convictions in the absence of an individualized and thorough analysis of the Article 23-A factors.

17. Defendant Amazon.com Services LLC has a principal place of business at 410 Terry Avenue North, Seattle, Washington 98109-5210, and is licensed to conduct business as a corporation within New York State, and maintains multiple business facilities within New York State, including a warehouse and distribution center in Newburgh, New York.

18. Defendant Amazon.com Sales, Inc. is the sole member of Amazon.com Services LLC, and is a Delaware corporation with its principal place of business in Seattle, Washington.

19. Defendant Amazon.com, Inc., is the sole owner of Amazon.com Sales, Inc., and is also a Delaware corporation with its principal place of business at 410 Terry Avenue North, Seattle, Washington 98109-5210.

III. JURISDICTION

20. This Court has jurisdiction over Plaintiffs' class claims pursuant to 28 U.S.C. § 1332(d) because this is a class action, Ms. Suarez and, upon information and belief, at least one class member, is a citizen of a state different from any Defendant, and the amount in controversy of the class claims exceeds \$5,000,000, exclusive of interest and costs.

20A. This Court has jurisdiction over Ms. Suarez's individual claims pursuant to 28 U.S.C. § 1332(a) because Ms. Suarez is a citizen of a state different from each Defendant, and the amount in controversy of her individual claims exceeds \$75,000, exclusive of interest and costs.

21. Venue is proper in this District because a substantial part of the events and omissions giving rise to the claims alleged herein occurred in Newburgh, New York, in Orange County, within this judicial district.

IV. PLAINTIFF SUAREZ'S FACTUAL AVERMENTS

22. In or about September and October 2021, Plaintiff applied for several open full-time positions with Amazon at its Newburgh, New York distribution center, including Loader, Helper, and Driver.

23. Plaintiff was qualified for each position for which she applied.

24. Amazon rejected Plaintiff for each position for which she applied based on a background check, specifically because the background check revealed a prior criminal conviction.

25. In 2017, Plaintiff was convicted for Welfare Fraud in the 5th Degree, a misdemeanor. That charge had been brought in June 2015, more than six years before Plaintiff's employment applications were submitted to Amazon.

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