

EEOC Litigation Settlements September 2004

- **EEOC v. Carl Buddig & Co.**

No. 02-C-2240 (N.D. Ill. September 7, 2004)

The Chicago District Office filed this Title VII case alleging that the defendant, which processes and packages meat and deli products in South Holland, Illinois, a Chicago suburb, denied employment to African American applicants because of their race and segregated female applicants into lower paying jobs. Defendant's hiring practices included reliance on referrals of its almost all white workforce, many of whom were Eastern European immigrants, and physically segregating the employment applications of women, considering them only for packing line jobs in which periodic raises were characteristically lower than in other unskilled jobs. The case arose out of a Commissioner's Charge filed in 1998 which referenced discriminatory practices occurring since 1991.

The suit was resolved by a three-year consent decree under which the defendant will pay \$2.5 million in damages to approximately 325 claimants. The decree enjoins defendant from race or sex discrimination in hiring and job assignments; requires that defendant use its best efforts to assure that the race and sex of its hires, on an annual basis and in the aggregate, reflect the racial and sexual makeup of its applicant pool; and requires that female applicants at production facilities who do not specifically indicate an interest in packing jobs be considered for all vacant production positions. Further, during the term of the decree, defendant will fill production positions by alternating hires between interested claimants and its usual applicant flow.

- **EEOC v. Amycel**

No. 04-cv-3295 (WY) (E.D. Pa. September 14, 2004)

The Philadelphia District Office filed this Title VII action alleging that defendant, a mushroom production and distribution company, subjected Charging Party, who is of Mediterranean/Middle Eastern descent, to harassment because of his national origin, and discharged him for complaining of the harassment. Charging party has an olive complexion and had a long full beard at the time of his employment. He had worked for defendant since 1985 and been promoted into several management positions when, in September 2002, defendant's Sales Director became his supervisor. The Sales Director made a number of comments insinuating, with references to Charging Party's appearance, that Charging Party was associated with terrorists. The Sales Director also called Charging Party "Osama Bin Laden" whenever he saw him at defendant's plant. Charging Party complained to the Human Resources Manager by phone about the harassment, sent her e-mails documenting the harassment incidents, and advised two company vice presidents by phone of his complaints. The Human Resources Manager conducted an investigation consisting of nine brief telephone interviews with staff and concluded that Charging Party had not been harassed on the basis of his national origin. Approximately a month after issuance of the Human Resources Manager's report, the Sales Manager summoned Charging Party back three days early from a vacation and told him his position was being eliminated and he was discharged. The suit was resolved by a consent decree providing Charging Party with \$152,500 in monetary relief.

- **EEOC v. Staffing Network, LLC**

No. 02C 1591 (N.D. Ill. September 22, 2004)

The Chicago District Office filed this Title VII action alleging that defendant, an employment agency with its headquarters in a suburb of Chicago and offices in 12 other states, subjected Charging Party and other women employed in the Chicago metropolitan area to sexual harassment in the form of unwelcome and offensive sexual comments and touching, primarily by defendant's Director of Operations. The harassment resulted in the constructive discharge of Charging Party, who was a high earning sales representative, and another woman. The district office also alleged that in retaliation for Charging Party filing a sex discrimination charge, defendant filed suit against her for breach of a noncompetition agreement when she opened her own employment agency and accepted business from some of defendant's customers. Defendant had threatened to sue other former employees for such breaches but had never done so.

The suit was resolved by a three-year consent decree under which defendant will pay a total of \$400,000 in damages to seven claimants (\$165,000 to Charging Party and \$25,000 - \$85,000 to the other six women). The decree permanently enjoins defendant from discriminating on the basis of sex and from creating or tolerating a work environment sexually hostile to female employees, and provides that defendant will not engage in retaliation. The decree requires that defendant revise its sexual harassment policy to, among other things, specify behavior that can constitute sexual harassment and clarify that employees can complain to anyone higher in authority than themselves or to human resources. Defendant is required to report twice annually for three years on sexual harassment and retaliation complaints and their resolution.

- **EEOC v. Bemis Company, Inc.**
No. TH01-112-C-T/H (S.D. Ind. September 24, 2004)

The Milwaukee District Office litigated this Title VII suit alleging that African American employees were subjected to racial harassment including racial graffiti, use of racial epithets, and the display of nooses at defendant's Terre Haute, Indiana facility. Defendant is the largest manufacturer of flexible packaging material in North America, and employs 1,000 people at the Terre Haute facility. The suit was resolved by a three-year consent decree that requires defendant to pay \$245,000 in compensatory damages to 22 claimants. Defendant also will allocate \$55,000 to an interest bearing account for the purpose of providing rewards for information leading to the determination, termination, or criminal prosecution for future acts of racially motivated vandalism or racial harassment at the Terre Haute facility; funds remaining 90 days after expiration of the consent decree will be used for diversity training by an outside consultant that would not otherwise have been undertaken by defendant. The decree enjoins defendant from discriminating against persons on the basis of race, from creating or permitting a racially hostile work environment, and from retaliation. Defendant must report to EEOC annually on formal complaints of racial harassment and defendant's responses.

- **EEOC v, Honeywell Inc., f/k/a AlliedSignal Inc., Automotive Aftermarket**
No. 02-2721 (WGB) (D.N.J. September 28, 2004)

The Philadelphia District Office filed this ADEA suit alleging that defendant, a global diversified technology business, laid off, terminated, and demoted sales managers and sales representatives in various locations nationwide because of their age. EEOC alleged that the discriminatory conduct occurred in 1997 during a companywide reorganization by the former AlliedSignal Automotive Aftermarket (makers of consumer car care items such as Prestone and Fram products), which defendant acquired in a merger in 1999. The suit was resolved with a two-year consent decree that requires defendant to pay amounts ranging from \$275,000 to \$475,000 (which include attorney's fees and pension benefits) to six Charging Parties, and \$8,000 each to 25 class members, for a total of \$2,150,000. The decree also provides that defendant will not engage in any employment practice which constitutes unlawful discrimination under the ADEA.

- **EEOC v. SCI Funeral Services of Florida, Inc., d/b/a Hardage-Giddens Funeral Home**
No. 3:02-CV-911-J-20 TEM (M.D. Fla. September 30, 2004)

The Miami District Office filed this ADA suit alleging that the defendant, a large owner of funeral homes, subjected Charging Party, who has been deaf since birth, to a hostile work environment and paid him less than similarly situated employees because of his disability. Miami also alleged that defendant failed to promote Charging Party to the position of Funeral Director because of his disability and his opposition to defendant's discriminatory conduct, and discharged him for filing a charge under the ADA. Charging Party intervened with ADA and additional state claims. Charging Party is an excellent lip reader and speaks very understandably but with a different tone of voice from a hearing person. He had previously been a funeral home director, when, for family reasons, he had to move to Jacksonville, Florida. Defendant gave him a job in its crematorium and he later transferred to an embalmer's position, but was paid less than a similarly situated embalmer. Defendant refused to promote Charging Party to a Funeral Director position because it wanted to keep him out of the public eye. When defendant's dispatch manager began to mock Charging Party's manner of speech and insinuate he was mentally disabled, he complained to the General Manager and Area Vice President. The complaints were ignored except for a cursory investigation, which concluded that the dispatch manager simply had a harsh management style. Charging Party then filed a discrimination charge and when he could not be persuaded to drop it, he was terminated. The case was resolved by a consent agreement providing Charging Party \$270,000 in monetary relief.

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