Victory After The Empire Falls:
Black Aluminum Workers and Two Decades of Struggle for Promotions

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Introducing Two Decades of Struggle:

On June 13th, 1984, *The Daily Review* of Morgan City, Louisiana featured a column titled "Suit Result Stands."[1] It stated that the United States Supreme Court refused to review an eighteen-year long legal struggle of a Kaiser Aluminum and Chemical Corporation worker who successfully sued the company over racial discrimination.[2] A black laborer by the name of Harris A. Parson began legal case against Kaiser in 1966, after the company failed to promote him to the position of foreman.[3] He claimed that the company's decision to deny him promotion was racially motivated. After a 1980 trial, the U.S. District Court of New Orleans awarded Parson more than $113,000 in back pay and interest.[4] The 5th U.S. Circuit Court of Appeals upheld the decision in March of 1984.[5]

Harris Parson was a well-known union activist in Kaiser's Chalmette plant. Until 1968, he served as a steward for Local 225.[6] After Kaiser entered a collective bargaining agreement with the International Union of District 50 in 1969, he became the Recording Secretary for District 50 and later the Vice President of the union until 1972.[7] During Parson's tenure at the Chalmette plant, he held several positions in low level jobs and used his union leadership skills to advocate for job promotions among black employees. Despite Parson's clear record of leadership, he was no prominent national or statewide figure. This essay allows for a reinterpretation of the civil rights movement by reaching beyond dominant narratives of protests, demonstrations or major political figures in order to highlight of how everyday workers used Title VII of the 1964 Civil Rights Act which prohibited employers, unions, and employment agencies from discriminating in hiring, firing, and job promotion because of race, religion, national origin, and sex.[8]

To date, scholars of Louisiana have not approached the state's black freedom movement of the 1950s and beyond through a labor and legal lens.[9] The forthcoming pages, navigates from the shop floor

[1] "Suit Result Stands," *The Daily Review*, June 13, 1984.
[2] Ibid.
[3] Ibid.
[4] Ibid.
[5] The U.S. Supreme Court's decision not to review the case finalized the previous ruling and back pay award, Ibid.
[6] Testimony of Harris A. Parson. United States District Court Eastern District For Louisiana. March 27, 1973. Parson v. Kaiser Records 1951-1985, Amistad Research Center. New Orleans, La. Box 15 Folder 1 (hereafter cited as "Parson Records, ARC. B15 F1").
[7] Ibid.
[8] "Equal Employment Part of Rights Law Discussed," *Times Picayune*, October 18, 1964.
[9] For books, see Liva Baker, *The Second Battle of New Orleans: The Hundred-year Struggle to Integrate the Schools*. 1st ed. New York: Harper Collins Publishers, 1996); Adam Fairclough, *Race & Democracy: The Civil rights Struggle in Louisiana, 1915-1972*. (Athens: University of Georgia Press. 1995); Shannon L. Frystak, *Our Minds on Freedom: Women and the Struggle for Black Equality in Louisiana, 1924-1967*. (Baton Rouge: Louisiana State University Press, 2009); Kent B. Germany, *New Orleans After the Promises: Poverty, Citizenship, and the Search for the Great Society*. (Athens: University of Georgia Press, 2007); Rachel Lorraine Emanuel and Alexander P. Tureaud, *A More Noble Cause: A.P. Tureaud and the Struggle for Civil Rights in Louisiana: A Personal Biography*. (Baton Rouge: Louisiana State University Press, 2011); Kim Lacy Rogers, *Righteous Lives: Narratives of the New Orleans Civil Rights Movement*. (New York: New York University Press, 1993); Lance E. Hill, *The Deacons for Defense: Armed Resistance and the Civil Rights Movement*. (Chapel Hill: University of North Carolina Press, 2004);

to the court room in order to argue that black workers were essential to the law's effectiveness as their complaints shaped how the 1964 Civil Rights Act would desegregate workplaces nationwide. To complement their efforts, this essay how vividly explains how black law firms seized on the ambiguities of the law to favor black workers. In sum, the *Parson v. Kaiser* story asserts that by the 1980s, black workers were at odds with two forces of with which they could not control, deindustrialization and discrimination. Ironically, as courts gained a stronger definition of discrimination, jobs began to vanish for working class blacks in major industries. The African Americans of Kaiser's Chalmette plant did not escape layoffs, but they were an exception in that they left the Kaiser plant with a substantial amount of back pay that many workers black or white did not receive when layoffs occurred in the aluminum and steel industry.

Black Workers Rise During The Height of Kaiser's Growth

The *Parson v. Kaiser* story begins with the Kaiser Aluminum and Chemical company's expansion to Louisiana.[10] The company's Chalmette plant was the backbone of the St. Bernard parish's economy for nearly thirty years since its establishment in 1951. United States representative F. Edward Herbert called it one of the biggest booms to the economy in the state's history.[11] For three decades, the plant churned out 275,000 metric tons of metal a year and the plant's annual payroll rose to a high of $95

Greta De Jong, *A Different Day: African American Struggles for Justice in Rural Louisiana, 1900-1970*. (Chapel Hill: The University of North Carolina Press, 2002). For articles, see Mark Cortez, "The Faculty Integration of New Orleans Public Schools, 1972." *Louisiana History: The Journal of the Louisiana Historical Association* 37, no. 4 (1996): 405-34; Evan Faulkenbury, ""Monroe Is Hell": Voter Purges, Registration Drives, and the Civil Rights Movement in Ouachita Parish, Louisiana." *Louisiana History: The Journal of the Louisiana Historical Association* 59, no. 1 (2018): 40-66; Rickey Hill, (2011). The Bogalusa Movement: Self-Defense and Black Power in the Civil Rights Struggle. *The Black Scholar, 41*(3), 43-54; Juliette Landphair, "Sewerage, Sidewalks, and Schools: The New Orleans Ninth Ward and Public School Desegregation." *Louisiana History: The Journal of the Louisiana Historical Association* 40, no. 1 (1999): 35-62; Lee Sartain.""Local Leadership:" The Role of Women in the Louisiana Branches of the National Association for the Advancement of Colored People, 1920 - 1939." *Louisiana History: The Journal of the Louisiana Historical Association* 46, no. 3 (2005): 311-31; Nghana Lewis, "After Brown: Poverty, Politics, and Performance in New Orleans' Public Schools." *Louisiana History: The Journal of the Louisiana Historical Association*48, no. 2 (2007): 157-91; Diane T. Manning, and Perry Rogers, "Desegregation of the New Orleans Parochial Schools." *The Journal of Negro Education* 71, no. 1/2 (2002): 31-42; Christopher B. Strain, ""We Walked like Men": The Deacons for Defense and Justice." *Louisiana History: The Journal of the Louisiana Historical Association* 38, no. 1 (1997): 43-62; Joseph T. Taylor, "Desegregation in Louisiana--1956." *The Journal of Negro Education* 25, no. 3 (1956): 262-72; Joseph T. Taylor, "Desegregation in Louisiana--One Year After." *The Journal of Negro Education* 24, no. 3 (1955): 258-74; Simon Wendt, ""Urge People Not to Carry Guns": Armed Self-Defense in the Louisiana Civil Rights Movement and the Radicalization of the Congress of Racial Equality." *Louisiana History: The Journal of the Louisiana Historical Association* 45, no. 3 (2004): 261-86; Alan Wieder,"The New Orleans School Crisis of 1960: Causes and Consequences." *Phylon (1960-)* 48, no. 2 (1987): 122-31; Alan Wider,. "One Who Stayed: Margaret Conner and the New Orleans School Crisis." *Louisiana History: The Journal of the Louisiana Historical Association* 26, no. 2 (1985): 194-201.

[10] For more information on the Henry J. Kaiser and his company's industrial endeavors, see Mark S. Foster, *Henry J. Kaiser: Builder in the Modern American West*. (Austin: University of Texas Press, 1989); Albert P. Heiner, *Henry J. Kaiser, Western Colossus: An Insider's View*. (San Francisco: Halo Books, 1991); Mark S. Foster, "Giant of the West: Henry J. Kaiser and Regional Industrialization, 1930-1950." *The Business History Review* 59, no. 1 (1985): 1-23; Mark S. Foster "Prosperity's Prophet: Henry J. Kaiser and the Consumer/Suburban Culture: 1930-1950." *The Western Historical Quarterly* 17, no. 2 (1986): 165-84.

[11] "Kaiser Aluminum Plant: The Times-Picayune Covers 175 years of New Orleans History," *Times Picayune*, February 1, 2012.

million dollars annually.[12] Work in the plant's pot room was hot and grueling, but compensation was better than most other labor-intensive jobs in the New Orleans area. While many blue-collar workers were making $5 an hour, Kaiser's employees were pulling in almost three times as much.[13]

Of all industrial endeavors, both domestically and internationally, Kaiser's Chalmette plant was among the world's largest plants for aluminum reduction.[14] The Chalmette plant was Kaiser's second endeavor in the state with its first in Baton Rouge and third in Grammercy. The *Lake Charles American Press* cited it as a leader in the state's industrial image.[15] By 1964, Kaiser's presence in the state would continue to grow as an industrial power as the legislature enacted a new law that provided a ten-year tax exemption from the Commerce and Industry Board.[16] In the midst of Kaiser's growth, black workers in the Chalmette plant, under leadership of Harris A. Parson, began to protest for better working conditions. At the time, Kaiser employed roughly 2,700 employees and nearly 400 of them were African American. Since 1951, the company restricted its black employees to stoop labor jobs and sought to keep them out of supervisory positions.

By the mid 1960s, Kaiser's African American employees began to protest the rigidly segregated facilities in the plant and discriminatory working practices. Black workers solicited help by placing ads in local newspapers and complaining to the National Association for the Advancement of Colored People (NAACP) and the Urban League of the greater New Orleans area.[17] Workers cited knowledge of Ku Klux Klan activity in the Chalmette plant and KKK markings on walls and equipment by employees and foremen.[18] In June of 1966, more than two hundred African American employees signed a petition protesting the dual system facilities and asked that segregation be eliminated.[19] However, black laborers, with the support of grassroots organizations, were unsuccessful as no actual change occurred. During the

[12] Ibid.
[13] Ibid.
[14] By 1960, Kaiser sought ventures in Australia and New Zealand. Two years after, the Oakland, California based company created the Kaiser Aluminum and McKechnie Company in the Republic of South Africa and Kaiser Aluminum Werke in West Germany. The quest to capture new markets was a part of a global battle in which Kaiser competed with other leading producers of metal such as the Aluminum Company of America (Alcoa) and Reynolds Metals Company. In December of 1962, the *New York Times* cited Kaiser as having its biggest year since its founding in 1946. After selling ten million pounds of metal in one year alone, Kaiser planned to complete a six-million-dollar program to expand its facilities in Newark, Ohio, Chalmette, Louisiana, and Bay Minette, Alabama by 1964. "Kaiser, British Concern to Build Australasian Aluminum Project," *New York Times*, November 25, 1960; "Kaiser Aluminum Enters Venture in South Africa," *New York Times*, August 02, 1962; "Kaiser Aluminum Plans New Plant in Germany," *New York Times*, December 05, 1962; "Kaiser, British Concern to Build Australasian Aluminum Project," *New York Times*, November 25, 1960; "Kaiser Aluminum Has Biggest Year," *New York Times*, December 27, 1962; "Kaiser Aluminum Planning $6 Million Expansion in '64," *New York Times*, June 14, 1964.
[15] "State's Industrial Image," *Lake Charles American Press*, August 08, 1964.
[16] "119.8 Million Tax Exemptions OK'd,' *The Daily Advertiser*, August 16, 1964.
[17] "Finding Of Facts With Respect To Issue (3)." Harris A. Parson and Arcell Williams v. Kaiser Aluminum & Chemical Corporation, and Local 225, Aluminum Workers International Union, Chalmette, Louisiana. Civ. A. No. 67-1257. United States District Court, E. D. Louisiana. August 28, 1980.
[18] Equal Employment Opportunity Records – Washington, D. C., Case No. 6-7-6429. Part 1: Parson vs. Kaiser Corporation and Local 225, AWU. Parson Records, ARC. B5 F9
[19] Ibid.

period of protest, Kaiser's African American workers, like many minority workers around the nation, turned to the law to gain workplace equality. However, justice through Louisiana's court system would later prove to be lengthy and exhaustive.

1966 EEOC Compliant/Investigation of Kaiser's Chalmette Plant

According to the *Times Picayune*, Harris A. Parson filed a complaint with the Equal Employment Opportunities Commission (EEOC) in 1966 under Title VII of the 1964 Civil Rights Act.[20] In February of the same year, the Kaiser company signed a new three-year contract with the Local 225, Aluminum Workers International Union, AFL-CIO.[21] The renewed pact affected some 2,200 workers at the Chalmette plant.[22] However, the new union contract had relatively no new benefits for its African American members like Harris Parson. By July of 1966, he and Arcell Williams filed a charge with the Equal Employment Opportunity Commission (EEOC) claiming that Kaiser discriminated against them on the basis of his race. Kaiser hired Parson as a laborer in the services department in 1953.[23] The following year, he became a porter in the building services department. In 1960, he transferred to the metal products department as a "spare." From 1961 to 1963, Parson worked at several non-supervisory jobs in the furnace area of the Metal Products Department. In March of 1963, he received appointment as a furnace operator which was the top-rated supervisory job in the metal products department.[24] In June of 1966, Parson requested that he be considered for the position of temporary foreman as the first African American in his department to do.[25] Shortly after Kaiser denied his request, he filed a complaint with the EEOC. Parson claimed that the company failed to promote him to the position of foreman or temporary foreman solely because he was black.[26] He argued that his previous work qualifications and seniority suited him for promotion.

When the EEOC investigated the case, Kaiser's superintendent of Industrial Relations denied that Parson's lack of promotion was due to race and that seniority had nothing to do with the selection of an

[20] The EEOC did not have the power to enforce the law alone. The agency's main task was to investigate complaints and attempt to mediate or negotiate terms between workers and companies. For Parson and other African American employees, the EEOC investigation of 1966 would be the first legal step in attempting to correct the racial bias that existed in Kaiser's Chalmette plant. "Anti-Bias Unit Claims Success: Only 25 Cases Taken to Court, Clasen Says," *Times Picayune*, January 8, 1967.
[21] "Union Signs New Contract With Kaiser Aluminum," *Hattiesburg American*, February 12, 1966.
[22] "Kaiser and Union Ink 3-Year Pact," *Town Talk*, February 12, 1966.
[23] "Parson's Individual Claim," Harris A. Parson, v. Kaiser Aluminum & Chemical Corp., and Local 13000, United Steelworkers of America. U.S. Court of Appeals, Fifth Circuit. July 10, 1978.
[24] "Finding Of Facts With Respect To Issues (1) and (2)," Harris A. Parson and Arcell Williams v. Kaiser Aluminum & Chemical Corporation, and Local 225, Aluminum Workers International Union, Chalmette, Louisiana. U. S. District Court, E. D. Louisiana. August 28, 1980.
[25] Ibid.
[26] Equal Employment Opportunity Records – Washington, D. C., Case No. 6-7-6429. Part 1: Parson vs. Kaiser Corporation and Local 225, AWU. Parson Records, ARC. B5 F9

applicant to any level of the foreman position.[27] He stated that there was a time when African Americans could not work in many departments, however, that condition no longer existed as African Americans could bid for promotion into any job within the production department.[28] According to Kaiser's job selection policy, foreman and foreman trainee selections came from recommendations of workers already in the department and two labor tests. Workers petitioning for promotion had to acquire a passing score of at least 15 on the Wonderlic test and a minimum of 70 of the How To Supervise assessment.[29] Of the two tests, the Wonderlic test was among the most biased tools major industries used to undermine minority worker attempts for job promotions across the nation. The test asked workers random, unrelated job questions such as: "What does RVSP mean?"[30]

After assessing Parson's complaint and comments from Kaiser's superintendent of Industrial Relations, EEOC officials still found a lack of clear-cut understanding in the selection of an applicant for promotion to foreman. One of the general foremen in the production department stated that an applicant must express his interest in becoming a foreman before consideration. Another stated that an employee is asked if he is interested in becoming a foreman. In addition, the EEOC found that Kaiser's superintendent of Industrial Relations had not always been involved in supervising procedures in the selection of applicants. To further complicate the EEOC's investigation of Parson's complaint, a white employee received promotion to permanent foreman without the recommendation of a worker already in the department.[31]

The EEOC saw less clarity in the selection process for the position of temporary foreman. The Superintendent of Industrial Relations stated that a temporary foreman did not have to pass any qualifying tests.[32] The only other criteria then would be a recommendation from a current foreman and suitable work records. At the time of Parson's complaint, Kaiser promoted a white employee to a temporary foreman position who had less seniority and qualifications than Parson.[33] The EEOC concluded that the practice of requiring a recommendation from a foreman already working in the department was a biased strategy used to deny African Americans an opportunity for promotion.[34] Overall, the Kaiser company established

[27] Ibid.
[28] Ibid.
[29] Ibid.
[30] Richard B. Sobol, interviewed by Joseph Mosnier at the Sobols' home, New Orleans, Louisiana, May 26, 2011. Interview completed by the Southern Oral History Program under contract to the Smithsonian Institution's National Museum of African American History and Culture and the Library of Congress, 2011. (hereafter cited as "Sobol, Richard. Interview by Joseph Mosnier. Southern Oral History Program. New Orleans, Louisiana, May 26, 2011.")
[31] Equal Employment Opportunity Records – Washington, D. C., Case No. 6-7-6429. Part 1: Parson vs. Kaiser Corporation and Local 225, AWU. Parson Records, ARC. B5 F9
[32] Ibid.
[33] Ibid, Kaiser hired the white employee, Walter R. Gates, on July 24, 1959 as furnace operator. He took the test for that occupation on May 27, 1966 and passed with a score of 80. While Gates' score on his initial occupation test was sufficient, his initial hiring date at the plant and work experience did not measure up to that of Parson.
[34] Ibid.

a large number of requirements that African American applicants and workers could not meet despite experience or test scores. Company records show that the Wonderlic test and other assessments eliminated African Americans who aspired to better paying jobs who would otherwise be qualified due to the extent to which tests measured verbal skills and experience. EEOC official stated that testing in the Chalmette plant served to deny African Americans who have long service records and demonstrated loyalty in preference for white employees who proved to have a better educational background. From 1959 to 1968, Kaiser required applicants to score proficiently on the Wonderlic test and How To Supervise assessment in order to petition for a craft position. Kaiser stopped using the tests after a 1967 study indicated that the test was not an adequate way to measure a worker's ability to operate machinery.[35]After Kaiser abolished the tests, the company used what they called "structured interviews" to examine applicants orally on much of the same content of the two tests stated above. Until 1970, a high school diploma was a prerequisite for entry into several craft jobs.[36]

In the investigation of other African American employee complaints, the EEOC found that racial segregation existed at the time the agency received complaints. Both management and Local 225 admitted that the company removed all "blacks only" and "whites only" signs within the plant in 1964, but segregated locker rooms, lunch rooms, and drinking fountains were still present in Kaiser's Chalmette plant at the time Parson and Williams filed complaints.[37] Representatives from Kaiser's management department and Local 225 stated that they were reluctant to desegregate the plant because of the racial atmosphere of the community in which the plant was located and communities in which most employees lived. Management contended that the segregated facilities remained as a result of an agreement made from a committee of employees which included four African Americans.[38] After an on-site visit to Kaiser's Chalmette plant, the EEOC confirmed that the statements of Parson as true. Lunch rooms, shower rooms, locker rooms and other spaces within the facility all had dividing walls to designate which areas African Americans and whites could use.[39] Drinking fountains were electric coolers from which whites drank and an auxiliary unites fed by pipes from the parent fountain in which African Americans drank. Kaiser's Chalmette planted housed shower and locker rooms in two buildings near the main gate. In the case of lunchrooms, African Americans ate downstairs and whites ate upstairs. The African American sections of the facility were small and poorly lighted. The EEOC poster was only found on one bulletin board throughout the plant. This was on a board used by visitors to the plant.

[35] "Entry Into Craft Positions," Harris A. Parson v. Kaiser Aluminum & Chemical Corp., and Local 13000, United Steelworkers of America. U. S. Court of Appeals, Fifth Circuit. July 10, 1978.
[36] Ibid.
[37] Equal Employment Opportunity Records – Washington, D. C., Case No. 6-7-6429. Part 1: Parson vs. Kaiser Corporation and Local 225, WU. Parson Records, ARC. B5 F9
[38] Ibid.
[39] Ibid.

Both the Kaiser company and Local 225 blamed each other for the present conditions of the plant. The union stated that its lack of affirmative action stemmed from the fact that no complaints were on file from workers.[40] Kaiser's management claimed that no action was taken because complaints cannot be acted upon without union initiation and involvement. The EEOC said that both management and union officials seemed satisfied with the status quo. The EEOC concluded that segregated facilities and discrimination in employment practices would not be eliminated until the Kaiser company and Local 225 actively worked together to improve the situation. The union insisted that all employees be assigned locker space. Since race dictated locker assignments, if there were no lockers in the African American space then white applicants would be hired and black applicants would be denied. The EEOC argued that locker assignments held the key to explaining racial disparities of employment opportunities and facilities within the plant.[41] The EEOC found reasonable cause to believe that Kaiser and Local 225 engaged in discriminatory practices and, after attempting a cure by arbitration, issued Parson a right to sue notice in August of 1967.[42] The lawsuit charged that the union, which represented employees at the plant, acquiesced in alleged discrimination. The lawsuit also claimed that the union failed to accord African American workers with the same representation as their white counterparts.

Trouble In Bogolusa: Richard Sobol and Nils Douglas Join The Title VII Struggle

Before Harris Parson could take his discrimination complaint to trial, the district court of Louisiana would hear from the African American employees of the Crown Zellerbach plant in Bogalusa. Robert Hicks, a well-known civil rights figure in the eastern Louisiana town, worked in the corrugator department of Crown's cardboard box plant.[43] Hicks filed his complaint with the EEOC in 1966 after the plant used tests to reject him four times as he attempted to gain promotion.[44] The EEOC investigation of the Crown plant alleged racial discrimination in seniority, promotion and bias psychological testing. In the Fall of 1963, Crown management began requiring personnel testing for job applicants.[45] A year later,

[40] Equal Employment Opportunity Records – Washington, D. C., Case No. 6-7-6429. Part 1: Parson vs. Kaiser Corporation and Local 225, WU. Parson Records, ARC. B5 F9
[41] Ibid.
[42] Ibid.
[43] "Crown ZellerBach Charged With Racial Discrimination." Lawyers Constitutional Defense Committee Report. EE-LA-0119-0001. July 25, 1967. Civil Rights Division Archival Collection. *Papers of Owen Fiss*. Civil Rights Litigation Clearinghouse (Digital Archives), University of Michigan Law School. For more on Robert Hicks and CORE activism in Bogalusa, see Christopher B. Strain, ""We Walked like Men": The Deacons for Defense and Justice." *Louisiana History: The Journal of the Louisiana Historical Association* 38, no. 1 (1997): 43-62.; Lance E. Hill, *The Deacons for Defense: Armed Resistance and the Civil Rights Movement*.(Chapel Hill: University of North Carolina Press, 2004); Rickey Hill, "The Bogalusa Movement: Self-Defense and Black Power in the Civil Rights Struggle." *The Black Scholar, 41*(3), 43-54 (2011).
[44] "Chronology of Events: Employment Discrimination at Crown Zellerbach, Bogolusa, Louisiana." EE-LA-0119-0002 Bob Murphy. May 31, 1967. Civil Rights Division Archival Collection. *Papers of Owen Fiss*. Civil Rights Litigation Clearinghouse (Digital Archives), University of Michigan Law School.
[45] "Crown ZellerBach Charged With Racial Discrimination." Lawyers Constitutional Defense Committee Report.

the plant removed formal racial restrictions that categorized every plant-job as either African American or white, but required only black employees to take tests for job security or promotions.[46] The plant also stripped African American employees of their current seniority when promoted, a process known as "seniority suicide." Thus, causing many to take a pay cut for a better job. Crown's Bogolusa plant was the only of its kind around the country that required testing solely for African Americans. The 1967 EEOC lawsuit alleged that personnel tests did not actually measure skills required for jobs and that Crown only used tests to disadvantage non-white workers.[47] The lawsuit demanded a merger of the African American and white lines of progression to better jobs. The EEOC also requested that when an employee was promoted that his pay be determined by his seniority in the plant as a whole.

When *Hicks v. Crown Zellerbach* went to trial in 1967, a Lawyers Constitutional Defense Committee (LCDC) report noted the importance of the case.[48] The New York based civil rights group cited the lawsuit as the most significant employment discrimination case before the courts under Title VII law.[49] No other case before a federal court entailed seniority, promotion and testing procedures in the workplace. The *Hicks* case would be an early landmark for Title VII law. The same lawyers who led the African American employees of Bogolusa would also lead those of Chalmette. Nils Douglas and Richard Sobol, like all lawyers around the nation, were new to Title VII law but their commitment to civil rights led them to finding strategies to make the law work. The LCDC was responsible for linking the two together. Douglas was a New Orleans native and no stranger to the burgeoning civil rights movement. By the time of the EEOC complaints in Bogolusa and Chalmette, he was a growing political figure in Louisiana. A great deal of his clout came from his partnership with two other young African American attorneys, Richard Collins and Lolis Elie.

A year after graduating with his law degree in 1959, Douglas joined Collins and Elie in establishing what would become the most important legal coalition for civil rights in Louisiana. In the same year that the three young black lawyers established their firm, the New Orleans chapter of the Congress of Racial Equality (CORE) asked Douglas to represent them in a sit-in campaign to protest segregation in public accommodations.[50] In 1963, Douglas represented CORE chapter president Rudy Lombard and three other activists who were arrested for staging a lunch counter sit-in at a Canal Street

[46] Ibid.
[47] Ibid.
[48] For a legal analysis on testing and Title VII law, see George Cooper and Richard B. Sobol. "Seniority and Testing under Fair Employment Laws: A General Approach to Objective Criteria of Hiring and Promotion." *Harvard Law Review* 82, no. 8 (1969): 1598-679; Gary Wallace, "Validity of Standardized Employment Testing under Title VII and the Equal Protection Clause," 37 MO. L. REV. (1972); (No Author Given) "Of Storks and Foxes: Employment Testing and Back Pay," 34 Md. L. Rev. 383 (1974); (No Author Given) "Employment Testing: The Aftermath of Griggs v. Duke Power Company." *Columbia Law Review* 72, no. 5 (1972): 900-25. Elaine W. Shoben, "Differential Pass-Fail Rates in Employment Testing: Statistical Proof under Title VII." *Harvard Law Review* 91, no. 4 (1978): 793-813.
[49] Ibid.
[50] Ibid.

store. Douglas and his firm won a landmark case as the U.S. Supreme Court declared the city's ban on sit-ins as unconstitutional.[51] Other civil rights cases brought by Douglas and his law firm resulted in the desegregation of local hotels, Charity Hospital, school systems through the state, and prisons.[52] In 1966, Douglas and other New Orleans civil rights leaders formed the Southern Organization for Unified Leadership (SOUL) in efforts to register, organize and mobilize black voters.[53] Nils Douglas was a growing political figure in New Orleans throughout the 1960s as he built a record of legal victories throughout the state, but interpreting Title VII of the 1964 Civil Rights Act would prove to be a rigorous task.[54]

Richard Sobol began working with the Collins, Douglas, and Elie law firm in August of 1964 after he and other LCDC attorneys volunteered to come to the South and assist with the burgeoning civil rights movement. The young white Columbia law graduate was eager to build his litigation skills in the heart of Jim Crow.[55] A week before Sobol's arrival in Louisiana, white supremacists bombed the law firm located on the second floor of the 2200 block of Dryades Street.[56] Sobol soon realized that he was in the heat of the Louisiana's freedom movement as the Collins, Douglas, and Elie law firm was at the forefront of civil rights litigation in Louisiana. While working alongside one of New Orleans' prominent black law firms, Sobol would prove to be a critical asset to black labor activism in Louisiana. Upon his arrival, Nils Douglas quickly took Sobol under his wing and began mentoring him in civil rights litigation. To better acclimate Sobol with the Jim Crow South, Douglas took him to Bogalusa, Louisiana, then a hotbed of racial unrest. There, Sobol joined Douglas in his first Title VII case, *Hicks v. Crown Zellerbach*. By summer of 1967, Sobol filed additional cases on behalf of African American workers in Bogalusa. Many of these complaints were consolidated under *United States v. Local 189*.[57] As Richard Sobol's LCDC contract ended in 1968, he left New Orleans with a wealth of civil rights litigation experience and also a friendship with black lawyer, Nils Douglas. Sobol later praised Douglas as the "model of hard work" and accredited his experience with the black law firm as one that changed his life.[58]

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[51] Ibid.
[52] Affidavit of Nils Douglas. United States District Court For The Eastern District Of Louisiana. Civil Action No.67-1257. August 1982 Parson Records, ARC. B3 F4
[53] Kent B. Germany, *New Orleans after the Promises: Poverty, Citizenship, and the Search for the Great Society*, (Athens: University of Georgia Press, 2007), 251-254.
[54] Ibid.
[55] Affidavit of Richard B. Sobol. United States District Court For The Eastern District Of Louisiana. Civil Action No.67-1257. August 1982 Parson Records, ARC. B3 F4
[56] Ibid.
[57] Ibid.
[58] Shortly after leaving New Orleans, Sobol accepted an appointment as an associate professor at the University of Michigan School of Law. While teaching law in Ann Arbor, he also managed to become the co-director of the Washington Research Project of Washington, D.C. in 1969. In June of 1969, Sobol and fellow LCDC lawyer George Cooper published a Harvard Law Review that would strongly influence how courts grappled with discrimination in the workplace for the next decade. In *Seniority and Testing Under Fair Employment Laws: A General Approach to Objective Criteria of Hiring and Promotion*, Cooper and Sobol spoke directly to the expectations of Title VII and its shortcomings. The two lawyers argued that despite the effect of fair employment laws in curtailing overt policies of racial exclusion or segregation in labor and industry, these laws had no

In the same year that Sobol left New Orleans, he and Douglas witnessed a Virginia district court reach a decision in the first case to challenge to the legality of promotion rights and employment security of black employees under Title VII law.[59] Douglas Quarles, a black employee in the prefabrication department of Virginia's Philip Morris plant filed a discrimination suit after the company refused to promote him directly to the position of truck driver, a higher-rung position in a formerly all-white department.[60] The main issue at stake was that Quarles and other African American employees of Philip Morris could not transfer to higher paying positions and maintain full seniority. Instead the company only allowed African Americans to transfer to new positions, as if they were completely new employees.[61] The district court in *Quarles v. Philip Morris, Inc.* (1968) found that present discrimination resulted from historical segregated departments and deemed the practice of forcing African American employees to forfeit prior seniority when promoting to new positions as an unlawful act.[62] The *Quarles* decision was foundational as courts at the turn of the decade would use it as a precedent in interpreting Title VII.

In March of 1968, just three months after the *Quarles* decision, Louisiana's eastern district court reached a decision in *United States v. Local 189.* The court ruled that seniority provisions of the existing collective bargaining contract that froze African Americans in low-wage, dead-end jobs violated Title VII.[63] The court forced Crown Zellerbach and the union to change the seniority system and thus open the way for blacks to advance into more skilled higher paying jobs.[64] In *Hicks v. Crownzellerbach* (1968), Judge Heebe of the Louisiana district court followed his decision in *Local 189* and ordered the adoption of an employment seniority system in lieu of the existing job seniority system.[65]

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significant impact on the familiar statistics showing black unemployment at almost double the level of white unemployment, and black average income markedly below the white average. Cooper and Sobol detailed the impact of *Quarles* and *Local 189* on job discrimination and the development of Title VII. In neither case did the court find that the challenged seniority systems purposefully disadvantaged African American workers. The decisions in *Quarles* and *Local 89* did not deprive white employees of the positions they obtained and the pay they received as a result of the prior discrimination. More importantly, the courts did not compensate black employees for their losses during the years of discrimination. The law review Sobol co-authored in 1969 would be critical in assessing how he would approach the downfall of 1973 *Parson v. Kaiser* district court trial. Specifically, Sobol would work to not only prove discrimination in the Chalmette plant but to propose a settlement that addressed discrimination from the date Parson requested to become a foreman. Sobol's three-year stint in the South allowed him in to be an ideal figure in leading the project as the Washington firm specialized in fair employment litigation. As Sobol's legal career began to flourish outside of the crescent city, his presence in the Louisiana court system and advocacy for a stronger Title VII was continuous until the mid-1980s. Affidavit of Richard B. Sobol. U. S. District Court For The Eastern District Of Louisiana. August 1982. Parson Records, ARC. B3 F4; Susan Finch, "Nils R. Douglas, 73, Civil Rights Leader," *Times Picayune*, Saturday December 27, 2003.

[59] George Cooper and Richard B. Sobol, "Seniority and Testing under Fair Employment Laws: A General Approach to Objective Criteria of Hiring and Promotion." *Harvard Law Review* 82, no. 8 (1969): 1617-1619.

[60] Ibid.

[61] Julius L. Chambers and Barry Goldstein, "Title VII: The Continuing Challenge of Establishing Fair Employment Practices." *Law and Contemporary Problems* 49, no. 4 (1986): 17.

[62] Cooper and Sobol, "Seniority and Testing under Fair Employment Laws," 1617-1619.

[63] Zieger, *For Jobs and Freedom,* 179.

[64] Ibid.

[65] Cooper and Sobol, "Seniority and Testing under Fair Employment Laws," 1622-1623.

Title VII Gaining Strength: *Griggs* and *Rowe*

From the time the EEOC filed suit in 1967 to the 1971 pre- trial, changes in legal authorities and union representation occurred in the *Parson v. Kaiser* case. After Nils Douglas succeed Ernest Morial in 1970, the prominent Collins, Douglas and Elie law firm dissolved in August of the same year.[66] For two years, Douglas partnered with his longtime friend Richard Collins to work the *Parson v. Kaiser* case. After Collins accepted an appointment as the Magistrate Judge of the Criminal District Court in 1972, the case was left to Douglas and the EEOC.[67] As far as union representation, Local 225 ceased to be a collective bargaining agent for employees at Kaiser's Chalmette plant in July of 1968.[68] However, Local 225 would still appear as a defendant in the 1973 trial due to their involvement at the time of the 1966 EEOC investigation. Douglas, in collaboration with the EEOC, petitioned the first motion for order after finding compelling evidence of discrimination against Parson and Williams in February of 1971, while Judge Fred J. Cassibry later set a tentative pre-trial date for March of the same year. However, the actual pre-trial did not take place until 1973.[69] The 1971 motion of order consisted of five parties. The plaintiffs were Harris A. Parson and Arcell Williams. The defendants consisted of the Kaiser Aluminum and Chemical Corporation, Local 225 of the AFL-CIO's Aluminum Workers International Union, and The United Mine Workers of America's International Union of District 50.[70]

[66] Affidavit of Nils Douglas. U. S. District Court For The Eastern District Of Louisiana. August 1982. Parson Records, ARC. B3 F4
After the EEOC filed suit in 1967, notable New Orleans attorney Ernest "Dutch" Morial began working the Parson v. Kaiser case. While Morial was involved, Kaiser began to delay the case's progress by filing motions for time extensions in 1968. In 1969, he withdrew from representing the African American employees of Chalmette. Records do not state exactly why he withdrew as a legal counsel in the case. Motion To Withdraw As Counsel Of Record of Ernest N. Morial. U. S. District Court For The Eastern District Of Louisiana. September 11, 1969. Parson Records, ARC. B12 F1
[67] Ibid.
[68] Findings Of Fact And Conclusions Of Law Related To Claims Against Defendant United Steelworkers Of America, AFL-CIO. U. S. District Court For The Eastern District Of Louisiana. Harris A. Parson and Arcell Williams, v. Kaiser Aluminum and Chemical Corporation; Local 225, Aluminum Workers International Union, Chalmette, Louisiana and The International Union of District 50, United Mine Workers of America. Submitted by Nils R. Douglass. February 17, 1971. Parson Records, ARC. B6 F1
[69] Plaintiffs Proposed Findings Of Facts And Conclusion Of Law. U. S. District Court For The Eastern District Of Louisiana. Submitted by Nils R. Douglass. February 22, 1973. Parson Records, ARC. B1 F3
[70] The initial motion requested that the Kaiser Company answer 170 questions centered around the workplace segregation and requirements of promotion. In response to Douglass' extensive questions disclosed in the initial motion, the Kaiser Company denied that the company or the worker's union violated the provisions of the Civil Rights Act of 1964. The Kaiser company also denied that Parson was refused promotion to the position of foreman based on his race, but admitted his lack of promotion was due to his lack of qualifications to perform in a new position. The company stated the principles set forth in the recent General Motors case were the basis of foreman selections and asserted that tests for plant occupations were never based on race. According to Kaiser's statements, testing was supposedly discontinued except for certain job-related assignments. Pertaining to workplace segregation allegations, Kaiser admitted that such facilities existed at one time but were not present when the plaintiffs filed the 1967 lawsuit. Motion For Order Compelling Discover. U. S. District Court For The Eastern District Of Louisiana. New Orleans Division. Harris A. Parson and Arcell Williams, v. Kaiser Aluminum and Chemical Corporation; Local 225, Aluminum Workers International Union, Chalmette, Louisiana and The International Union of District 50, United Mine Workers of America. Submitted by Nils R. Douglass. February 17, 1971. Parson Records, ARC. B1 F2

As the African Americans of Chalmette plant waited to go to trial, Title VII reached a turning point nationally. In the month that Cassibry initially set the pre-trial in the *Parson v. Kaiser* case, the U.S. Supreme Court issued its decision in *Griggs v. Duke Power Company* (1971) which stated that Title VII was to "achieve equality of employment opportunities and remove barriers that have operated in the past to favor an identifiable group of white over other employees.[71] Under the Act, practices, procedures, or tests neutral on their face, and even neutral in terms of intent, cannot be maintained if they operate to "freeze" the status quo of prior discriminatory employment practices."[72] The standard and limits of *Griggs* points directly to the *Parson v. Kaiser* story. Kaiser's Chalmette plant, like many other southern industries of the time, used the Wonderlic Test which many African American workers and lawyers of the period pointed out was biased and placed blacks at a disadvantage. Aside from testing, Kaiser's referral process of foreman applicants to be inconsistent. Where one foreman explained an applicant must express interest in the position, another employee said that an applicant must be asked if he is interested in the supervisory position.

The following year, Kaiser revised its supervisory selection program to reflect changes in employment discrimination law.[73] The company eliminated the use of the Wonderlic test after a study proved it had little relationship with job performance. As of equal importance, the EEOC saw that twice

[71] For comprehensive histories on the Griggs decision, see Robert Samuel Smith, *Race, Labor & Civil Rights: Griggs versus Duke Power and the Struggle for Equal Employment Opportunity*. Making the Modern South. (Baton Rouge: Louisiana State University Press, 2008); Robert Belton, *Crusade for Equality in the Workplace: The Griggs v. Duke Power Story*. (Lawrence, KS.: University Press of Kansas, 2014). For legal notes on Griggs, see Alfred W. Blumrosen, "Strangers in Paradise: Griggs v. Duke Power Co. and the Concept of Employment Discrimination." *Michigan Law Review* 71, no. 1 (1972): 59-110; Robert Belton, "The Dismantling of the Griggs Disparate Impact Theory and the Future of Title VII: The Need for a Third Reconstruction." *Yale Law & Policy Review* 8, no. 2 (1990): 223-56; David J. Garrow, "Toward a Definitive History of Griggs v. Duke Power Co.", 67 Vanderbilt Law Review 197 (2019); Hugh Steven Wilson, "A Second Look at Griggs v. Duke Power Company: Ruminations on Job Testing, Discrimination, and the Role of the Federal Courts." *Virginia Law Review* 58, no. 5 (1972): 844-74; Eleanor Holmes Norton, "The End of the Griggs Economy: Doctrinal Adjustment for the New American Workplace." *Yale Law & Policy Review* 8, no. 2 (1990): 197-204; (No Author Given) "Employment Testing: The Aftermath of Griggs v. Duke Power Company." *Columbia Law Review* 72, no. 5 (1972): 900-25.

[72] Legal scholars cite the *Griggs* decision as the most important judicial interpretation of Title VII. Many would argue that without *Griggs* Title VII would have had a little impact on the historic problems of discrimination it intended to fix. Courts repeatedly reaffirmed the *Griggs* interpretation in cases throughout the 1970s, but its principles had limits. Specifically, it did not address subjective referral standards by predominantly male supervisory workforces that disadvantaged blacks and women. See Chambers and Goldstein, "Title VII: The Continuing Challenge of Establishing Fair Employment Practices," 16 -17 and Chambers and Goldstein, "Title VII at Twenty: The Continuing Challenge," 248. As for a landmark in judicial interpretation, the *Griggs* decision placed the burden of showing proof on the employer. In other words, the Supreme Court placed the responsibility of establishing evidence for non-discrimination on the employer. In 1975, George Schatzi argued that the *Griggs* decision was a bit troublesome, given the fact that the evidence really is the absence of evidence. However, the absence of evidence refers to the employer and practices that are not in compliance with Title VII law. See George Schatzi. "The Meaning of Discrimination Under Title VII: A Review of Supreme Court Interpretation." *Southern University Law Review*. Vol. 1 (1975): 106.

[73] Since the EEOC's initial investigation of the Chalmette plant, Kaiser's foreman selection procedure underwent several revisions. In June of 1967, Kaiser modified the system of considering applicants to ameliorate the requirement that an hourly employee could not become a candidate for a supervisory position without his immediate foreman's recommendation. If the applicant's shift foreman or department superintendent did not approve of an employee promotion, the application would be then sent to a committee authorized to reverse the previous decisions and allow the employee to take the personnel tests. "Promotions to the Position of Foremen." Harris A. Parson, v. Kaiser Aluminum & Chemical Corp., and Local 13000, United Steelworkers of America. U. S. Court of Appeals, Fifth Circuit. July 10, 1978.

as many African Americans failed the test in comparison with their white counterparts.[74] In 1970, Kaiser revised the selection process by instituting a procedure to select permanent foremen. This procedure used annual evaluations and recommendations from immediate foreman before general foreman and department superintendents measure the quality of applicants.[75]

The last revision of Kaiser's selection process took place in 1972, a year in which many courts continually reaffirmed the *Griggs* decision and many other industrial companies began modifying promotion procedures. In Chalmette, Kaiser began posting shift foremen positions on a central bulletin board and using written standards to aid in promotion procedures for the first time in the plant's history.[76] The company required an interested employee to fill out an application form and obtain a written evaluation from a supervising foreman. A selection committee then interviewed leading candidates to make final recommendations for promotion. In making selections, the company's hiring committee used a written list of criteria and standards. The committee consisted of five persons and included one African American employee in at least one instance.[77] By 1972, Kaiser seemed to be proactive in altering its promotional procedures to avoid any further claims of discrimination. The company's procedure revision took place right before the *Rowe v. General Motors* (1972) trial.

In the *Rowe* decision a Georgia appeals court addressed biased promotional standards by stating that "procedures which depend almost entirely upon the subjective evaluation and favorable recommendation of the immediate foreman are a ready mechanism for discrimination against Blacks…"[78] The application of the *Rowe* decision challenged the selection procedures of many supervisor positions that previously limited black advancement around the nation.[79] The *Rowe* verdict was an advancement in Title VII, but many lawyers noted that its methods to prove intent imposed new and all-but impossible levels of proof for establishing that employers engaged in biased practices to disadvantage African Americans.[80] Despite the presentation of statistical data, Nils Douglass and the EEOC would fail to prove that Kaiser intentionally discriminated against its African American employees in the 1973 district court trial.

[74] Ibid.
[75] Ibid.
[76] Ibid.
[77] Ibid.
[78] Chambers and Goldstein, "Title VII at Twenty: The Continuing Challenge," 248.
[79] Ibid. However, many courts after *Rowe* struggled to consistently apply its doctrines and several courts emphasized that plaintiffs had to establish intentional discrimination to successfully challenge subjective employment systems. Other court decisions post-*Rowe*, reflected that plaintiffs relying on statistics to prove intent must provide a "considered and refined statistical analysis."
[80] Ibid.

1973 District Court Trial: *Parson v. Kaiser*

After extensive and prolonged pretrial proceedings, the initial trial entered the Louisiana district court in March of 1973. There, Parson and Williams stated that they would represent all black employees at the Kaiser's Chalmette Plant hired prior to September 1, 1967. They claimed that the Kaiser company failed to promote blacks to higher positions, denied blacks the same rights of transfer as afforded to white employees, and maintained a racially discriminatory seniority system. In the 1973 trial, Nils Douglas presented statistics of Kaiser's Chalmette plant to show racial disparities within the workplace. When Title VII became effective, there were 209 supervisors employed at the Chalmette plant. All were white.[81] Of these men, over 150 served as shift foreman, the position Parson aspired. In July of 1965, Kaiser employed 1, 873 hourly production workers, of whom 15 percent were black. The report stated that 164 shift foremen served at the plant, of whom eight or less than five percent were black.[82] At that time, more than twenty-one percent of Kaiser's hourly employees were black.[83] Between September 1971 and the time of the trial, four additional blacks were promoted. All except for one received promotion under the 1972 selection process.

Kaiser and the union contested the use of these statistics in the Eastern District court. They claimed that the material used to develop statistics of the racial disparities were never introduced into the case as official evidence. However, Douglas insisted that the numbers be taken into consideration as the two lawyers derived them from interrogations and EEOC reports. The next phase of the trial focused on interdepartmental transfers and seniority within the Kaiser plant. The majority of the lawyers' disputes surrounded the discrimination claim of Parson. Jim Saucier, the general shift foreman, and Paul Petit, the superintendent of the Metal Products Department, testified in the trial to give their reasons as to why Parson did not receive promotion. They claimed Parson did not receive promotion due to inadequate performance as a furnace operator, inability to accept criticism, lack of loyalty to Kaiser, Parson's difficulties with white subordinates, inability to take orders and inability to plan well.[84] Parson contested the statements of Kaiser officials and argued that he was not promoted because of his activities in attempting to desegregate the plant facilities. Parson argued that his union activity demonstrated his leadership capabilities and claimed that his work record was excellent. He then presented evidence of the comparative qualifications of white men promoted after Kaiser denied his request. To Parson, the

[81] "Promotions to the Position of Foremen." Harris A. Parson, v. Kaiser Aluminum & Chemical Corp., and Local 13000, United Steelworkers of America. U. S. Court of Appeals, Fifth Circuit. July 10, 1978.
[82] Ibid.
[83] Ibid.
[84] "Parson's Individual Claim." Harris A. Parson, v. Kaiser Aluminum & Chemical Corp., and Local 13000, United Steelworkers of America. U. S. Court of Appeals, Fifth Circuit. July 10, 1978.

statistics comparing the number of black and white foremen to the racial composition of the hourly employee population showed a clear pattern of discrimination in promotions at the Chalmette plant. Parson maintained that the procedures for awarding promotions violated Title VII.[85]

Next, Nils Douglas questioned Jim Saucier to gain more insight to why Parson was not promoted. Douglas asked whether there was a basic standard that governed whether or not a man would or would not be made a foreman.[86] Saucier replied that the basic considerations start with a man's absentee record, safety record and then he was evaluated on his workmanship and cooperation with fellow workers. When Douglas asked whether employees' character or labor qualities were charted, Saucier replied that employee ratings were not statistically designed, but did state that men received grades on a point scale from one to ten.[87] Saucier stated that there was no specific number of qualities that a worker must possess before he passed or fail. During the thirteen-day trial, other African American employees testified to racially biased work environment at Kaiser. On the last day of trial, the district court under Judge Cassibry recessed the trial for fourteen months.

After Sobol entered the *Parson v. Kaiser* case, he and Douglas used this period to gather stronger evidence of racial discrimination in the Kaiser plant.[88] The two lawyers placed seniority at the crux of their agenda in restructuring their arguments for discrimination in Kaiser's Chalmette plant. The new structure involved objective requirements such as education prerequisites and testing which prevented blacks from moving into skilled craft jobs in the plant's operation.[89] Sobol found that transfer practices served to prevent older, long standing black employees from moving into better jobs to which their seniority entitled them.[90] Before Sobol could restructure an argument for the black workers of Chalmette,

[85] Ibid.
[86] Ibid.
[87] Ibid.
[88] In the 1973, Sobol noted that materials put into record failed to specify the precise nature of discriminatory practices which prevented blacks from moving into better paying jobs. From Sobol's perspective four major reasons stick out as to why they couldn't establish a class action suit. At the core, Title VII was a developing and expanding law at the time Parson and other African American workers first filed their EEOC claims. From 1967 to 1973, a large number of lawyers worked the case. As lawyers changed, the facts at the plant changed as well. The contextual factors within the plant made proving discrimination extremely difficult. Sobol depicted the case as complicated, involving complex process of making aluminum and consisting of a large number of workers performing a vast variety of jobs. The errors that Sobol saw in the initial structure of Parson's argument would lead to a victory on behalf of Kaiser and the union. Sobol reviewed all material available and restructured the case to involve a specific and conservative proposal which was then completely ignored by the defendants. Correspondence Letter. Richard B. Sobol to the counsel for the defendants: Carl Schumacher (New Orleans, La), John Falkenberry (Birmingham, Ala.), Jerry Gardner (New Orleans, La). September 27, 1973. Parson Records, ARC. B1 F3
[89] Kaiser originally hired these workers when blacks were segregated into exclusively janitorial level jobs. The company's departmental transfer policies prevented blacks from maintaining their seniority when promoting to previously all-white occupations. Sobol found that a variety of the company's practices involved discriminatory exercise at the discretion of white foreman such as discharge, discharge for absenteeism and failure to promote blacks to position of foreman. Correspondence Letter. Richard B. Sobol to Okla Jones, Esq (Lawyers' Committee for Civil Rights Under Law). December 6, 1973. Parson Records, ARC. B1 F3
[90] Ibid.

Judge Fred. J. Cassibry ordered judgment in favor of the defendants on May 9, 1974.[91] Cassibry stated that "the process for the selection of foreman is untainted by any overtones of racial discrimination."[92] From Cassibry's observation, Parson's lack of promotion was due to his inability to demonstrate attributes necessary to perform the job. He stated "Parson did not get the job because he was not qualified."[93] He pointed out that Kaiser promoted other black men to the foreman position and other salaried positions in a number of departments of the Chalmette plant.[94]

Richard Sobol began working on an appeal brief right away. From his desk in Washington, D. C., Sobol's law firm began accumulating new evidence to strengthen Parson's initial claims of racial discrimination. In November of 1975, the law firm wrote Harris Parson and requested that he send details of the number of whites and blacks that worked as hourly employees at the time he requested promotion.[95] She also asked him to include the racial breakdown of foremen in the metal products department since the 1973 trial. Sobol then requested a list of all African Americans hired and promoted from 1971 to 1975. After reviewing previous evidence from the 1973 trial and accumulating new evidence for two years, Sobol filed for an appeal. On January 7, 1976, Sobol notified Harris A. Parson that an appeal in the *Parson v. Kaiser* case was set for a hearing on February 10, 1976.[96] At this hearing, lawyers argued about what happened in the district court and Judge Cassibry's decision. For a year, Parson and the rest of the class claiming discrimination waited in anticipation that the court system would grant them a second chance at proving discrimination in Kaiser's Chalmette plant.

Victories For Black Workers In Chalmette and Grammercy

The *Parson v. Kaiser* case would reach the United States Court of Appeals, Fifth Circuit on July 10, 1978 with Harris A. Parson as the plaintiff and appellant. The defendants-appellees were now Kaiser Aluminum and Chemical Corporation and the Local 13000 of the United Steelworkers of America (USWA). Presiding over the 5th U.S. Circuit Court of Appeals, Chief Judge John R. Brown reversed Judge Cassibry's 1973 ruling. On July 11, 1978, the *Daily World* of Opelousas, Louisiana highlighted why the appeals court reached a new decision. The court of appeals stated that "The district court judge clearly erred in judging Parson's individual claim as if his promotion request had been processed under a

[91] Correspondence Letter. Judge Fred. J. Cassibry To All Counsels. U.S. Eastern District Court of Louisiana. May 9, 1974. Parson Records, ARC. B1 F4
[92] "Parson's Individual Claim." Harris A. Parson, v. Kaiser Aluminum & Chemical Corp., and Local 13000, United Steelworkers of America. U. S. Court of Appeals, Fifth Circuit. July 10, 1978.
[93] Ibid.
[94] Ibid.
[95] Correspondence Letter From Anne Pardee Buxton to Harris A. Parson and Rev. Isadore Booker. November 25, 1974. Parson Records, ARC. B1 F4
[96] Correspondence Letter From Richard Sobol to Harris A. Parson and Rev. Isadore Booker. January 7, 1976. Parson Records, ARC. B1 F5

procedure adopted six years later...We conclude that the plaintiff's evidence of racial disparities in promotions to foreman after 1965, the exclusions of blacks from such positions prior to 1965, and the testimony by individual class members of discrimination they suffered, make a prima facie case of discriminatory practices in the selection of foreman."[97] In Cassibry's 1973 decision, his statement that Kaiser promoted other black men to foreman indicated that he gave little, if any, attention to the fact that the black supervisors mentioned were restricted to the supervision of janitors, a situation that did not change until the year after.[98] The appeals court found that Kaiser's promotional procedure before 1972 violated Title VII of the 1964 Civil Rights Act. Douglas and Sobol used the 1972 *Rowe v. General Motors Corporation* decision as a precedent in building their discrimination claims. The two lawyers explained that foremen in Kaiser's Chalmette plant were given no written instructions pertaining to the qualifications necessary for promotion. Nothing in writing told supervising foremen what to look for in making recommendations. Lastly, Kaiser did not notify hourly employees of promotional opportunities or qualifications necessary to get jobs. Brown saw that the 1972 revisions of the selection procedures as laudable, but still was not sufficient evidence to convince the 1978 court that these procedures were not discriminatory in operation, although fair in form.[99] He emphasized that the records after the 1972 revisions did not clearly describe the contents of the valuation form used in the selection process.[100]

On May 11th, 1979, The *Town Talk* of Alexandria, Louisiana highlighted the Supreme Court's decision in a headline titled "Union Seniority System Remains Illegal at Kaiser."[101] The justices of America's highest court upheld the 1978 appeals court decision that struck down the illegal union seniority-system at Kaiser's Chalmette plant. The justices, without explanation, refused to hear arguments by Local 13,000 of the USWA that the collectively bargained seniority system did not violate the federal

[97] The appeals court noted that Cassibry should have paid more attention to Parson's statistics on the racial make-up of Kaiser's workforce and the number of blacks in supervisory positions.[97] Parson presented evidence showing a marked disparity between the number of black hourly employees and the number of black foremen at the time he sought his promotion. "Court Orders New Hearing," *Daily World*, July 11, 1978.
[98] Ibid, Furthermore, Kaiser appointed these men to positions in 1969 and 1973 which was after the effective date of Title VII and long after Parson's initial request. Overall, Judge Brown saw that Cassibry judged Parson's claim along the terms that Kaiser had not discriminated against African American employees since the effective date of the 1964 Civil Rights Act which ignored pre-1972 procedures for selection of foreman. "Parson's Individual Claim." Harris A. Parson, v. Kaiser Aluminum & Chemical Corp., and Local 13000, United Steelworkers of America. U. S. Court of Appeals, Fifth Circuit. July 10, 1978. In a 1973 letter, Sobol cited that the initial failure to develop discriminatory claims in the Chalmette plant lay in the evolving nature of Title VII law. He referred to the number of critical cases that began to clarify specifics of what deemed discrimination in America's workforce. In the 1978 appeals court, Judge Brown concluded that the law clearly upheld that statistical data of racial composition must be considered in judging individual allegations of discrimination. Douglas and Sobol used court case rulings such as *Burns v. Thiokol Chemical Corporation* (1973), *McDonnel Douglas Corp. v. Green* (1973), and *Peters v. Jefferson Chemical Company* (1975) as precedents as to why statistical evidence should have been considered in Judge Cassibry conclusion of the 1973 trial. In all of these cases, the final judgement upheld that statistical data of racial disparities must be considered.
[99] Ibid.
[100] Ibid.
[101] Ibid.

civil rights law.[102] On May 22, 1979, Sobol informed Parson that the Supreme Court refused to hear an appeal on behalf of Kaiser and the USWA.[103] Douglas and Sobol then moved to meet with the representatives of Kaiser and the union to solidify a settlement in the case. The two lawyers met with Robert Allen, attorney for Kaiser, and John Falkenberry, attorney for the USWA in the summer of 1979. At the meeting, Douglas and Sobol proposed that Parson be awarded back pay for his individual claim. While the courts had not made a final judgement in favor of discriminatory class claims at this point, Douglas and Sobol proposed that African American employees hired before the desegregation in the Chalmette plant would be afforded special opportunities to transfer to formerly all-white departments without having to serve in entry level jobs.[104]

Before the *Parson* case could return to Louisiana's district court, another lawsuit involving Kaiser and the USWA was underway, but this case was making its way to the United States Supreme Court. On July 28th, 1978, the *Times Picayune* highlighted that Brian F. Weber, a white employee of Kaiser's Grammercy, Louisiana plant and union member sued after the company sought to add blacks in some crafts by training one black for each white worker until black representation reached thirty-nine percent.[105] Weber made claims of "reverse discrimination" when Kaiser denied him a position in training. In 1974, the USWA and Kaiser corporation entered into a master collective-bargaining agreement covering terms and conditions of employment at 15 Kaiser plants.[106] The agreement included an affirmative action plan designed to eliminate conspicuous racial imbalances in Kaiser's then almost exclusively white craftwork forces by reserving 50% of openings in the plant's craft-training programs for black workers until the percentage of black craftworkers in a plant was commensurate with the percentage of blacks in the local labor force.[107]

The *Times Picayune* noted that the Weber case put employers nationwide and especially Kaiser in a bind.[108] If a company – after noticing a lack of blacks in supervisory jobs – decided to reserve a percentage of future promotions for blacks, it must first admit past bias to avoid reverse discrimination

[102] Ibid. The Supreme Court upheld the 1977 *Teamsters* decision which stated that "an otherwise neutral, legitimate seniority system does not become unlawful under Title VII simply because it may perpetuate pre-act discrimination." The high court did not explain just how the Kaiser seniority system differed, if at all, from the *Teamsters* case.
[103] Correspondence Letter. Richard Sobol to Harris A. Parson. May 22, 1979. Parson Records, ARC. B1 F7
[104]The two lawyers also suggested that every African American employee that Parson represented have the opportunity to receive to backpay as well. First, these employees would have to present claims for back pay due to discrimination in promotions to craft, craft trainee or supervisory positions at any date after July 2, 1965. The proposed settlement also offered employees not originally represented by Parson to enter litigation. These employees would have to establish that the reason they did not apply for promotions was due to discriminatory practices such as tests, educational requirements or prior industrial experience. Douglas and Sobol were aware that the only way Kaiser could combat discrimination claims from other employees would be to establish clear and convincing evidence that the employee did not get the job for reasons related to race. Correspondence Letter. Richard Sobol to Harris A. Parson. June 4, 1979. Parson Records, ARC. B1 F8
[105] "Affirmative Action Programs Pushed," *Times-Picayune*, July 28, 1978.
[106] United Steelworkers of America, vs. Brian F. Weber et al., Kaiser Aluminum and Chemical Corporation. Supreme Court of the United States. June 27, 1979.
[107] Ibid.
[108] "Affirmative Action Programs Pushed," *Times-Picayune*, July 28, 1978.

suits by white.[109] Such admission, though, would open the firm to possible damage suites by blacks seeking back pay.[110] However, the 1978 Louisiana appeals court already found Kaiser guilty of racial discrimination in the *Parson* case. The USWA pointed to the Chalmette plant in their court brief and also made clear that Kaiser hired white workers who lacked "required" experiences in departments prior to Weber's complaint.[111] Of the USWA's argument, the most critical note was that training program in which Weber felt entitled to did not exist for anyone prior to 1974.[112] Kaiser hired craftsmen outside of the plant before the training program started.[113]

The *Parson* case played a minor but critical role in one of Title VII's most notable cases. Ironically, the USWA used the case to show justices that Kaiser was moving forward in attempts to fully integrate their workforce. The Supreme Court handed down a landmark ruling involving affirmative action and reverse discrimination in Kaiser's Grammercy, Louisiana plant on June 27, 1979. In *United Steelworkers, AFL-CIO-CLC v. Weber* (1979), the highest court ruled that "Title VII does not prohibit such race-conscious affirmative action plants."[114] The USWA affirmative action plan and the *Weber* decision was a product of mounting EEOC complaints and government pressure to desegregate skilled jobs in industries. The *Weber* case became the center of debates among conservatives and liberals who argued for and against affirmative action. Liberals saw affirmative action as the only means of reversing decades long discrimination. Conservatives argued that to exclude a qualified individual based due to racial disparities representing discrimination in itself. Specifically pertaining to Title VII, *Weber* was a milestone that solidified government strides towards placing blacks in higher paying jobs. The *Weber* case is the earliest to cite the 1978 *Parson* decision as a statue. However, the *Parson v. Kaiser* story was not quite over. *Weber* was an example of how far unions began to go in order to reserve skilled training for black workers due to the legacy of discrimination. However, it did not show how far courts would go to develop a financial remedy for black workers when discrimination was found in the workplace.

Between Legal Advances and A Crumbling Kaiser Empire

The *Parson v. Kaiser* case went back to the district court of Louisiana in April of 1980. After five days of trial, Judge Peter Beer rendered judgment in favor of Harris A. Parson.[115] Beer declared that

[109] Ibid.
[110] Ibid.
[111] MacLean, *Freedom Is Not Enough*, 253.
[112] Ibid.
[113] Ibid.
[114] United Steelworkers of America, vs. Brian F. Weber et al., Kaiser Aluminum and Chemical Corporation. Supreme Court of the United States. June 27, 1979.
[115] U.S. District Court Judge Peter Beer sympathized with Kaiser by stating that the company made a "good faith effort" to bring itself in line with Title VII of the 1964 Civil Rights Act and noted that Parson was only marginally qualified for the foremen position. Harris. A. Parson, v. Kaiser Aluminum and Chemical Corporation. January 2, 1985.

Kaiser discriminated against Parson and other employees by holding potential black foreman to "different and tougher standards" than their white counterparts.[116] Lastly, Beer found that Parson was a leader among black workers' rights, and that one of the reasons Kaiser refused to promote him was out of fear that it would antagonize white employees at the Chalmette plant.[117] Beer awarded Parson the difference between the foreman's salary and the wages he actually earned from September of 1967 to June of 1982.[118] The 1980 district court decision was a critical but still an incomplete victory for Harris Parson and the black workers of Kaiser's Chalmette plant. While Judge Beer's decision was the second in favor of Parson and the class action in seven years, the black workers had yet to receive any payment and Louisiana courts had not decided how they would calculate financial backpay for discrimination claims. This was primarily due to the fact that Kaiser had one more chance to appeal the decision. Before the *Parson v. Kaiser* case returned to Louisiana's appeals court, Kaiser's once glorious aluminum industry began to crumble. Over the next five years, the nation's number one aluminum reduction plant in Chalmette began to fall due to a worldwide energy crisis and lowered aluminum demand.[119]

In 1981, Kaiser started reducing its workforce by closing potlines and laying off workers nationwide, but workers in the company's most productive southern plants were affected the most. By the summer of 1982, the workforce in Chalmette was almost cut in half with only 1,560 employees as compared to roughly 2,700 workers during the plant's glory days.[120] In January of 1983, the Oakland based Kaiser company decided to completely shut down smelting operations in Chalmette and an aluminum oxide production facility in Baton Rouge.[121] The shutdowns reduced Kaiser's workforce to 225 in Baton Rouge and 330 in Chalmette. By late August of 1983, 754 former workers at the Kaiser Aluminum plant in Chalmette received word from the U.S. Department of Labor they were eligible for cash benefits, training and other assistance in finding new jobs.[122] Following the statements issued by the U.S. Department of Labor, the United Steelworkers of American Union Local 13,000 and management of the Kaiser Corporation met to discuss the company's request that workers take pay and benefit cuts or face a plant shutdown.[123] However, the Steelworker's union rejected contract concessions, including pay and benefit cuts the company requested in October. Before they could bargain for jobs, both parties

[116] George Hager, "High Court Backs Black In Kaiser Bias Lawsuit," *Times Picayune*, June 12, 1984.
[117] He stated that "there is evidence of instances of de facto discrimination occasioned by timidness and vacillation resulting from fear and concern for overall plant operations. This de facto (though unintentional) discrimination is understandable and yet unacceptable." Harris A. Parson and Arcell Williams, v. Kaiser Aluminum & Chemical Corp. U. S. Court of Appeals, Fifth Circuit. March 19, 1984.
[118] Ibid.
[119] "Kaiser Making More Cuts In Aluminum Output," *The San Francisco Examiner*, September 23, 1981.
[120] "Kaiser Lays Off 190 At Chalmette," *The Town Talk*, June 23, 1982.
[121] "Kaiser Shuts Down Two Louisiana Plants," *The Daily Review*, January 26, 1983.
[122] Labor Secretary Raymond Donovan issued a statement saying those laid off when the plant cut back operations over the past several months would be eligible for the benefits under the provisions of the Trade Act of 1974. (No Author Given) "State Briefs: Benefits Reported," *The Daily Advertiser*, August 31, 1983.
[123] "Union Discusses Shutdown," *Arizona Republic*, October 15, 1983.

headed back to the Louisiana district court in hopes of settling discrimination claims among black workers in the Chalmette plant.

On March 19, 1984, the *Parson v. Kaiser* case returned to the United States Court of Appeals for the second time in seven years. The case now presided under the direction of Judge E. Grady Jolly. In the appeals court, the Kaiser company did not challenge any of the fact findings relevant to Parson's individual claim in the 1980 decision.[124] However, the company claimed that the 1980 district court applied an incorrect legal standard in holding it liable to Parson for intentional racial discrimination.[125] Kaiser argued that use of the word "unintentional," in Judge Beer's decision was a tantamount to a finding of absence of discrimination.[126] The company also challenged the manner in which the special master calculated the back pay award and interest in the 1980 decision.[127] Judge Beer's ruling provided for an award of back pay which included post-judgement interest. Kaiser argued that the back-pay period should have terminated in April 1972, when the company instituted a nondiscriminatory selection procedure or March of 1973 at the latest, when the company rejected Parson's application for a foreman's position under the new procedure.[128] However, Parson stated that he continued to suffer discrimination after 1973. He maintained that if Kaiser promoted him prior to 1972 than he would have possessed a higher-paying position after Kaiser revised their supervisor selection process.[129] Lastly, Kaiser contested the decision to add interest to the value of Parson's award. The company stated that interest should only be added after Parson's final award and should be simple rather than compound.[130] Kaiser's arguments were unsuccessful as Schumacher was unable to cite any cases or precedents to defend the company. Judge E. Grady Jolly affirmed Beer's 1980 decision. Jolly found that the 1980 district court applied the proper legal standard in holding Kaiser liable to Parson for intentional racial discrimination. He concluded by stating that Kaiser's failure to promote Parson in 1967 continued the practice of discrimination despite the company's hiring and promotion revisions of 1972.[131]

Following Judge Jolly's decision, Kaiser petitioned to have the case heard in front of the U.S. Supreme Court. On the morning of June 11, 1984, the Supreme Court denied Kaiser's petition.[132] A *Times Picayune* article highlighted the Supreme Court's decision to deny Kaiser's petition for rehearing and judgment in favor of Parson.[133] On June 27th 1984, Parson received his backpay which equaled a gross

[124] Ibid.
[125] Ibid.
[126] Ibid.
[127] Ibid.
[128] Ibid.
[129] Ibid.
[130] Ibid.
[131] Ibid.
[132] Correspondence Letter. Richard Sobol to Carl J. Schumacher, Jr – Schumacher Law Corporation, Ltd. June 11, 1984. Parson Records, ARC. B2 F9
[133] George Hager, "High Court Backs Black In Kaiser Bias Lawsuit," *Times Picayune*, June 12, 1984.

amount of $140, 236. 24.[134] However, Parson's backpay did not reflect a complete victory among the workers he represented. The class or other African American employees that Parson represented were still waiting to hear a final judgment in reference to their backpay amount.[135] The settlement outlining backpay for other African American employees entered the district court in September of 1984. On November 13th, the court approved Sobol and Douglas' settlement despite objections by Kaiser. The court demanded that Kaiser distribute a total of $1, 980, 959 to employees who successfully proved their discrimination claims.[136] The *Parson v. Kaiser* case ended in January of 1985 with Louisiana's district court finalizing the settlement for the other black employees.

In March of 1985, *The Town Talk* cited the ongoing struggle to reopen divisions of Kaiser's Chalmette plant. In a closed meeting, Local 13000 proposed a national contract package with Kaiser in an attempt to save jobs and benefits. Several union members said they believed the wage and benefits package would be approved.[137] The company proposed giving employees preferred stock in place of salary and benefit cuts.[138] The plant, which employed more than 2,700 people before it started layoffs in 1981, now had only about 55 hourly workers and 10 salaried employees.[139] During the mid 1980s, analysts believed that the U.S. aluminum industry still had tough times ahead, because of depressed prices and stiff foreign competition, but Maier saw an aluminum lining in every cloud.[140] Despite Kaiser's optimism and hopes to rebuild from economic downfalls, its once glorious aluminum reduction plant was gone and would never return to full production.[141]

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[134] Due to judgment in Parson's favor, Kaiser owed Parson $113,093.74, plus interest at 12% from June 30, 1982 until the date of payment. According to Sobol's calculations, interest amounted to $27,142.50, if paid by June 30th. Lastly, Sobol requested that Schumacher send all pertinent information concerning the details of the Parson's pension rights. The 1980 decision afforded Parson with pension adjustments if he had been promoted to a shift foreman position in August of 1967 and remained in that position until his actual retirement or separation from Kaiser. Correspondence Letter. Richard Sobol to Carl J. Schumacher, Jr – Schumacher Law Corporation, Ltd. June 11, 1984. Parson Records, ARC. B2 F9

[135] In March of 1973, Harris A. Parson vowed to represent 217 African American employees at Kaiser's Chalmette plant. By May of 1984, that number dwindled to a little below half of the original number. Correspondence letters between Sobol and Douglas or court memorandums don't specifically state why the numbers declined. However, it is possible to infer that many employees either separated from the Kaiser plant, retired or even died during the exhaustive tenure of the trial.

[136] The total amount reflected a sum that African Americans claimed discrimination in attempts to gain supervisory and craft jobs. Individual awards ranged from $899 to $26, 971.Harris. A. Parson, v. Kaiser Aluminum and Chemical Corporation. January 2, 1985.

[137] "Union Asks Kaiser To Reopen Plant," *The Town Talk*, March 11, 1985.

[138] "Negotiations Could Reopen Aluminum Plant," *The Daily Review*, May 11, 1985.

[139] Cornell C. Maier, chairman and chief executive of the Oakland-based Kaiser corporation told the *Los Angeles Times* that, "..Pulling back at Chalmette and Baton Rouge were hard decisions because it cost thousands of Kaiser workers their jobs but tough choices are being made for the company's future." To ease the blow of the worldwide energy crisis, Kaiser began selling off parts of the company to raise cash, lowering expenses and increasing its borrowing to record levels. The company sold its trading and overseas sales subsidiary and began seeking a partner for Kaiser Energy, its oil and gas subsidiary. "Union Asks Kaiser To Reopen Plant," *The Town Talk*, March 11, 1985.

[140] Ibid.

[141] With failed union and company negotiations to reopen the plant, the *Parson* case still haunted the Kaiser Corporation two years after its settlement. In December of 1987, *The Crowley Post-Signal* mentioned the eighteen-year long discrimination case in conversation with Kaiser's industrial downfall. The corporation sought reimbursement from their insurance company for over $3 million in damages the firm had to pay for discriminating against the black workers of the Chalmette plant. The 5th U.S. Circuit Court of Appeals upheld a lower court ruling that said Kaiser failed to give the Insurance Company of North America written notice of the litigation in a timely manner. *The Crowley Post-Signal* article offers complex inquires as to the relationship

Conclusion: A Hollow Victory

The newspapers that cite layoffs and union negotiations at Kaiser's Chalmette plant during the 1980s are not race specific. The archival records that pertain to the court case do not mention how many black workers were laid off or how many were working at the time labor numbers diminished at the plant. With less than 100 workers total in the plant as of 1985, the majority of the once 400 black workers in the plant were obviously displaced. The period in which the black workers received backpay was a blessing in disguise. At least they left with some financial pay which was more than Kaiser could pay workers, black or white, during the period of massive layoffs. If the black workers had won in the 1973 trial, Kaiser would have been forced to promote them. However, there was no escaping the layoffs of the 1980s. With the Supreme Court denying review of Parson's individual case in 1984 and the final settlement of the class approved in early January of 1985, the courts did not take in account the diminishing workforce at the Chalmette plant and calculated Parson's backpay according to the difference between a foreman's salary and the wages he actually earned during the period from September 1967 to June 1982 with interest. The courts also adjusted Parson's pension accordingly. As for the other African American employees, the Louisiana district court awarded backpay with pension adjustments based on individual claims. As a group, they received a substantial financial award that Kaiser could afford to pay employees at all three Louisiana plants combined.

From a pessimistic view, the *Parson* case is only minimal or limited victory. When considering that back-pay settlements took place after the plant fell to its knees, the law never corrected discrimination in the plant. Harris A. Parson and the rest of the African American employees involved in the case received justice only through financial remedy. Throughout the duration of the court case, black workers still labored in the same departments as they did when the 1973 trial took place. Parson, himself, was never promoted to the position of foreman. The story of black workers in the Chalmette plant is an example of a hollow victory that has a place in legal and labor history. The case is well cited from law reviews on affirmative action in the workplace to textbooks explaining the development of employment

between the *Parson* case and the downfall of Kaiser's Chalmette plant. The fact that the Kaiser Corporation took the Insurance Company of North America to court in attempts to retain damages paid from the *Parson* lawsuit yields one to question the role in which the court case played a role in the plant's definite closure. It is unreasonable to argue that the eighteen-year long legal struggle solidified the downfall of the Chalmette plant. However, it can be argued that it played a role, even if a minor one.

discrimination law.[142] Courts outside of Louisiana used 1978 appeals court decision in the *Parson* legal struggle as precedents in other Title VII cases.[143]

The *Parson v. Kaiser* case speaks vividly to Title VII's development nationally. In Title VII's early days, courts did not have a good grip of how past discrimination froze many minorities in low-paying jobs. Twenty years after Congress passed the bill, courts still struggled to define discrimination. The *Parson v. Kaiser* case took so long to develop because other court cases were constantly building the law to effectiveness. Title VII's slow impact on the southern workplace is often described through statistics of job advancement from stoop labor to blue collar jobs, but this essay forces a closer look at how interpreting the law itself halted labor progress. In sum, the *Parson v. Kaiser* allows the reader to comprehend how the law defined workplace discrimination from the time Title VII became effective in July of 1965 through twenty years of interpretation in federal courts. By the mid-1970s, Title VII effectively deleted barriers to supervisory jobs in industries. During that period affirmative action programs, like those of the USWA, began placing blacks in craft positions to avoid lawsuits. By the mid-1980s, courts developed a sense of how to remedy discrimination claims. As evident in the *Parson* case, courts began to not only place blacks in formerly white progression lines but also, adjust backpay to reflect prior discrimination.

Until now, the civil rights struggle of black workers in one of the world's largest aluminum reduction plants remained hidden. A 2012 *Times Picayune* issue dedicated a column covering 175 years

[142] The following citations are those from textbooks that cite the *Parson v. Kaiser* case in explaining the scope and coverage of Title VII. Arthur B. Smith, Jr., Charles B. Craver, Ronald Turner. *Employment Discrimination Law: Cases and Materials*. (Durham: Carolina Academic Press, 2011), 2014. C. Kerry Fields and Henry R. Cheeseman. *Contemporary Employment Law*. (New York: Wolters Kluwer, 2016), 168. Karen E. Ford, Kerry E. Notestine, Richard N. Hill, *Fundamentals of Employment Law*. (Chicago: American Bar Association, 2000), 9. The following texts are law reviews that include citations of the *Parson v. Kaiser* case: Robert Belton. "The Civil Rights Act of 1991 and the Future of Affirmative Action: A Preliminary Assessment." *DePaul Law Review*. Vol. 41 Issue 4. 1992. Herbert N. Bernhardt. "Affirmative Action In Employment Considering Group Interests While Protecting Individual Rights." *Stetson Law Review*. Vol. XXIII. 1993. Nancy E. Dowd. "Bakke and Weber: The Concept of Societal Discrimination." *Loyola University Chicago Law Journal*. Vol. 11. Issue 2. 1980. Ann C. Hodges. "The Americans with Disabilities Act in the Unionized Workplace." *University of Miami Law Review*. Vol. 1. Issue 1. 1994. Arthur J. Marinelli. "Seniority Systems and Title VII." *Akron Law Review*. Vol. 14.2. 1980. Maurice E.R. Munroe. "The EEOC: Pattern and Practice Imperfect." *Yale Law and Policy Review*. Vol.13.Issue 2.1995. Karen Ann Sindelar. "Employment Discrimination – Weber v. Kaiser Aluminum and Chemical Corp: Does Title VII Limit Executive Order 11246." *North Carolina Law Review*. Vol. 57. Issue 4. 1979. Michael J. Zimmer. "Title VII: Treatment of Seniority Systems." *Marquette Law Review*. Vol. 64. Issue 1. 1980

[143] The following court cases are those that cite decisions in *Parson v. Kaiser* as an authority in briefs and memorandums. *United Steelworkers of America, AFL-CIO-CLC, Petitioner, vs. Brian F. Weber et al., Kaiser Aluminum and Chemical Corporation, Petitioner, vs. Brian F. Weber et al.* Nos.78-432, 78-435, 78-436. June 27, 1979. *Doris Posley, Plaintiff Appellant, vs. Amerock Corporation, Defendant-Appellee.* No. 81-1316. United States Court of Appeals, Seventh Circuit. May 14, 1981. *Roman Lacoste, Plaintiff-Appellant, vs. Illinois Central Gulf Railroad Company, Defendant-Appellee*. No. 80-2188. United States Court of Appeals, Seventh Circuit. October 8, 1980. *William Wattleton, et al., Plaintiffs-Appellees and Steve T. Tillman, et al., Plaintiffs-Intervenors-Appellees, vs. The International Brotherhood of Boiler Makers, Iron Ship Builders, Blacksmiths, Forgers and Helpers, Local #1509, Defendant-Appellant.* No.81-2411.United States Court of Appeals, Seventh Circuit. Nov.19, 1981. *San Jacinto Savings and Loan, et al., Plaintiffs, vs. Kathy Kacal, Defendant-Third Party Plaintiff-Appleant, vs. Officer Tommy Hale and city of Waxahachie, Texas, Third Party Defendants-Appellees*. No. 92-1833. United States Court of Appeals, Fifth Circuit. October 27, 1993. *Ivor Keelan and David Sullivan, Plaintiffs-Appellants, vs. Majesco Software, Inc., Defendant-Appellee*. No. 04-10317. United States Court of Appeals, Fifth Circuit. April 12, 2005. *Stanley Shepherd, Plaintiff, vs. Dallas County, Texas, Defendant*. No. 3:05-CV-1442-D. United States District Court For The Northern District of Texas Dallas Division. August 26, 2008.

of New Orleans history highlighted the Kaiser's industrial might in the St. Bernard Parish.[144] But the article failed to mention the courageous strides of black workers. As for Harris A. Parson and other African American employees, the struggle for workplace equality and justice through Louisiana's district courts during the height of deindustrialization is a story of exhaustion and exception. For roughly twenty years, they fought for better jobs as Title VII unfolded nationally to aid in their cause despite workplace doors closing before their eyes. The black workers in Chalmette are an exception when considering that deindustrialization was catastrophic for many industry laborers in the United States regardless of race or ethnicity. Layoffs took place nationwide, not only in Kaiser plants, but in industrial workplaces worldwide. At least Parson and the workers he represented walked away with some money in transitioning to their next place of labor, workers elsewhere could not say the same.

[144] "Kaiser Aluminum Plant: The Times-Picayune Covers 175 years of New Orleans History," *Times Picayune*, February 01, 2012.

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