

Lessons Learned the Hard Way: Discrimination and Harassment

What types of actions have the courts previously held to be discriminatory or harassing? What types of damages have been awarded? The following are brief summaries of some recent discrimination and harassment cases.

Sexual Harassment

- The large corporation Mitsubishi agreed to pay \$34 million in one of the largest to-date sexual harassment lawsuits in the United States. The EEOC sued Mitsubishi's North American division in 1996, contending that female employees on its assembly line in an Illinois factory were repeatedly kissed, groped, and subjected to insults, both of a sexual nature and otherwise, made by male coworkers and supervisors. The men in the workplace also posted sexual graffiti, pictures, and pornographic drawings. In addition, workers also allegedly used the employer's telephones to arrange for parties where strippers were present and let the men perform acts with sexual overtones with them. Managers were accused of participating in these activities and were accused of failing to act when other employees complained. The settlement will be shared by 350 women.
- A woman won an award of \$300,000 in back wages and \$50,000 for emotional distress after she successfully proved that she was sexually harassed by her boss, the former deputy director of the Criminal Justice Division of the New Jersey Attorney General's Office. According to the woman, her boss asked her for oral sex, grabbed her breasts and buttocks, and made crude sexual comments to her for four years.
- A jury awarded \$5.5 million to the family of a woman who committed suicide, leaving a note that she blamed her employer, the U.S. Postal Service. According to the family, the woman was harassed and discriminated against by coworkers who called her "ugly as a dog," circulated caricatures of her, and deliberately made mistakes or botched jobs which they then blamed on the woman because of her sex. The jury award constituted \$500,000 in compensatory damages and \$5 million in punitive damages.

Male-to-Male Sexual Harassment

A male employee of Norton Company was awarded \$600,000 in his suit for sexual harassment by a male coworker. The plaintiff argued that the coworker attacked him twice, constantly asked him to have sex, and made lewd comments and gestures directed at the plaintiff. When the plaintiff complained to his supervisor he was told to "turn the other cheek." In addition, the supervisor made his own sexual comments and implied that the plaintiff was a homosexual. The award was based solely on a hostile work environment theory.

Female-to-Male Sexual Harassment

A male employee of Omega Optical Company was awarded \$70,000 after he was fired for rebuffing the sexual advances of his female supervisor. The employee alleged that on one occasion his supervisor sat on his lap at a party and rubbed the inside of his thigh with her hand for several minutes. He testified that her behavior embarrassed him and that he interpreted it as a sexual overture. Although evidence showed that he had an excellent employment record he was fired one week after the incident.

Ethnic Discrimination

- In August 2000, the Mondrian Hotel in West Hollywood agreed to settle a claim brought by nine former bellmen of the hotel for \$1.08 million. The bellmen, eight minorities and one Caucasian, were all fired and replaced by "cool-looking" white employees shortly before the hotel reopened after a major renovation. The owner of the hotel had stated in a handwritten memo that some of the hotel employees who were terminated were "too ethnic." At the time of their termination, none of the bellmen had ever been criticized for poor performance, and eight of the nine had worked at the hotel for more than seven years.
- Watlow Batavia, a metal-casting and assembly plant, agreed to pay more than \$190,000 to eight Spanish-speaking former employees who complained that they were discriminated against based on the employers' "English-only" policy. One of the workers was fired after greeting a co-worker by saying "Buenos dias," which is the Spanish equivalent of "good morning." The jury determined that requiring only English to be spoken was not a "business necessity" of the employer and was therefore discriminatory.

Racial Discrimination

In August 2000, a San Francisco jury awarded seventeen bakery workers \$120 million in punitive damages for racial discrimination perpetrated by their employer, Interstate Brands Co., which is the maker of Twinkies and Wonder Bread. (The plaintiffs were also awarded \$11 million in compensatory damages for their employer's violation of California's Fair Employment and Housing Act). The jury found that the plaintiffs, all African-Americans, had been assigned to the worst jobs, subjected to racial slurs, and passed over for promotions. The employer has indicated that it will appeal.

Discriminatory Retaliation

The company Oracle Corporation was ordered to pay \$2.66 million in lost wages and accrued stock options to a former vice president who was fired one day after writing an e-mail to superiors, which stated that the company may have illegally misappropriated software from another company. The employee was also critical of the employer policies and treatment of pregnant women. The employer argued that the employee was fired for forcing subordinates to write e-mails praising her skills. The employer is planning an appeal.

Reverse Discrimination

A group of suburban-Miami police officers was awarded \$1.4 million in a reverse discrimination lawsuit that alleged that the police chief of Hialeah, Florida, a Hispanic man, favored Hispanic police officers over white officers with respect to the granting of prestigious work assignments, among other things. While the police chief argued that it was not an issue of reverse discrimination, but was instead an issue of "power struggles," the jury disagreed and awarded each white police officer \$200,000 in back pay and damages.