

## 12.6: Case Study: Central Station Casino To Pay \$1.5 Million In EEOC Settlement For National Origin Bias Suit

### Hispanic Employees Verbally Harassed, Subjected to Speak-English-Only Rules

The U.S. Equal Employment Opportunity Commission (EEOC) today announced the settlement of a national origin discrimination lawsuit under Title VII of the 1964 Civil Rights Act against Anchor Coin, doing business as Colorado Central Station Casino, Inc. (CCSC), for \$1.5 million and other relief on behalf of a class of Hispanic employees of the housekeeping department who were verbally harassed and subjected to unlawful English-only rules.

In addition to the monetary relief for Debra Castillo, Maria Fernandez, Antonio Montoya, Sharon Chavez, Humberto Moreno, and other similarly situated Hispanic workers, CCSC will notify all its employees that it has no blanket English-only policy and provide training to ensure that discrimination does not occur. The suit was filed by EEOC in March 2001 in the U.S. District Court for the District of Colorado after EEOC investigated the case, found that discrimination occurred, and its conciliation efforts to reach a voluntary settlement proved futile. The suit was later joined by private plaintiff interveners. Selena Solis, of the Mexican American Legal Defense and Educational Fund (MALDEF), and David Fine, of Kelly Haglund Garnsey & Kahn, LLC co-counseled the case with Kimberlie Ryan and the EEOC.

"This settlement should send a strong message to employers in Colorado and across the country that we expect companies to think long and hard before implementing rules that may discriminate against those who speak languages other than English," said Francisco J. Flores, Jr., Director of the EEOC's Denver District Office. "This settlement is an important step in our efforts to eradicate national origin discrimination, which is a persistent problem in the workplace."

Kimberlie Ryan, attorney for all the plaintiff-intervenors, said: "This case wasn't about what language workers should speak. It was about the promise of equality. Our clients faced great odds in speaking up for the rights of all to work in peace and to be free of discrimination."

In this case, the evidence showed that in 1998, the Human Resources Director instructed the Chief of Engineering, the Housekeeping Manager, and other housekeeping supervisors to implement a blanket English-only language policy in the housekeeping department despite their objections. Moreover, the Human Resources Director instructed them to discipline any housekeeping employee who violated the policy. The housekeeping department had the highest concentration of Hispanic employees. Although some employees on the housekeeping staff were bilingual, others employees were monolingual Spanish speakers.

The reason given for implementing the restrictive language policy was that a non-Spanish-speaking employee thought that other employees were talking about her in Spanish, and that CCSC needed the policy in defense for undefined "safety reasons." Pursuant to the policy, management told the housekeeping staff that English was the official language of the casino and that Spanish could no longer be spoken. According to the litigation, the Chief Engineer and Housekeeping Manager chastised employees for speaking Spanish at any time, saying, "English-English-English," or "English-only." Moreover, higher-level managers or other non-Hispanic employees would shout "English, English" at the Hispanic employees when encountering them in the halls, resulting in the Hispanic employees being embarrassed and suffering emotional distress.

Selena N. Solis, Staff Attorney for MALDEF, said: "This monetary settlement sends out a clear message to employers: Workplace discrimination on the basis of language will not be tolerated in this day and age, especially when the current workforce population is increasingly comprised of multi-lingual workers."

In the course of the litigation, CCSC's claim of a "business necessity" basis for its misguided and discriminatory language policies was eroded by its own management witnesses who referred to the unlawful policy as unnecessary, wrong, and "stupid." At least one management witness testified that in his opinion the language policy arose out of the Human Resources Director's insecurity, anger, and hurt feelings stemming from her perception that housekeeping employees were speaking about her in Spanish. As part of the settlement, CCSC denies all allegations contained in the suit.

EEOC's policy on English-only rules is set out in its Guidelines on Discrimination Because of National Origin (Part 29, Code of Federal Regulations, Section 1606.1). It is the Commission's position that rules requiring employees to speak only English in the workplace at any time may have an adverse impact on individuals whose primary language is not English or who are limited in English proficiency. Such English-only rules, when applied at all times, may violate Title VII on the basis of national origin.

National origin discrimination is one of the fastest-growing types of charge filings with EEOC nationwide, increasing 28% since the mid-1990s, from 7,035 filings in Fiscal Year 1995 to 9,046 in FY 2002. National origin filings based on English-only rules have skyrocketed by more than 600% from 32 filings in FY 1996 (when EEOC began separately tracking them) to 228 filings in FY 2002.

In addition to enforcing Title VII, the EEOC enforces the Age Discrimination in Employment Act, which protects workers age 40 years and older from discrimination based on age; the Equal Pay Act; Title I of the Americans with Disabilities Act, which prohibits employment discrimination against people with disabilities in the private sector and state and local governments; prohibitions against discrimination affecting individuals with disabilities in the federal government; and sections of the Civil Rights Act of 1991. Further information about the Commission is available on its website at [www.eeoc.gov](http://www.eeoc.gov).

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