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JULY 2008

Tavern on the Green to Pay \$2.2 Million for Harassment of Females, Blacks and Hispanics

EEOC Settles Job Discrimination Suit with Landmark NYC Restaurant

The U.S. Equal Employment Opportunity Commission (EEOC) recently announced the settlement of a harassment and retaliation lawsuit under Title VII of the Civil Rights Act against Tavern on the Green, a landmark restaurant located in Central Park in New York City, for \$2.2 million and significant remedial relief.

The EEOC charged in the case that Tavern on the Green engaged in severe and pervasive sexual, racial, and national origin harassment of female, black, and Hispanic employees. The sexual harassment included graphic comments and demands for various sex acts, as well as groping of women's buttocks and breasts. The racial and national origin harassment included epithets toward black and Hispanic employees and ridiculing Hispanics for their accents. The restaurant also retaliated against employees for refusing to consent to and/or objecting to the harassment, according to the EEOC.

As part of the consent decree, a claim fund of \$2.2 million will be allocated to victims of the harassment and/or retaliation. Additionally, the restaurant will establish a telephone hotline which employees may use to raise any discrimination complaints, distribute a revised policy against discrimination and retaliation, and provide training to all employees against discrimination and retaliation.

Wal-Mart to Pay \$250,000 for Disability Bias

EEOC Said Long-Time Pharmacy Technician Fired Because of Gunshot Disability

Retail giant Wal-Mart will pay \$250,000 and furnish significant injunctive relief to settle a disability discrimination lawsuit filed by the U.S. Equal Employment Opportunity Commission (EEOC), the agency announced recently. The EEOC had charged that Wal-Mart failed to accommodate and then fired a long-time pharmacy technician who suffered a disability resulting from a gunshot wound.

Glenda D. Allen had been employed with the Arkansas-based company as a pharmacy technician since July 1993, most recently at its store in Abingdon, Md. As a result of a gunshot wound sustained during the course of a robbery at a different employer in 1994, Allen suffered permanent damage to her spinal cord and other medical issues, including an abnormal gait requiring the use of a cane as an assistive device.

The agency charged that despite Allen's successful job performance throughout her employment, Wal-Mart declared her incapable of performing her position with or without a reasonable accommodation, denied her a reasonable accommodation, and then unlawfully fired her because of her disability. The lawsuit settled shortly after the court denied Wal-Mart's motion for summary judgment on March 10, and partially granted the EEOC's cross-motion for summary judgment finding that Wal-Mart had no undue hardship defense.

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Along with the monetary payment, the consent decree settling the suit requires Wal-Mart to:

- Observe the ADA and post a notice to employees on the ADA;
- Have all salaried supervisors and managers of its Abingdon stores and in pharmacies in the district that includes Abingdon complete training on the ADA with annual refresher training for the next three years; and
- Submit a list of all employees at the Abingdon store and the pharmacies in the Abingdon district who have been denied reasonable accommodation and/or complained that they have been unlawfully denied reasonable accommodation or terminated because of their disabilities.

The EEOC will monitor the company's compliance with the decree for the next three years.

This is the EEOC's second settlement this year with Wal-Mart concerning the ADA. In April 2008, the EEOC settled a lawsuit concerning Wal-Mart's failure to hire an individual with cerebral palsy in Richmond, Mo., (EEOC v. Wal-Mart Stores, Inc., No. 04-cv-0076 (W.D. Mo. April 18, 2008) for \$300,000 and injunctive relief.

During Fiscal Year 2007, disability discrimination charges filed with the EEOC under the ADA increased 14% to 17,734 -- the highest level in a decade. Approximately one out of every five private sector charge filings with the EEOC contains an allegation of disability discrimination.

New I-9 Form Available and Should be Used Immediately by Employers

A new I-9 form is now available. The only change between this form and the previously issued form is the expiration date. Employers are advised to begin using the new form immediately. The form can be downloaded at the following website: www.uscis.gov/files/form/I-9.pdf.

REMINDER: New Minimum Wage to go into Effect July 24, 2008

Effective July 24, 2008 the minimum wage will raise from \$5.85 per hour to \$6.55 per hour. The next increase will be due on July 24, 2009 when the wage will raise to \$7.25 per hour.



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