



Date: August, 2004

ADA - EEOC - FMLA - FLSA
OSHA - Sexual Harassment
World's Comp - WPA
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The Focus

A Compliance Check Newsletter

EEOC v. Pilot Travel Centers LLC

The Memphis District Office of the EEOC filed this Title VII action, alleging that a travel center in Cookeville, Tennessee discriminated against a maintenance employee on the basis of religion (Messianic Christian) when it discharged him for refusing to shave his beard, which he wore as part of his religious practices. The defendant's general manager had hired this employee and reasonably accommodated him by permitting him to wear his beard despite the company's "no-beard" policy. However, when company's regional manager discovered the employee working with a beard, he directed the general manager to fire him. The case was resolved by a one-year consent decree that requires defendant to pay \$62,400. The defendant is enjoined from engaging in religious discrimination and retaliation and also must distribute a policy statement regarding reasonable accommodation of religious beliefs to all of its general managers employed in Tennessee and to all the regional managers to whom they report. The managers are to sign statements certifying that they received and read the document.

EEOC v. Sega of America, Inc. & Spherion Corp.

The San Francisco District Office filed this Title VII action alleging national origin discrimination and retaliation against defendant joint employers Sega, a major video game developer, and Spherion, the temporary staffing agency that provided personnel to Sega. EEOC alleged that Sega retaliatorily discharged five video game testers because they were friends of a non-Filipino individual who was fired after complaining about preferences being given to Filipino employees. EEOC also alleged that Sega terminated 13 Filipino video game testers because of their national origin. The complaint alleged that Spherion was liable for the terminations directed by Sega because it did not protest or attempt to remedy the unlawful termination decisions.

The case was settled by separate consent decrees with Spherion and Sega. Under these decrees, Sega is required to pay \$456,000 in compensatory damages to 18 claimants and Spherion is required to pay \$14,400 in back pay and \$129,600 in compensatory damages to 16 claimants, for a total of \$600,000. Further, upon receipt of information indicating that a client has discriminated against any of its employees, Spherion must immediately notify the client, investigate the matter, and take corrective action consistent with EEOC's enforcement guidance on contingent workers. At least once each calendar quarter for one year, Spherion will actively recruit Filipino employees to its San Francisco Bay Area offices by placing advertisements in Filipino newspapers. Finally, both Sega and Spherion are required to use outside consultants to train their management and supervisory staffs on national origin discrimination and retaliation.

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EEOC v. Jerry Chambers Chevrolet, Inc.

In this Title VII sexual harassment case, the Seattle District Office alleged that a male supervisor who worked for defendant, a car dealership in Bellingham, Washington, subjected a female salesperson to unwelcome touching and offensive sexual innuendoes. Witnesses confirmed that the supervisor sexually harassed women and that despite their complaints, nothing was done. Further, when the employee complained to management about the sexual harassment, the supervisor retaliated by crediting her male coworker for a four-car deal that had the effect of displacing her as salesperson of the month and disqualifying her for a monetary award.

This displacement, combined with the unabated sexual harassment despite her complaints, compelled her to quit. By a four-year consent decree, defendant agrees to pay \$70,000 to the charging party. The decree enjoins defendant from engaging in personnel practices which discriminate against applicants and employees in violation of Title VII. Using an independent consultant, defendant also agrees to implement an EEO policy specifically prohibiting sexual harassment and retaliation and will adopt practices to promote supervisor accountability regarding compliance with the anti-discrimination policy. Further, defendant will provide annual mandatory training on sex discrimination and sexual harassment to its managers, supervisors, and employees, and will require its President and General Manager to undergo one-on-one EEO training with an EEOC-approved trainer every six months for one year.

Sexual Harassment Case Brought brought by TV show *Friends* writers' assistant

A suit against three writers for the television show *Friends*, Warner Bros. and NBC has been brought by Amaani Lyle. Ms. Lyle, an African-American, was hired as a writers assistant. Her duties included typing the dialogue and jokes as the writers discussed plots, story lines and jokes.

The writers complained that Ms. Lyle missed some of the jokes and made mistakes in her transcriptions. She was fired after four months.

The suit claims that Ms. Lyle was discriminated against on the basis of race and gender because she was exposed to lewd and bigoted jokes during the writing process. The jokes were not directed at her, but she was forced to be in the room while they were told.

The case will be heard by the California Supreme Court.