

## 6.2.4: Case Study: EEOC Sues Arizona Diner For National Origin Bias Against Navajos and Other Native Americans

PHOENIX - The U.S. Equal Employment Opportunity Commission (EEOC) announced that it filed a national origin discrimination lawsuit under Title VII of the Civil Rights Act of 1964 on behalf of Native American employees who were subjected to an unlawful English-only policy precluding them from speaking Navajo in the workplace and terminating them for refusing to sign an agreement to abide by the restrictive language policy. The lawsuit, the first-ever English-only suit by the Commission on behalf of Native Americans, was filed by the EEOC's Phoenix District Office against RD's Drive-In, a diner located in Page, Arizona - a community adjacent to the Navajo reservation.

Reiterating a message she delivered last June to the 25<sup>th</sup> Anniversary Conference of the Council for Tribal Employment Rights - whose members represent the employment interest of Indian tribes on reservations in several states - EEOC Chair Cari M. Dominguez said: "The Commission is committed to advancing job opportunities and protecting the employment rights of Native Americans."

The suit, *EEOC v RD's Drive In*, CIV 02 1911 PHX LOA, states that in approximately June 2000, RD's posted a policy stating: *"The owner of this business can speak and understand only English. While the owner is paying you as an employee, you are required to use English at all times. The only exception is when the customer can not understand English. If you feel unable to comply with this requirement, you may find another job."*

This policy, in an early form, prohibited employees from speaking "Navajo" in the workplace. Two employees, Roxanne Cahoon and Freda Douglas, refused to agree to the policy because they believed it to be discriminatory. As a result, they were asked to leave their employment by RD's. In addition, at least two other employees resigned prior to being terminated because they could not agree to the policy. The vast majority of the employees working at the time spoke Navajo.

Charles Burtner, Director of the EEOC's Phoenix District Office, said: "We investigated this case. We found that the policy at issue, by its own terms, extended to breaks and appeared to be directed primarily to the use of the Navajo language. We found that this policy and its implementation is a form of national origin discrimination, which violates Title VII. Further, the employer's decision to terminate employees who questioned the policy is particularly troubling. Again, we found these terminations to be a form of retaliation, which is illegal."

Mary O'Neill, Acting Regional Attorney of the Phoenix District Office, said: "This case represents a rare lawsuit by the EEOC challenging workplace language restrictions directed at native languages. It is amazing that, in a country that cherishes diversity, an employer will prohibit the use of indigenous languages in the workplace and terminate Native American employees who question whether that is lawful. In fact, in 1990, Congress enacted a statute specifically designed to protect and preserve Native languages."

The lawsuit seeks monetary relief, including back pay with prejudgment interest and compensatory and punitive damages. The Commission is also seeking an injunction prohibiting future discrimination and any other curative relief to prevent the company from engaging in any further discriminatory practices. The EEOC filed suit only after investigating the case, finding that discrimination took place, and exhausting its conciliation efforts to reach a voluntary settlement.

In addition to enforcing Title VII of the Civil Rights Act of 1964, which prohibits employment discrimination based on sex, race, color, religion, or national origin, the Commission enforces Title I of the Americans with Disabilities Act, which prohibits discrimination against people with disabilities in the private sector; the Age Discrimination in Employment Act of 1967; the Equal Pay Act of 1963; the Civil Rights Act of 1991; and the provisions of the Rehabilitation Act of 1973 which prohibit discrimination affecting people with disabilities in the federal sector. Further information about the Commission is available on the Agency's website at [www.eeoc.gov](http://www.eeoc.gov).

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