



Date: April, 2006



**A Compliance Check Newsletter**

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## **U.S. Labor Department Recovers Over \$778,000 in Back Wages for Nearly 1,900 Employees of Jacksonville Financial Services Company**

The U.S. Labor Department announced recently that Fidelity National Financial agreed to pay a total of \$778,392 in back wages to 1,895 workers after a Wage and Hour Division investigation found they had not been paid in accordance with provisions of the Fair Labor Standards Act (FLSA).

“This Administration is committed to protecting overtime rights and ensuring that workers receive all the wages they have earned,” said Secretary of Labor Elaine L. Chao. “We have recovered more than \$778,000 in back wages for these workers. The employer has also changed the payroll system so that overtime will be properly compensated in the future.”

Wage and Hour investigators found that calculations to determine overtime rates were incorrect because they did not include commissions paid to employees covered by the FLSA.

The company cooperated with the department and made changes to its payroll system nationwide to assure future compliance. The back wages have been paid to employees throughout the country.

Fidelity National Financial, headquartered in Jacksonville, is a provider of real estate, title, escrow, specialty insurance and financial institution processing and outsourcing services.

The FLSA requires that covered workers be paid at least the federal minimum wage for all hours worked and time and one-half their regular rate of pay, including commission, for all hours worked over 40 in a single work week. The law also requires employers to maintain accurate records of employees' wages, hours and other conditions of employment.

## **EEOC Obtains \$1 Million for Black Man Choked with Hangman's Noose by White Co-Workers**

### ***Lawsuit Charged Commercial Coating Service with Severe Racial Harassment***

The U.S. Equal Employment Opportunity Commission (EEOC) recently announced the settlement of a racial harassment lawsuit against Commercial Coating Service, Inc. for more than \$1 million on behalf of a black employee who was subjected to a barrage of racial epithets, culminating in an incident where white co-workers placed a noose around his neck in the company bathroom and choked him in October 2002.

## *The Focus*

In its lawsuit, filed in 2003 (*EEOC et al. v. Commercial Coating Service, Inc.*, civil action no. H-03-3984), the EEOC asserted that Commercial Coating did not stop its employees, including managers, from harassing charging party Charles Hickman on the basis of his race (black) and subjecting him to a racially hostile work environment – including verbal and physical abuse. The company, located in Conroe, Texas, specializes in internal and external application of various coating bends, fittings, fabricated spools, valves, and short runs of straight pipe.

“It is shocking that such egregious racial harassment still occurs in the 21st century workplace, more than 40 years after passage of the landmark Civil Rights Act,” said EEOC’s Houston District Director Jeanette Leino.

The suit was filed under Title VII of the Civil Rights Act of 1964 in U.S. District Court for the Southern District of Texas, Houston Division, after the EEOC first attempted to reach a voluntary pre-litigation settlement. In addition to the monetary relief for Mr. Hickman, who worked as a sandblaster, the company agreed to enter into a consent decree that will overhaul its employment practices to improve the corporate culture and further equal employment opportunities. The consent decree will be overseen by U.S. District Judge Keith Ellison, who signed it yesterday.

EEOC’s Houston Regional Attorney, Jim Sacher, noted: “In addition to being choked with a hangman’s noose, Mr. Hickman was called the N-word and a monkey. The facts showed that the company was aware of the unlawful conduct and did not stop it, which only caused a bad situation to get much worse.”

### **Melrose Hotel, Berwind Property Group, to Pay \$800,000 to Settle National Origin Bias Suit by EEOC**

#### ***Employers Charged with Imposing English-Only Rule, Harassing Hispanics and Forcing Out Some Employees After New Company Took Over Hotel***

The former Melrose Hotel New York and Berwind Property Group, Ltd. (Berwind) will pay \$800,000 for national origin discrimination against Hispanic employees and take substantial steps to prevent future workplace bias as part of a major litigation settlement announced recently by the U.S. Equal Employment Opportunity Commission (EEOC).

The EEOC's lawsuit charged the companies with subjecting Hispanic employees to a hostile work environment; subjecting Hispanic employees to an English-only rule requiring them to speak only English at all times, including while on breaks; firing Hispanic employees; and retaliating against employees for complaining of discrimination. The Melrose Hotel New York was a luxury hotel located on Manhattan's Upper East Side until it closed in July 2005. Berwind is a real estate management company located in Philadelphia.

The consent decree also prohibits the companies from maintaining an English-only rule for employees and requires them to amend and reissue their non-discrimination policy, train employees and managers in equal employment law, and provide periodic reports to the EEOC concerning any new discrimination complaints.