The U.S. Equal Employment Opportunity Commission

EEOC Litigation Settlements
May 2004

- **EEOC v. Family Dollar Operations, Inc., dba Family Dollar Store**
  No. 3:02-CV153-JAD (N.D. Miss. Apr. 29, 2004) (omitted from April report)

  In this ADEA action, the Birmingham District Office brought suit against a leading discount retail store chain alleging that charging party, a 61-year-old District Manager, was constructively discharged because of his age. According to the suit, defendant's Regional Vice President (RVP) told CP that he had been instructed by his superior to discharge CP or harass him into resigning. The RVP stated that his superior felt CP "was just too old" and told the RVP to find a way to get rid of CP. The RVP said that the same superior told him to get rid of two other managers who were in their 50's because they were too old. When CP learned of the superior's instructions he felt compelled to resign. The case was resolved through a consent decree providing CP with $98,750 in back pay, interest, and liquidated damages. Defendant will report to the EEOC all information regarding any employee from Region 5 at the District Manager level or above who is within the protected age group and is terminated or resigns. Annually, defendant shall provide EEO and ADEA training to its Region 5 management employees at the District Manager level or higher. The same training materials shall be provided to all Regional Vice Presidents, who must certify that they reviewed the materials.

- **EEOC v. Rose Casual Dining, L.P. dba Applebee's Neighborhood Grill & Bar Restaurant**
  No. 02-cv-7485 (E.D. Pa. May 13, 2004)

  The Philadelphia District Office filed this Title VII suit against a nationwide restaurant chain alleging sexual harassment and retaliatory discharge of a female restaurant manager trainee. Charging party began management training in Respondent's Bloomsburg, PA facility. There, she was sexually harassed by both management and staff employees. The harassment included being asked to engage in a threesome with a manager and his wife, being called a lesbian, and comments about her breasts. She complained to Respondent's general manager and assistant general manager but they laughed at CP, inquired about her sexual orientation, and told her to "deal with it." After completing the kitchen phase of her training, CP was transferred to Respondent's Audubon, PA site. Four days after reporting the Bloomsburg harassment to human resources managers at Audubon, CP complained about the Bloomsburg manager sexually harassing her at a holiday party the prior day and was fired. Pursuant to a consent decree, defendant will pay CP $137,500 and conduct training on sexual harassment and retaliation for hourly employees, supervisors, and managers at its Bloomsburg and Audubon facilities.

- **EEOC v. Service Management Sys., Inc.**
  No. 03-5061 (W.D. Ark. May 13, 2004)

  The Memphis District Office filed suit alleging that defendant, a mall management company, violated the ADA by failing to provide charging party, who is mildly mentally retarded, with a reasonable accommodation, retaliating against her after she requested the accommodation, and constructively discharging her. Charging party, who has a full-scale IQ of 55, worked as a food court busser at the Northwest Arkansas Mall in Fayetteville, Arkansas. Defendant, in part because of CP's complaints of disability discrimination in being forced to work a new schedule, refused to provide CP with a schedule that would permit her to take public transportation to and from work, resulting in CP's constructive discharge. The case was settled by a three-year consent decree that requires defendant to pay $75,000 in damages and fees to CP and to expunge all adverse comments from her personnel files. Defendant will provide a copy of its ADA policy to all of its employees at the Northwest Arkansas Mall and submit all reports of disability discrimination and requests for accommodations to the company's Human Resources department in Nashville, TN. Periodic reports concerning complaints of disability discrimination, requests for accommodations, investigatory results, and final resolutions will be submitted to the EEOC.

- **EEOC v. Horizon/Mercy Health Plan of Trenton, N.J.**
  No. 03-cv-4402(GEB) (D.N.J. May 14, 2004)

The Philadelphia District Office resolved a Title VII race discrimination suit against an independent licensee of Blue Cross/Blue Shield of New Jersey, Inc., alleging that defendant denied a promotion to charging party, defendant's medical director, because he is Caucasian, and discharged him because of his race. In August 2001, an African American female CEO promoted CP to Acting Chief Medical Officer (CMO). When CP applied for the permanent CMO position, the CEO hired a less qualified, less experienced African American candidate. The suit alleged that during the selection process, the CEO kept commenting that defendant company was "too white"and directed defendant's officials to recruit applicants from organizations with numerous black medical directors. When discussing qualifications for the CMO job, the CEO purportedly stated that she "did not want any more white boys hired." Thereafter, in February 2000, CP was named Vice President of Health Services and he reported to the new CMO. Without warning or documentation justifying the action, the new CMO eliminated CP's job and fired CP in June 2002. The case settled pursuant to a consent decree that requires defendant to pay CP, who intervened, $450,000 in monetary relief.

- **EEOC v. Minnesota Beef Indus., Inc.**
  No. 02-CV-810 (DSD/SRN) (D. Minn. May 17, 2004)

  In this Title VII action, the Milwaukee District Office alleged that a beef processor in Buffalo Lake, Minnesota was liable for sex discrimination and the constructive discharge of a female quality control supervisor. According to the complaint, male supervisors and coworkers subjected charging party to sexually derogatory comments, jokes, and unwanted touching. The suit also alleged that defendant paid CP less than male quality control supervisors and paid her male replacement $10,000 more than it paid her. As a result of the harassment and the pay discrimination, CP left her employment. By a five-year consent decree, defendant agrees to pay a total of $140,000 to CP and to provide positive job references that state that CP was a good employee who performed her job well and efficiently. Employees will be instructed on the policies and procedures governing sexual harassment and sex discrimination complaints and defendant must report to EEOC every six months on employee complaints and defendant's responses.

- **EEOC v. Campbell Concrete of Nevada, Inc.**
  No. CV-S-03-1104-KJD-PAL (D. Nev. May 18, 2004)

  The Los Angeles District Office filed a Title VII action alleging that defendant, a concrete business, retaliated against charging party, a Hispanic female dispatcher, after she opposed practices she believed to be discriminatory against Latinos. CP and other Hispanic employees were told by their respective managers not to speak Spanish on the work premises. This directive was often accompanied by the statement, "This is America and they should learn to speak English." Other derogatory comments and actions included a supervisor's cattle call yells and whistles at Hispanic employees over a loudspeaker; asking CP whether she missed getting up late and having siestas; and asking CP if she would be having burritos for Thanksgiving. After CP complained to the HR department about the derogatory comments made to her and other Hispanic employees, she was written up for disparaging the company by making allegations of racism. Defendant then moved CP to a small, windowless office in another building, which was isolated from other workers and lacked air conditioning. CP's work received more scrutiny and, for the first time, was audited. Based on a single discrepancy, which CP claimed was the fault of information provided by a third party, defendant gave CP a negative performance evaluation and fired her the same day.

  In accordance with a five-year consent decree, defendant agrees to pay $125,000 in compensatory damages to CP, to remove all adverse information from her personnel file, and to prominently post a notice of the suit in English and Spanish in all of its Nevada facilities. Defendant also agrees to retain an EEO consultant to monitor defendant's compliance with Title VII and the decree. The consultant will revise defendant's EEO policies and implement procedures to track, investigate, and resolve discrimination and retaliation complaints. Defendant, via the consultant, shall train its managerial staff on effective investigation and handling of discrimination complaints and provide regular periodic training to its existing and new employees regarding the company's policy on national origin discrimination and retaliation. All policies will be available in both English and Spanish.

- **EEOC v. Milgard Manufacturing, Inc.**
  No. 01-MK-1731 (OES) (D. Col. May 19, 2004)

  The Denver District Office filed this Title VII action against a Washington-based window and sliding doors manufacturer, alleging that the company failed to hire African American applicants at its 200-worker plant in the Montbello area of Denver (a neighborhood with a large black population)

because of their race. Denver alleged that the plant manager directed the human resources staff not to hire any more black workers on the production line because "black people are lazy and move too slowly." Offended by the manager's directive, charging party, an HR employee responsible for screening and interviewing job applicants, reported the racially derogatory comments to her immediate supervisor. Thereafter, she was harassed by her bosses, taunted by coworkers, and denied a full bonus. CP complained to the general manager about the retaliatory treatment and the discriminatory hiring practices, but he criticized her for coming to him "with problems and no solutions" and told her to decide whether she was a team player. CP resigned and filed a retaliation charge. Denver widened its investigation of the charge to include defendant's racially discriminatory hiring practices and subsequently filed suit alleging hiring discrimination and retaliation. Statistical evidence showed that the Denver facility employed fewer black workers than would be expected given their representation in the area's population.

The case was resolved by a three-year consent decree in which defendant agrees to pay over $3.3 million: $750,000 in back pay, compensatory damages, and attorney's fees to CP (who intervened) on her retaliation claim; $2.35 million in a settlement fund for a class of black job applicants who sought employment at the Denver facility after January 1, 1997 and were not hired; and up to $250,000 to compensate a Consent Decree Monitor and pay costs incurred by the Monitor and costs incurred in distributing monetary relief to the class. Defendant will appoint an EEO Coordinator, who will be responsible for overseeing defendant's compliance with anti- discrimination laws and the consent decree, and an EEO Consultant, who will be a liaison between defendant and the EEOC and will supervise the Coordinator. Together, the Coordinator and Consultant will revise defendant's hiring policies and procedures to provide equal employment opportunities for black applicants and employees. Defendant also will retain a Consent Decree Monitor who will evaluate and report to EEOC on defendant's compliance with the decree. Within six months of the decree, defendant will publish job advertisements in the Montbello community and publications targeted to black individuals. Further, recruitment and outreach efforts will include Montbello High School and the Urban League. Defendant will report to EEOC every six months on the race and ethnicity of applicants and hires.

- **EEOC v. Aargus Security Systems, Inc., and MB Real Estate Services LLC**
  No. 03 C 5587 (N.D. Ill. May 20, 2004)

  The Chicago District Office filed this Title VII action alleging that defendants suspended, demoted, and transferred charging party because of his Jordanian national origin and Muslim religion. CP works for defendant Aargus Security, a contract security service, as a security guard at the Daley Civic Center in downtown Chicago. The Daley Center, which contains courtrooms and judicial chambers for the Illinois state court system and offices for the City of Chicago and Cook County, is managed by defendant MB Real Estate, which employs the director of security at the Center. On the afternoon of September 11, 2001, the director of security observed that a steel door leading to the underground garage at the Daly Center was open. Despite the presence of other security officers in the area, the director of security singled out CP, berated him about the open door, and told him to go home. A coworker heard the director of security say: "If I had my way I would have you and all the others deported from Chicago." Aargus suspended CP for four days, demoted him to an entry-level position, and assigned him to a different location. After CP filed an EEOC charge and retained an attorney, Aargus reassigned him to his previous position at the Daley Center in May 2002. The case was resolved through a three-year consent decree that provides for payments to CP of $55,000 from Aargus and $15,000 from MB Real Estate. The decree also provides that Aargus and MB Real Estate will not discriminate on the basis of religion or national origin and will not engage in retaliation.

- **EEOC v. Interstate Brands Corp.**
  No. 03-4416 (E.D. Pa. May 25, 2004)

  The Philadelphia District Office brought this Title VII sex discrimination suit against a Philadelphia subsidiary of the country's largest baker, the maker of Wonder Bread and Dolly Madison cupcakes. Specifically, the complaint stated that defendant denied two female charging parties and other female bakery workers access to training opportunities and assignments to higher-paying jobs in the Make-Up area of the Bread Department, where the dough is prepared and baked. The suit also alleged that male supervisors and coworkers called the two charging parties and other female employees "bimbo," constantly used profanity in their presence, made requests for blow jobs, and attempted to kiss them. Despite numerous complaints, defendant did nothing to address the hostile work environment. Pursuant to a consent decree, defendant agrees to pay a total of $222,000 to five women and to provide training opportunities and make job assignments for positions in the Make-Up area of the

Bread Department without regard to gender. Defendant will disseminate to all employees its current EEO policy that details the complaint procedures for discrimination and harassment. Defendant also will conduct an investigation of any complaint reported and report to EEOC every six months on complaints, investigative efforts, and results.

- **EEOC v. Captain D's Seafood**
  No. 3:03-0753 (M.D. Tenn. May 26, 2004)

  The Memphis District Office filed this ADA action against a fast-food restaurant chain alleging that the company refused to hire charging party, a 17-year-old high school student, as a part-time counter/cashier because of his disability, a below the knee leg amputation that substantially limits CP in walking. CP uses a leg prosthesis but also relies on crutches and was denied a job after asking defendant's interviewer if he could use the crutches at work, as he had at a prior job at McDonald's. By a three-year consent decree, defendant agrees to pay CP $5,100 in back pay and $19,900 in compensatory damages. Defendant also is enjoined from discriminating against a qualified individual with a disability in regard to hiring and other terms and conditions of employment and from retaliating against any individual in violation of the ADA. Using an outside consultant, defendant shall provide two hours of ADA training for staff at its Goodlettsville, TN facility, including managers involved in the hiring process.

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