

# FOCUS

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## Hotel Management Company to Pay \$105,000 to Settle EEOC Discrimination Suit

### *Company Denied Promotion to Single Mother Because of Her Children, Federal Agency Charged*

The Denver Hotel Management Company (DHMC) will pay \$105,000 to settle a sex discrimination case filed by the U.S. Equal Employment Opportunity Commission (EEOC), the agency announced recently. The EEOC had charged that the company refused to promote a single mother because she had children.

According to the EEOC lawsuit, the woman was denied promotion to a newly created position of assistant human resource director because of her caregiver responsibilities as the mother of two young children, and the job was given to a less qualified and less experienced employee. The managers explained to the woman that she was being passed over for the job because of her role as a mother of young children, asserting that she could not relocate or work the required 50-60 hour work week because she “had a full-time job at home with her children,” the EEOC said. According to the EEOC’s complaint, the woman was never asked if she would be willing to relocate or work extended hours. Instead, the decision-makers assumed that because the complainant was the mother and primary caregiver for small children, she would be unwilling to relocate or work extended hours.

Discrimination based on stereotypical views of a woman’s caregiver status is a form of sex discrimination prohibited by Title VII of the Civil Rights Act of 1964.

DHMC has agreed to pay \$105,000 to settle the case (*EEOC v. Denver Hotel Management Company, Inc.*, Civ. No. 10-cv-01712-REB-BNB.) Under the consent decree settling the suit, DHMC also agreed to revamp its discrimination policies and conduct training for all of its employees to explain how stereotypes concerning a person’s family

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responsibilities can constitute illegal sex discrimination.

“Making assumptions about a woman’s ability to perform a job which are not grounded in fact, but instead on stereotyped assumptions about her inability to work long hours due to her child care responsibilities, is unlawful discrimination,” said EEOC Regional Attorney Mary Jo O’Neill. “The Supreme Court has acknowledged that there is a pervasive stereotype that caring for family members is ‘women’s work,’ and that this stereotype remains firmly rooted in our society. The EEOC is committed to eliminating all forms of sex discrimination from the workplace.”

**US Labor Department Sues Nation’s 2nd Largest Wholesale Food Distributor for Discriminating Against Women***Complaint seeks back wages and job offers for more than 80 job applicants*

The U.S. Department of Labor's Office of Federal Contract Compliance Programs recently filed an administrative complaint against Nash Finch Co. for systematically discriminating against more than 80 qualified women who applied for order selector positions at the company's Lumberton facility. Nash Finch is the second-largest publicly traded wholesale food distributor in the United States and is based in Minneapolis, Minn. The company contracts with the federal government to provide goods and services to more than 200 military bases in the U.S. and overseas.

Over the past decade, OFCCP settled discrimination cases with Nash Finch facilities in Norfolk, Va., St. Cloud, Minn., and Omaha, Neb. In those cases, OFCCP uncovered serious violations of the law with regard to recordkeeping and hiring discrimination, and found the company's policies and procedures created an uneven playing field for women, minorities and veterans seeking employment with the company.

"It is unacceptable that a company which profits from lucrative federal contracts would repeatedly violate the law in this manner," said OFCCP Director Patricia A. Shiu. "Nash Finch has demonstrated an unfortunate pattern and practice of hiring discrimination, and the American taxpayers should not have to bankroll this company's bad behavior anymore."

Order selectors at the Lumberton facility pull warehouse stock to fill customer orders. Under Executive Order 11246, federal contractors cannot discriminate in employment practices based on gender. However, data collected from Nash Finch during a six-month period showed striking hiring discrepancies. The company hired approximately 6 percent of qualified female applicants versus 26 percent of male applicants. In 2007 and 2008, there were no women in any order selector positions at the Lumberton distribution center.

The Labor Department's administrative complaint seeks remedies for the rejected applicants, including lost wages, benefits and interest for more than 80 affected class members, as well as job offers and retroactive seniority for at least 11 of the original applicants. Moreover, OFCCP is petitioning the Labor Department's administrative law judge to cancel all of Nash Finch's existing federal contracts and debar the company

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from entering into any future contracts until the violations are resolved and the company corrects its discriminatory employment practices.

In addition to Executive Order 11246, OFCCP's legal authority exists under Section 503 of the Rehabilitation Act of 1973 and the Vietnam Era Veterans' Readjustment Assistance Act of 1974. As amended, these three laws hold those who do business with the federal government, both contractors and subcontractors, to the fair and reasonable standard that they not discriminate in employment on the basis of gender, race, color, religion, national origin, disability or status as a protected veteran.

### **Tri –City Comprehensive Community Mental Health Center Sued By EEOC for Disability Discrimination**

*Northern Indiana Operator of Mental Health Facilities Refused to Accommodate Employee with Breast Cancer*

Tri-City Comprehensive Community Mental Health Center, a large Northern Indiana operator of multiple community mental health facilities, refused to accommodate an employee who required leave for breast cancer treatment, according to a lawsuit filed on November 8, 2010 by the U.S. Equal Employment Opportunity Commission (EEOC).

According to the EEOC's lawsuit, in 2009, Felicia Nichols, who worked at a Tri-City facility in Hammond, Ind., sought leave for breast cancer treatment. Tri-City failed to provide her with a reasonable accommodation and then terminated her for missing work, the EEOC said.

Failing to make a reasonable accommodation for an applicant or employee with a disability who requires an accommodation to perform his or her job violates the Americans With Disabilities Act (ADA). The EEOC asserts that the company's actions were intentional and demonstrated a reckless indifference to Nichols' federally protected rights. The EEOC filed suit after first attempting to reach a voluntary settlement. The agency is seeking back pay and compensatory and punitive damages against Tri-City, as well as other relief, including a permanent injunction to prevent the company from engaging in future disability discrimination.

"An employer cannot simply ignore requests for reasonable accommodation and then fire a disabled worker, telling her to reapply for employment when her condition improves," said Laurie A. Young, regional attorney for the EEOC's Indianapolis District Office.

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