



Staying Out Of The EEOC's Line Of Fire

Insights

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The last place you want to see your company listed is on the EEOC's website under "Press Releases." Hospitality employers continue to make this list with reports of high-dollar settlements of discrimination and harassment allegations.

Recent high-profile cases listed on the EEOC website include a \$19 million settlement of a class-action case against Outback Steakhouse; a \$1.26 million settlement of a case against a Bahama Breeze restaurant in Ohio; and a \$500,000 settlement of two cases against Landwin Management, Inc., a hotel operator in California.

The Trouble Out Back

The Outback case charged a pattern of sex discrimination against female employees. The EEOC alleged that females hit a "glass ceiling" at Outback corporate stores because they were denied experience in jobs leading to top management positions.

In addition to the \$19 million settlement fund, Outback agreed to adopt an online application system for management and supervisory positions; to employ a new "Vice President of People;" and to use an outside consultant for two years to analyze data and determine whether females are provided equal opportunities for advancement. Outback must also report its progress to the EEOC every six months.

Gone With The Breeze

The Bahama Breeze lawsuit alleged that restaurant managers used offensive racial slurs, and mimicked and harassed employees. The journey began when one employee came forward to complain to the EEOC about being called offensive names. The EEOC investigated and found other employees who also reported being harassed, but who previously kept silent because they feared retaliation.

In addition to the \$1.26 million settlement, Bahama Breeze entered into a three-year consent decree agreeing to update discrimination and harassment policies and procedures; provide discrimination and diversity training; and comply with EEOC monitoring and reporting requirements.

Meanwhile Out On The Coast

The Landwin cases involved allegations of national origin discrimination and sexual harassment at the San Gabriel, California Hilton. The management company was accused of hiring less-qualified Chinese workers to displace Latino and Hispanic workers who previously held positions. There were also allegations of a hostile work environment in the housekeeping department, where the supervisor allegedly used offensive language and called female employees offensive names.

In addition to the \$500,000 settlement, Landwin entered into a three-year consent decree to implement hiring and recruiting goals for Hispanic employees; conduct annual discrimination and harassment training; retain an EEO monitor to be named by the EEOC; and provide annual reports to the EEOC.

Aretha Franklin Got It Right

For years we have been warning employers about the need to stay aware of what is going on at all levels within the organization, not just keeping an eye on the big picture. While the examples above all include statements that the company admits no wrongdoing and is only settling to avoid the costs of litigation, it is always possible that the "ounce of prevention" principle could have been used to make the complaints less credible and the cases easier to defend.

The bottom line is that as an employer, you can decide to spend the time and resources up front to police your own organization – or you can wait until you are taken to task by the government, acting on complaints from employees who have stories to tell about inappropriate behavior and how their complaints fell on deaf ears. As the examples above show, those who wait may look forward to many years of reporting obligations and government oversight.

Now it is more important than ever to know what is going on in your own organization. Recently a client asked why all of a sudden every problem seems to turn into a formal complaint or lawsuit. In the current economy and in an environment many expect to favor individual rights, there has been an increase in government agency complaints against employers and a similar increase in employment lawsuits.

You should therefore invest in appropriate resources designed to fit your organization. Regardless of whether you have a Vice President of People, a Director of Human Resources, or use some other title, assign responsibility to someone knowledgeable who is vested with authority and who will command RESPECT:

- **R** - Regularly update and distribute policies prohibiting discrimination and harassment;
- **E** - Educate every employee to encourage compliance with those policies;
- **S** - Set up reporting procedures so that each employee is encouraged to voice concerns internally (and make certain those concerns are dealt with and that there is follow-up);
- **P** - Pay attention to what is actually going on at every level and in every facility;

- **E** - Enforce the rules by promptly investigating all concerns and taking appropriate action when warranted;
- **C** - Consult with experts including legal counsel to spot potential problems and deal with them effectively; and
- **T** - Train managers and supervisors to understand that discrimination and harassment are "no joking matter!"

By taking a close look at things and fostering open communication within the organization, you can apply these guidelines to make the chances of having expensive or embarrassing litigation much less likely. Let the government pick on someone else.

Related People



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