

5.1.5: Case Study: EEOC Sues New Mercer / Columbine Health Systems for National Origin Discrimination

Company's Practices Biased Against Employees From Africa, Federal Agency Charged

DENVER - New Mercer Commons Assisted Living Facility, a part of the northern Colorado-based Columbine Health Systems, violated federal law by discriminating against employees who emigrated from African countries, the U.S. Equal Employment Opportunity Commission (EEOC) charged in a lawsuit filed today.

EEOC alleged that New Mercer Commons and Columbine Health Systems fired Ethiopian and Sudanese employees because of a bias against African immigrants, and implemented a new employment exam that disparately affected the continuing employment opportunities of its small, minority African workforce. EEOC further alleged that a white supervisor was fired in retaliation after she refused to participate in discriminatory practices against African employees.

According to EEOC's suit, Kiros Areghgn, an Ethiopian émigré, worked at New Mercer Commons for nine years as a personal care assistant before she was fired. After a change in management at the facility, her work conditions rapidly deteriorated. She was disciplined, her performance critiqued, her annual merit-based raise withheld for the first time, and management made hostile comments about her national origin and accent. On the day she was discharged, three other employees from Sudan were also fired. All four employees were told that they were being fired because they had not received passing scores on the newly implemented written exam.

Such alleged conduct violates Title VII of the Civil Rights Act of 1964, which prohibits national origin discrimination and retaliation. EEOC filed the lawsuit (*EEOC v. Columbine Management Services, Inc. d/b/a Columbine Health Systems and The Worthington, Inc. d/b/a New Mercer Commons Assisted Living Facility*, Case No. 1:15-cv-01597 (D. Colorado)), after first attempting to resolve the matter through its pre-litigation administrative conciliation process. The suit seeks monetary damages including emotional distress and punitive damages for Areghgn and the other African employees who were fired, as well as for the white supervisor who was let go. EEOC also seeks injunctive relief prohibiting any future discrimination by the employers and mandating corrective action.

"Title VII prohibits not only intentional discrimination, but also the use of employment criteria, such as exams, that adversely affect employment opportunities, but are not sufficiently related to the employment position or required by business necessity," said EEOC Phoenix District Office Regional Attorney Mary Jo O'Neill. "Employers should validate employment tests to ensure the test is accurately measuring job-related functions. And employers must be careful when implementing these or other similar evaluative criteria to make sure that they comply with law and do not disparately screen out minority candidates who are perfectly able to perform the actual job duties."

EEOC Denver Field Office Director John Lowrie added, "Companies must make sure that bias does not infiltrate decision making, whether consciously or unconsciously."

Eliminating discriminatory policies affecting vulnerable workers who may be unaware of their rights under equal employment laws or reluctant or unable to exercise them, is one of six national priorities identified in EEOC's Strategic Enforcement Plan. So too is removing barriers in recruitment and hiring.

EEOC enforces federal laws prohibiting employment discrimination. Further information about EEOC is available on its website at www.eeoc.gov.

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