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**March 2008**

### **Judge Grants Final Approval for \$6.2 Million Partial Settlement of Historic Union Discrimination Case**

*Sheet Metal Workers' Local 28 Discriminated Against Blacks and Hispanics for Years, Suit Says*

A federal court has granted final approval for a \$6.2 million partial settlement for black and Hispanic sheet metal workers who suffered discrimination by their union, the U.S. Equal Employment Opportunity Commission (EEOC) announced recently.

The EEOC and the State and City of New York, along with the Lawyers' Committee for Civil Rights Under Law in Washington, DC and the New York law firm of Debevoise & Plimpton LLP representing the minority members, had sued Local 28 of the Sheet Metal Workers' International Association in New York City (Local 28) for providing fewer job opportunities to the workers because of their race or national origin for many years. Such alleged conduct violates Title VII of the Civil Rights Act of 1964, which prohibits race and national origin discrimination by labor organizations. The partial settlement was reached through intense negotiations between the plaintiffs and Local 28.

Judge Robert L. Carter of U.S. District Court for the Southern District of New York granted final approval of the settlement, which would compensate minority members of Local 28 for lost wages for the years 1984 to 1991. The parties have also agreed to significant changes in the union's job referral system as well as monitoring systems aimed at equalizing members' access to job opportunities. Litigation of the remaining claims of union members who suffered discrimination after 1991 continues, as do settlement negotiations, in an effort to obtain a prompt and fair resolution of those remaining claims.

The EEOC enforces federal laws prohibiting employment discrimination based on race, color, gender (including sexual harassment and pregnancy), religion, national origin, age, disability and retaliation. Further information about the EEOC is available on its web site at [www.eeoc.gov](http://www.eeoc.gov).

## The Focus

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### **Flushing, N.Y., Apartment Complex Agrees to Pay \$66,000 to Whistleblower Terminated for Requesting Protective Equipment in Insecticide Clean-Up**

As the result of an investigation and legal action by the U.S. Department of Labor, a Flushing, N.Y., apartment complex will pay \$66,000 in back wages to a former employee who was fired after objecting to unsafe working conditions.

An employee of Second Housing Co. Inc. was ordered to clean up insecticide residue in the complex's basement despite his not having been trained in the handling of hazardous materials and the absence of personal protective equipment. Concerned for his health and safety, he repeatedly asked for protective equipment and was fired as a result.

A whistleblower investigation by the Labor Department's Occupational Safety and Health Administration (OSHA) found that Second Housing had discharged the employee in retaliation for his raising legitimate safety and health concerns.

Under a consent judgment signed Jan. 24 by U.S. District Judge Eric N. Vitaliano, Second Housing will pay the back wages, plus interest, and inform its employees of their whistleblower rights under the Occupational Safety and Health (OSH) Act. If payment is not made, the court will appoint a receiver with the power to liquidate the company's assets to secure compliance with the monetary terms of the judgment.

"All employees have the right to safe and healthful working conditions without fear of retaliation or termination," said Louis Ricca Jr., OSHA's acting regional administrator in New York. "When that right is denied, the Labor Department will not hesitate to take appropriate and effective legal steps to ensure its restoration."

The judgment, which Second Housing agreed to without admitting or denying the charges, also prohibits the company from discharging or discriminating against any employee who files an OSHA complaint. The judgment was entered in the U.S. District Court for the Eastern District of New York.

Section 11(c) of the OSH Act protects an employee's right to file a complaint with OSHA or bring safety and health issues to the attention of his or her employer. Information about the whistleblower provisions of this and other laws is available at [www.osha.gov/dep/oia/whistleblower/index.html](http://www.osha.gov/dep/oia/whistleblower/index.html).

Under the Occupational Safety and Health Act of 1970, employers are responsible for providing safe and healthful workplaces for their employees. OSHA's role is to assure the safety and health of America's working men and women by setting and enforcing standards; providing training, outreach and education; establishing partnerships; and encouraging continual process improvement in workplace safety and health. For more information, visit [www.osha.gov](http://www.osha.gov).

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