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Age Discrimination - Despite good performance, a car dealership sales manager was fired and replaced by a younger manager
Caption: Johnson v. Bailey Oldsmobile, 1:04-1963
Georgia Northern - Atlanta
Judge E. Clayton Scofield, III
September 22, 2005
Plaintiff: A. Bradley Dozier, Jr., Johnson & Benjamin, Atlanta, GA
Defense: L. Brown Bivens, Mobley Bivens & Self, Atlanta, GA
Verdict: Defense verdict on liability
Summary: Plaintiff, age 56, was recruited in late 2003 to be the sales manager for Bailey Oldsmobile. In the first quarter of 2004, sales were up significantly and he was outselling the competition. Despite that performance, plaintiff was fired on 5-2-04. He was promptly replaced by a younger manager. It was plaintiff’s belief that the decision was motivated by age discrimination. Employer countered that plaintiff was not let go because of his age – instead it cited that he was abusive to employees and rude to customers. It was also suggested he spent too much time on his duties as a city councilman. Tried to a jury in Atlanta, the verdict was for the employer and plaintiff took nothing.

Age Discrimination - A clerk at a travel plaza alleged she was fired because of her age
Caption: Pierce v. Flying J Travel, 4:04-561
Iowa Southern - Des Moines
Judge Thomas J. Shields
May 11, 2006
Plaintiff: Thomas A. Newkirk and Jill M. Zwangeman, Fielder & Newkirk, Johnston, IA
Defense: Helen C. Adams, Dickinson Mackaman Tyler & Hagan, Des Moines, IA and Laurie M. Chess and Robert B. Worley, Jr., both of Jones Walker Waechter Poitevent Crabtree & Denegre
Verdict: Defense verdict on liability
Summary: Plaintiff, age 70, worked as a clerk for a travel plaza, the Flying J Travel – it provides services to truckers and other motorists. When she was fired, plaintiff alleged it represented age discrimination. She cited that her boss preferred younger and prettier women – she was replaced by a young attractive woman. These facts formed the basis of an age discrimination claim. Employer defended that plaintiff’s belief that the decision was motivated by age discrimination – had no merit. Employer also noted that just before the firing, plaintiff’s primary customer (accounting for 85% of his sales), asked that plaintiff be taken off the account. [Plaintiff countered that the customer would later not remember this directive.] Both the employer and the manager prevailed on the age count and plaintiff took nothing.

Disability Discrimination - Deaf package handler was not provided an interpreter for company training and meetings for two years and not until after he filed an EEOC complaint
Caption: EEOC v. Federal Express, 1:04-3129
Maryland - Baltimore
Judge William D. Quarles, Jr.
March 2, 2006
Plaintiff: Maria Luisa Morroco, EEOC, Baltimore, MD
Defense: Edward J. Ekfeman and John W. Campbell, Federal Express, Memphis, TN
Verdict: $108,000 for plaintiff
Summary: Profoundly deaf plaintiff worked as a package handler for Federal Express at BWI Airport. At training and other company meetings, plaintiff could not hear – for two years, plaintiff asked for an accommodation. Employer did nothing. After plaintiff filed an EEOC complaint, Employer provided an interpreter. Thereafter plaintiff alleged he came under greater scrutiny and was fired after missing several days of work. [Plaintiff had food poisoning.] This case alleged both disability discrimination and retaliation. Employer defended that while slow to accommodate plaintiff, an interpreter was ultimately provided. It denied
Plaintiff prevailed on the disability claim and took $8,000 for emotional distress, plus $100,000 in punitive damages. Retaliation was rejected. Employer has moved for JNOV relief arguing there was no basis to impose punitive damages.

**Disability Discrimination** - A long-time insurance salesman with bi-polar disorder alleged he was fired because of hostility to his illness

**Caption:** Tobin v. Liberty Mutual Insurance, 1:01-11979  
**Massachusetts - Boston**  
Judge Douglas P. Woodlock  
May 8, 2006

**Plaintiff:** Frank J. Frisoli and Wendy J. Stander, Frisoli & Frisoli, Cambridge, MA  
**Defense:** Alan D. Rose and Richard E. Bowman, Rose & Associates, Boston, MA  
**Verdict:** $1,355,979 for plaintiff

**Summary:** Plaintiff started working in 1964 as a salesman for Liberty Mutual Insurance. In 1990, plaintiff was diagnosed with bi-polar disorder. It affected focus and concentration. The insurer fired him in January of 2001 – it cited declining sales.

It was alleged by plaintiff that the firing represented disability discrimination – instead of accommodating his disorder (providing sales support and access to profitable mass market accounts), the insurer plotted to fire him. Insurer countered as above that plaintiff was let go because of performance – plaintiff was also kept off mass market accounts because of his poor organizational skills.

Plaintiff prevailed on the disability discrimination count and took damages of $1,355,979. The court has added pre-judgment interest, the award totaling $1.97 million.

**Disability Discrimination** - A school custodian with a history of schizophrenia alleged he was not hired because of his mental condition

**Caption:** Cloke v. West Clermont School Board, 1:03-783  
**Ohio Southern - Cincinnati**  
Judge J. Arthur Spiegel  
May 11, 2006

**Plaintiff:** Stephen Imm, Katz Greenberger & Norton, Cincinnati, OH  
**Defense:** R. Gary Winters and Bernard W. Wharton, McCaslin Imbus & McCaslin, Cincinnati, OH  
**Verdict:** $27,000 for plaintiff

**Summary:** Plaintiff, a paranoid schizophrenic, worked successfully as a part-time custodian for the West Clermont (OH) School Board. Plaintiff later left his job without explanation.

A year later he sought a permanent custodian spot – he was passed over. There was proof employer was concerned about placing the schizophrenic plaintiff in a high school. Plaintiff sued and alleged disability discrimination.

Employer defended that plaintiff was not rehired because he had earlier walked off the job – the decisionmaker also denied even knowing of plaintiff’s mental illness. Finally, while not offered a permanent spot, plaintiff could have continued in a temporary spot.

Plaintiff prevailed at trial on the disability discrimination count and took damages of $114,622 – that included $100,000 for emotional distress.
Disability Discrimination - After a nurse returned to the ICU after taking leave for emotional symptoms, she found hospital staff was hostile and she was ultimately forced out.

Caption: Spicer v. Cascade Health, 6:03-6377
Oregon - Eugene
Judge Thomas M. Coffin
March 15, 2006

Plaintiff: Donald E. Oliver and Karen E. Duncan, Oliver & Duncan, Redmond, OR
Verdict: Defense verdict on liability

Summary: Plaintiff was an ICU nurse manager for the Central Oregon Community Hospital – it is operated by Cascade Health Services. In May of 2002, plaintiff took a thirty-day leave for treatment of an anxiety disorder. When she returned to work, plaintiff sensed hostility – she also thought it was odd that employer instituted a work plan for her.

Even more troubling, plaintiff was stripped of her title as team leader. It became so bad, plaintiff quit in the fall of 2002. She sued and alleged (1) disability discrimination, (2) hostile environment regarding her disability, (3) retaliation for having complained and other state law claims.

Employer defended that there was no discrimination or retaliation – at every turn, it tried to accommodate plaintiff, including the initial thirty-day leave. To the removal of team leader status, this was called a restructuring.

The verdict was for the employer on all counts and plaintiff took nothing.

Disability Discrimination - Interviewed for a data entry position, the plaintiff alleged she was passed over because of her hearing impairment.

Caption: Mejia v. Service Electronics, 3:04-1729
Texas Northern - Dallas
Judge Jorge A. Solis
February 7, 2006

Plaintiff: Ronetta J. Francis and Suzanne M. Anderson, EEOC, Dallas, TX
Defense: Paul E. Hash and Kristin L. Bauer, Jackson Lewis, Dallas, TX
Verdict: Defense verdict on liability

Summary: Plaintiff, who is profoundly hearing impaired, applied for a data entry position in September of 2002 with Service Electronics. She thought she was well-qualified and the interview went well. Employer did not hire her – plaintiff found a similar job within months.

In this lawsuit, plaintiff alleged she was passed over because of her hearing disability – that is, she was on track for the job until employer learned of her disability. Employer defended that plaintiff was not hired as (1) she seemed uninterested in the job at the interview, and (2) other candidates were more experienced. It denied disability played a role in the decision.

The verdict was for the employer that the failure to hire was not related to her disability.

Employment Retaliation - Female crane operator alleged gender discrimination and then retaliation for having complained.

Caption: Chambliness v. Louisiana Pacific
5:02-3146 and 5:00-3610
Alabama Northern - Huntsville
Judge Robert R. Armstrong
January 26, 2006

Plaintiff: C. Michael Quinn, Samuel Fisher & Mintrel D. Martin, Wiggins Childs Quinn & Pantazis, Birmingham, AL
Defense: Charles A. Stewart, III, Montgomery, Kimberly Bessiere Martin and Jonathan A. Hardage, both of Huntsville all of Bradley Arant Rose & White
Verdict: Defense verdict on liability

Summary: Female crane operator at a lumber manufacturing facility alleged she was not promoted to a supervisor position because of her gender. She sued and alleged gender discrimination. While that case was pending, Employer fired plaintiff for violating a smoking policy.

Plaintiff sued in a new action and alleged the firing represented retaliation – she noted other employees regularly violated the smoking policy with impunity.

Employer defended that there was no discrimination and that she was fired solely because of the danger posed by smoking – its manufacturing process created flammable dust.

A federal jury in Huntsville, AL rejected all of plaintiff's claims. A defense was judgment entered – plaintiff has appealed.

Employment Retaliation - Plaintiff alleged his employer retaliated against him when he complained about working in a vehicle without air-conditioning.

Caption: Gribben v. UPS, 2:04-2814
Arizona - Phoenix
Judge Frederick J. Martone
April 14, 2006

Plaintiff: Daniel L. Bonnett and Jennifer L. Kroll, Martin & Bonnett, Phoenix, AZ
Defense: Carrie M. Francis and David T. Barton, Quarles & Brady Streich Lang, Phoenix, AZ
Verdict: Defense verdict on liability

Summary: Plaintiff worked as a driver at a UPS facility in Arizona. Suffering a cardiac condition, plaintiff alleged the
company retaliated against him when he complained about working in a vehicle without air-conditioning. When he refused to work in the hot vehicle, he was fired for insubordination.

Plaintiff sued and alleged retaliation for having sought an air-conditioning accommodation – it occurred within a month of UPS receiving an EEOC investigation letter. UPS countered that plaintiff was fired for insubordination. [It also diminished damages, noting that after the firing, plaintiff was reinstated.] A Phoenix jury rejected the plaintiff’s claim.

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**Employment Retaliation** - A black college professor alleged race discrimination and then retaliation when he complained

**Caption:** Jackson v. Metropolitan State College, 1:03-165
**Colorado - Denver**
Judge Edward Nottingham
January 13, 2006

**Plaintiff:** David Lane and Marcel Krzystek, Killmer Lane & Newman, Denver, CO

**Defense:** Allison F. Kyles and Elizabeth H. McCann, Assistant Attorneys General, Denver, CO

**Verdict:** $300,000 for plaintiff

**Summary:** Plaintiff, who is black, began working in 1981 for Metropolitan State College as a criminal justice professor. In 2001 and with tenure, he filed a grievance that alleged because of his race, he was under-evaluated by superiors and thus missed out on increasing his pay. [Plaintiff pointed to white comparators that were paid more.]

Following the complaint, plaintiff alleged a pattern of retaliation began – it included removing him as Professor of Constitutional law and providing an exhausting teaching schedule. In this suit, he alleged intentional race discrimination, hostile environment based on race and then retaliation.

Employer denied everything, explaining plaintiff was fairly evaluated and fairly paid. It also distinguished the purported comparators cited by plaintiff. Finally to retaliation, it was employer’s position that not receiving a preferred teaching schedule does not equal an adverse job action.

The verdict was mixed, employer prevailing on both discrimination counts – however the jury further found for plaintiff on retaliation. He was awarded $300,000.

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**Employment Retaliation** - A social studies teacher alleged he was fired after complaining the school system had an inadequate African-American history curriculum

**Caption:** Sherrod v. Palm Beach (FL) School District, 9:02-80764
**Florida Southern - West Palm Beach**
Judge Daniel T.K. Hurley
February 24, 2006

**Plaintiff:** Dedrick D. Straghn, Delray Beach, FL

**Defense:** Julie Ann R. Allison and Jean M. Middleton, West Palm Beach, FL

**Verdict:** $396,000 for plaintiff

**Summary:** Plaintiff, who is black, was a long-time social studies teacher in South Florida for the Palm Beach County School District. He was fired in May of 2004, the district citing evaluation problems. Plaintiff thought this was a pretext to mask the real reason – he was let go in retaliation for having complained that the school district’s African-American history
curriculum was inadequate. Employer defended that plaintiff was let go based solely on performance. [Plaintiff now teaches at a charter school.]

Plaintiff prevailed on the retaliation claim and was awarded $396,000. Post-trial motions are pending.

**Employment Retaliation - An assembler at a Chrysler plant alleged she was fired in retaliation for having filed a sexual harassment complaint**

**Caption:** Hines v. DaimlerChrysler, 1:04-999  
**Indiana Southern - Indianapolis**  
Judge Richard L. Young  
March 1, 2006

**Plaintiff:** Steven T. Fulk and Meghan U. Lehner, Fulk & Associates, Indianapolis, IN

**Defense:** R. Anthony Prather and Shannon M. Shaw, Barnes & Thornburg, Indianapolis, IN

**Verdict:** Defense verdict on liability

**Summary:** Plaintiff, a female, was employed as a long-time union assembler at the Chrysler plant in Kokomo, IN. In 2003, she alleged sexual harassment by six of her supervisors. Thereafter, despite a history of good evaluations, she began to suffer increased scrutiny and resulting discipline. To the key event in this case, she was fired for insolence on 10-6-03. When asked why she was not at her work station, plaintiff replied, “I had to take a shit.”

From the perspective of DaimlerChrysler, plaintiff was let go solely because of performance problems. Her harassment complaint had nothing to do with that. Plaintiff countered in this suit and took an opposite position – until she complained, she did well. It was also her position that while her remark was crude, firing was a disproportionate response.

Tried in Indianapolis, the verdict on retaliation was for DaimlerChrysler and plaintiff took nothing.

**Employment Retaliation - A female TSA employee was relieved of her duties and ultimately fired when she complained of gender-based pay inequity**

**Caption:** Younis v. Dept. of Homeland Security, 3:04-411  
**Kentucky Western - Louisville**  
Judge John G. Heyburn, II  
January 10, 2006

**Plaintiff:** David Leighty and Elizabeth C. Fust, Louisville, KY

**Defense:** William F. Campbell, Assistant U.S. Attorney, Louisville, KY

**Verdict:** $1,150,000 for plaintiff

**Summary:** Plaintiff worked for the TSA at the Louisville Airport. She earned $71,000, her salary jumping from $39,000 after the federalization of airport security.

Advancing in her position, she went to D.C. to work at the home office in a temporary assignment – she received a raise and a cost of living adjustment. She now earned $115,000.

When she returned to Louisville, her pay was reduced back to $71,000 – she then got a raise to $86,000. Plaintiff then complained that a similarly situated male worker kept his raise when he returned to Louisville. After her complaint, plaintiff was relieved of her duties and essentially assigned to an empty office for eleven weeks. She was ultimately fired, TSA citing that she was a poor manager.

Plaintiff sued and alleged retaliation and gender discrimination. TSA defended that plaintiff was a difficult employee who was let go because of performance problems.

Plaintiff lost on the discrimination count, but prevailed on retaliation. She took $1.15 million, including $650,000 for emotional distress. A judgment in that sum followed.

**Employment Retaliation - A retired professor suffered retaliation in exclusion from adjunct teaching assignments because of his support for a colleague’s discrimination claim**

**Caption:** Blatt v. College of Staten Island, 1:04-2263  
**New York Eastern - Brooklyn**  
Judge Charles R. Wolle  
April 7, 2006

**Plaintiff:** Geoffrey A. Blatt, Kraus & Zuchlewski, New York, NY and Lee F. Bantle, New York, NY

**Defense:** Steven L. Banks and Michael Klekman, Assistant Attorneys General, New York, NY

**Verdict:** $80,000 for plaintiff

**Summary:** Plaintiff, a long-time counseling professor at the College of Staten Island, retired in 2003. Thereafter, he received adjunct teaching assignments. They ended in 2004 when he supported a school librarian at a deposition in her discrimination lawsuit. Plaintiff sued and alleged retaliation for his support of the co-worker. The college defended that there was no retaliation – plaintiff stopped getting assignments because a full-time professor was hired. Plaintiff countered, a college dean advised him that if he stopped supporting the librarian, he would get appointments.

Plaintiff prevailed on the retaliation count and took damages of $80,000.
Employment Retaliation - A white news broadcaster for the American Urban Radio Network was fired after complaining of race and gender retaliation

Caption:  Lewis v. Sheridan Broadcasting Network, 2:04-1015
Pennsylvania Western - Pittsburgh
Judge Thomas M. Hardiman
January 19, 2006

Plaintiff:  Walter G. Bleil, Goldberg Kamin & Garvin, Pittsburgh, PA

Defense:  Lisa M. Passarello and Jaime S. Tuite, Buchanan Ingersoll, Pittsburgh, PA

Verdict:  $72,500 for plaintiff

Summary:  Plaintiff, a white female, worked for the Sheridan Broadcasting Network – it operates, among other things, the American Urban Radio Network. A full-time news anchor, plaintiff earned $40,000 a year.

She was fired in 2002 – plaintiff thought it represented retaliation for having complained of gender and race discrimination. [A black male anchor made $70,000 a year.] Beyond a claim for retaliation, plaintiff also presented an equal pay claim.

Employer defended that plaintiff was let go as part of a restructuring, retaliation playing no role. It also denied the equal pay claim, noting the alleged comparator was recruited from a competitive market and apparently was just a better negotiator.

The verdict was mixed – plaintiff prevailed on retaliation, but the jury rejected compensatory damages. She was awarded $72,000 in punitives. The jury further rejected the equal pay claim. A consistent judgment followed.

Employment Retaliation - A white news broadcaster for the American Urban Radio Network was fired after complaining of race and gender retaliation

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Plaintiff:  Walter G. Bleil, Goldberg Kamin & Garvin, Pittsburgh, PA

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She was fired in 2002 – plaintiff thought it represented retaliation for having complained of gender and race discrimination. [A black male anchor made $70,000 a year.] Beyond a claim for retaliation, plaintiff also presented an equal pay claim.

Employer defended that plaintiff was let go as part of a restructuring, retaliation playing no role. It also denied the equal pay claim, noting the alleged comparator was recruited from a competitive market and apparently was just a better negotiator.

The verdict was mixed – plaintiff prevailed on retaliation, but the jury rejected compensatory damages. She was awarded $72,000 in punitives. The jury further rejected the equal pay claim. A consistent judgment followed.

Employment Retaliation - A security salesman alleged he was fired when he complained about a female co-worker that was being sexually harassed

Tennessee Middle - Nashville
Judge Robert Echols
February 3, 2006

Plaintiff:  Tracy Robinson-Cole, Nashville, TN


Verdict:  $181,606 for plaintiff

Summary:  Plaintiff, a security salesman for Brinks Home Security, did well in his job and was a top seller. That status changed in 2003 when he complained to a (purportedly) anonymous Human Resources hotline that a female worker was being sexually harassed. Thereafter he was placed on corrective status every month, culminating in his firing in April of 2004.

Plaintiff believed he was fired for having reported the sexual harassment, the anonymous hotline being anything but. Surviving to trial were both retaliation and a state law whistleblower claim. Employer countered that plaintiff was fired for one reason – he consistently failed to meet sales goals.

The verdict was mixed. Plaintiff prevailed on retaliation, while employer prevailed on the whistleblower count. Then to damages, plaintiff took compensatory damages of $56,606, plus $150,000 more in punitives. The verdict totaled $181,606.
Employment Retaliation - Was a Pringles chip-maker fired because he alleged race discrimination or instead did he falsify quality control report?

Caption: Long v. Proctor & Gamble, 1:03-1097
Tennessee Western - Jackson
Judge James D. Todd
January 31, 2006

Plaintiff: Venita M. Martin, Larry H. Montgomery and Marc L. Schatten, Glankler Brown, Memphis, TN

Defense: R. Lawrence Ashe, Cynthia G. Burnside and Carmen A. Butler, Ashe Rafuse & Hill, Atlanta, GA

Verdict: $2,529,000 for plaintiff

Summary: Plaintiff, who is black, worked at the Proctor & Gamble plant in Jackson, TN that makes Pringles potato chips. In 2001, he alleged race discrimination and thereafter, found himself subject to increased scrutiny. It culminated with his firing nearly a year later for purportedly falsifying a potato chip quality report.

From the perspective of employer, plaintiff was fired for his poor performance. In this suit, plaintiff countered that he was let go because of the race claim – that it was retaliation, he thought firing was a disproportionate penalty for the infraction.

Employer defended as noted – plaintiff was let go because of the quality control report. It also developed proof it would have fired him anyway, had it known before the firing, that plaintiff had lied on his initial job application. [Previously fired for sexual harassment, he said on the application he was let go because of a plant closing.]

The court asked if plaintiff was fired because of his EEOC complaint – the jury said yes and awarded $529,000 in compensatory damages, including $500,000 for emotional distress. It added another $2,000,000 in punitive damages, the verdict totaling $2,529,000.

Employment Retaliation - Just after alleging age and gender discrimination in an EEOC complaint, the plaintiff was fired

Caption: Sanders v. Argo Data Resource, 3:04-2462
Texas Northern - Dallas
Judge Jerry Buchmeyer
March 9, 2006

Plaintiff: Ronnie D. Wilson, Richardson, TX

Defense: Brian C. Jobe, Wimer & Jobe, Dallas, TX

Verdict: Defense verdict on liability

Summary: Plaintiff, a woman and then age 50, worked as a software engineer for Argo Data Resource Corporation – it makes software for banks. In May of 2004, she alleged her placement on a performance improvement plan represented age and gender discrimination – she filed an EEOC complaint.

A little more than a month later, she was fired. Plaintiff thought it represented retaliation for having complained. Her best proof was the temporal connection. Employer denied retaliation, citing plaintiff was let go because of performance problems, the same problems that necessitated her placement on an improvement plan.

While the jury’s verdict found that plaintiff had engaged in protected activity and that employer took adverse action, it further found the firing was not related to that protected activity. Having so found, plaintiff took nothing.

Employment Retaliation (USERRA) - A middle school teacher alleged he was retaliated against after being called up in the Air Force National Guard

Caption: Carpenter v. Tyler (TX) School District, 6:05-124
Texas Northern - Tyler
Judge John D. Lowe
March 28, 2006

Plaintiff: William S. Hommel, Jr., Tyler, TX

Defense: John C. Hardy, III, Hardy & Atherton, Tyler, TX

Verdict: Defense verdict on liability

Summary: Plaintiff was employed in 2003 as a middle school teacher by the Tyler Independent School District. He was then called up for a tour of duty in the Air Force National Guard. When his tour ended, he learned his teaching contract had not been renewed.
Employment Tort - Outrage - A suntan spokesmodel alleged she was sexually harassed at a pageant in Oahu by a suntan lotion bigwig

Caption: Ewaldt v. Hawaiian Tropic et al, 3:03-1073
Florida Middle - Jacksonville
Judge Harvey E. Schlesinger
March 20, 2006

Plaintiff: Robert E. Bonner and David M. Caton, Meier Bonner Muszynski O’Dell & Harvey, Orlando, FL

Defense: Robert G. Riegel, Jr. and Heather A. Owen, Coffman Coleman Andrews & Grogran, Jacksonville, FL

Verdict: Defense verdict on liability

Summary: Plaintiff participated in 1999 in the Hawaiian Tropic Pageant. She parlayed that experience into a marketing job with the pageant. In this suit, she alleged that during the 2002 pageant in Oahu, her boss, Denny Robinson, sexually harassed her. That included making crude sexual suggestions and placing his hand on her leg at a bar.

Plaintiff sued the pageant and Robinson alleging outrage, assault and battery. The case was defended, Robinson flatly denying everything.

A defense verdict followed. Employer has since sought its attorney fees of $120,000, plaintiff having failed to accept a pre-trial offer of judgment of $7,500.

FMLA Interference - A university employee alleged her position was eliminated because of her exercise of FMLA rights

Caption: Walberry v. IU Psychiatric Management et al, 1:4-848
Indiana Southern - Indianapolis
Judge David F. Hamilton
May 3, 2006

Plaintiff: Lawrence M. Reuben and Christopher K. Starkey, Indianapolis, IN

Defense: Ellen S. Boshkoff and Kellye Michelle Gordon, Baker & Daniels, Indianapolis, IN

Verdict: Defense verdict on liability

Summary: Plaintiff worked as a managed care administrator for a pseudo-university corporation that provided psychiatric services. Because of a medical condition, the plaintiff took intermittent FMLA leave. Shortly thereafter, her position was eliminated.

Employment Tort - Slander - A hospital CFO was fired when he bought new bunk beds for his home on the company credit card and gave his old bunk beds to the hospital – after being fired for apparent malfeasance, the CFO sued alleging he’d been slandered

Caption: Wright v. Keokuk County Health Center, 4:04-40436
Iowa Southern - Des Moines
Judge James E. Gritzner
December 15, 2005

Plaintiff: Matthew S. Brick and Billy J. Mallory, Brick Gentry Bowers Swartz Stoltze Schuling & Lewis, Des Moines, IA

Defense: Gayla R. Harrison, Harrison McKay Moreland & Webber, Ottuma, IA

Verdict: $264,949 for plaintiff

Summary: Plaintiff, a hospital CFO at Keokuk County (IA) Health Center, knew an adjunct ambulance service needed bunk beds – sturdy wooden ones were required. Plaintiff had just such a set at home. With the head of the ambulance service, it was decided plaintiff would buy a new set on the hospital credit card and give the wooden set to the ambulance service.

When the hospital CEO heard of the arrangement, he began an investigation which resulted in plaintiff’s suspension and firing. The CEO also contacted the local county attorney to consider criminal charges. None were brought.

After the firing, plaintiff sued and alleged slander and breach of contract – that is, the bunk bed deal was transparent and benefitted the hospital. The allegation of misconduct that resulted in his firing thus represented slander. The hospital countered the deal was improper, the used beds only being worth $125, while plaintiff bought a new set for $500.

Plaintiff prevailed on both counts – he took $260,000 for slander, plus $4,849 on the contract claim. The verdict totaled $264,969.

Summary: Plaintiff worked as a managed care administrator for a pseudo-university corporation that provided psychiatric services. Because of a medical condition, the plaintiff took intermittent FMLA leave. Shortly thereafter, her position was eliminated.

Employer explained plaintiff’s position was eliminated in a reduction-in-force – it cited that the division was in debt. Plaintiff was instead offered a new position – Plaintiff countered it was a reduction-in-force of exactly one person – she was that person – she contended that if the university sought to cut costs, why had it given other workers raises and brought on new hires. It was plaintiff’s contention her firing represented FMLA interference.

The jury’s verdict was for the employer and plaintiff took nothing.
FMLA Interference - A pharmaceutical employee was fired after taking leave to adopt his infant daughter from Russia

Caption: Dotson v. Pfizer, 5:04-722
North Carolina Eastern - Raleigh
Judge W. Earl Britt
May 25, 2006

Plaintiff: William P. Barrett, Maupin Taylor, Raleigh, NC
Verdict: $333,305 for plaintiff

Summary: Plaintiff was a long-time employee of Pfizer, Inc. Beginning in early 2003, he began efforts to adopt a baby girl in Russia. He apprised his employer that he would need to take several trips to Russia to complete the adoption.

In September and October of that year, plaintiff was gone for a total of fifteen days. He recalled his boss was hostile to the leave and required him to work while in Russia. Ultimately plaintiff was fired on 12-8-03.

Plaintiff sued alleging the firing represented FMLA interference and retaliation. Employer defended that the plaintiff was let go for taking unauthorized Zithromax samples to his daughter’s orphanage in Russia – the company thought that by taking the samples, to advance his own interest in securing an adoption, was an improper use of company property. [Plaintiff countered he was authorized to take the samples.]

Plaintiff prevailed on both the interference and retaliation counts – he took $1,876 for interference, plus $331,429 for retaliation. The verdict totaled $331,429 and a consistent judgment followed.

First Amendment - An assistant principal was fired for having suggested that bonus academic funds be spent on education programs as opposed to staff raises as favored by management

Caption: Ilenes v. Hardee Co. (FL) School Board, 8:04-1709
Florida Middle - Tampa
Judge Thomas B. McCoun, III
March 29, 2006

Plaintiff: Robert F. McKee, Kelly & McKee, Tampa, FL
Defense: Allen Sang, Carman Beauchamp and Sang, Winter Park, FL
Verdict: $79,000 for plaintiff

Summary: Plaintiff, an assistant principal in Hardee County, FL, attended a school advisory council meeting and expressed a belief that funds awarded by the state (for high test scores) should be used to improve student programs. The principal and other school officials thought the money should be used for staff raises.

At the end of the school year, plaintiff’s contract was not renewed. He believed it represented retaliation for his speech at the council meeting. Employer defended, the principal explaining she actually liked the idea to spend the money on students. It further explained the contract was not renewed because plaintiff conflicted with other teachers and was insubordinate.

Plaintiff prevailed at trial on the speech claim and took an award of $79,000. That included emotional distress of $42,000. A consistent judgment followed.

Gender/Age Discrimination - A saleswoman for a publisher alleged she suffered age and gender discrimination, employer retaliating when she complained

Caption: Blumenschine v. ProMedia Group, 3:02-2244
Connecticut - New Haven
Judge Holly B. Fitzsimmons
May 24, 2006

Plaintiff: Scott R. Lucas and Keith A. McBride, Martin Lucas & Chioffi, Stamford, CT
Defense: George P. Birnbaum and Michael L. Ferch, Minogue Birnbaum, New Canaan, CT
Verdict: $40,000 for plaintiff on negligent misrepresentation
Defense verdict on gender and age discrimination

Summary: Plaintiff, age 51 and a female, worked in sales for ProMedia Group – the company publishes magazines for schools and universities. Recruited to the position and promised a management spot, plaintiff remained in sales. When she complained, she was given a titular position of associate publisher.

Thereafter she complained again that her boss made sexual advances. Within months she was fired. Plaintiff believed her company was run like a boy’s club and the firing represented a combination of gender and age discrimination, as well as retaliation. Also presented was a negligent misrepresentation count regarding unpaid wages. [Plaintiff believed she was misled as the nature of her draw, believing it instead represented commission.]

Employer defended and denied the allegations. It postured that plaintiff was let go because of a combination of poor sales and the company’s financial condition. [Plaintiff thought this represented a pretext, noting that before the firing, she was not apprised of performance problems.]

Plaintiff lost on the discrimination and retaliation claims – she did prevail on negligent misrepresentation and was awarded $40,000.
Gender/Age Discrimination - A female floor supervisor at a casino alleged she was forced out, management preferring younger workers who would turn the gaming floor into a bikini pit

Caption: Berge v. Harrah’s, 3:03-359

Nevada - Reno
Judge Howard D. McKibben
January 19, 2006

Plaintiff: Jill P. Telfer and Geoffrey Wong, Sacramento, CA

Defense: Patrick H. Hicks and Veronica Arechederra Hill, Littler Mendelson, Las Vegas, NV

Verdict: Defense verdict on liability

Summary: Plaintiff, a female, started working in 1974 for Harrah’s Casino in Lake Tahoe, NV. By 2002, she was a games supervisor. She was fired on 3-20-03, employer citing poor performance -- that included issuing a marker (a loan) of $100,000 to a customer in excess of his approved limit. Despite a performance improvement plan, plaintiff continued to struggle and she was fired.

Plaintiff thought this represented a pretext to mask age and sex discrimination. It was argued that the employer sought to turn the casino floor into a “bikini pit” where younger more attractive workers were favored for a nightclub image. She also thought the $100,000 marker issue was a canard, employer not suffering any loss.

Both the age and gender claims were rejected at trial and plaintiff took nothing.

Gender Discrimination - A female public relations employee at a state university alleged she was fired because of her gender, her female boss expressing hostility towards her and other female employees

Caption: Maggio v. Kent State, 5:03-360

Ohio Northern - Akron
Judge Ann Aldrich
May 24, 2006

Plaintiff: Dennis R. Thompson and Christy B. Bishop, Thompson & Bishop, Akron, OH

Defense: Lawrence R. Bach and Tamara A. O’Brien, Roderick Linton, Akron, OH

Verdict: Defense verdict on liability

Summary: Plaintiff, a recent graduate of Kent State, was hired in a university relations position by the university. Her position was temporary. It was alleged that her female supervisor was hostile to her work -- plaintiff believed she was expected to just be perky and smile, her boss disfavoring her expression of ideas.

Plaintiff complained about this treatment on 10-4-01. A week later she was fired and replaced by a man. Plaintiff sued and alleged both gender discrimination and retaliation for having complained.

Kent State defended that plaintiff was an at-will employee who was let go for poor performance -- it denied she was treated differently or that a male took her spot. It finally explained the firing decision was made even before she complained.

The university prevailed on both gender discrimination and retaliation, the plaintiff taking nothing.

Gender Discrimination - A female UPS employee alleged she was not allowed to return to temporary work after an on-the-job injury because of her gender

Caption: Watts v. UPS, 1:03-589

Ohio Southern - Cincinnati
Judge Herman J. Weber
March 31, 2006

Plaintiff: Marc D. Mezibov and Stacy A. Hinners, Mezibov & Jenkins, Cincinnati, OH

Defense: Julie C. Foster and Winston E. Miller, Louisville, KY and Kasey L. Bond, Cincinnati, OH all of Frost Brown Todd

Verdict: $200,504 for plaintiff

Summary: Plaintiff was a long-time package driver for UPS -- in 2000, she hurt her back on a delivery. She was then off work for nearly two years. At that time, she sought to return to a temporary work program operated by UPS. For nearly two years, she was denied reassignment, UPS finally bringing her back in 2004.

Before the return to work, plaintiff sued and alleged the delay in the assignment represented gender discrimination -- she noted males were readily accepted into the temporary program. UPS countered that plaintiff continued to be disabled not because of a work injury, but rather degenerative conditions -- as it wasn’t a work injury that continued to hamper her, she was not eligible for the program. UPS further noted that in 2004 when she was cleared to work, she was promptly rehired.

Plaintiff prevailed on the discrimination count and took $200,504 in compensatory damages -- an award of punitive was rejected.

Gender Discrimination - Two female Texas Tech pharmacy professors alleged they were denied tenure because of their gender

Caption: Miller et al v. Texas Tech University, 2:00-364

Texas Northern - Amarillo
Judge Mary Lou Robinson
April 19, 2006

Plaintiff: Bradley W. Howard, Brown & Fortunato, Amarillo, TX

Defense: David E. Jenkins and Kathy Wilson, Assistant Attorneys General, Austin, TX

Verdict: $58,000 for plaintiffs on equal pay claim

Defense verdict on liability on discrimination

Summary: This case involved two female professors in the pharmacy program at Texas Tech University. Each applied for tenure in 1998 -- they were rejected. Plaintiffs...
believed they were well-published and had secured sufficient grants. They sued and alleged gender discrimination in the denial of tenure.

Texas Tech defended that plaintiffs had applied too early – the decisions then were made solely on merit. Plaintiffs countered that timing was not a problem for male applicants. Plaintiffs also presented an equal pay claim.

The verdict was for the university on gender discrimination – plaintiffs did prevail on the equal pay claim and were awarded a total of $58,000.

**Gender Discrimination** - A female non-tenured journalism professor alleged she was denied tenure because of her gender – the university countered the decision was because of plaintiff’s failure to publish.

**Caption:** Criado v. SMU, 3:04-141

**Texas Northern - Dallas**

Judge Barbara M.G. Lynn

December 13, 2005

**Plaintiff:** Yona Rozen, Gillespie Rozen Watsky Motley & Jones, Dallas, TX

**Defense:** John H. McElhaney and Robin D. Gooch, Locke Liddell & Sapp, Dallas, TX

**Verdict:** Defense verdict on liability

**Summary:** Plaintiff, a Hispanic woman, came to SMU in 1999 as a non-tenured journalism professor. In early 2003, she sent an e-mail to the department dean that questioned the lack of women and minorities in her department. At the same time, she applied for a tenure-track position. Employer passed her over.

Plaintiff believed the hiring decision represented gender discrimination and retaliation for her complaint. She noted a similarly situated male professor did get a tenure position. Employer countered that plaintiff was not given a tenure position because of her failure to be published – it denied her gender or the e-mail played any role in the employment decision.

The verdict was for the university on both the gender and retaliation claims, plaintiff taking nothing.

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**Gender Discrimination** - After a female police detective complained of sexism in the assignment of investigations, she was demoted back to patrol and later fired.

**Caption:** Caterson v. Lynwood Police Department, 2:04-1571

**Washington Western - Seattle**

Judge Ricardo S. Martinez

April 3, 2006

**Plaintiff:** Judith A. Lonquist, Seattle, WA

**Defense:** Robert L. Christie, Christie Law Group, Seattle, WA

**Verdict:** $347,350 for plaintiff

**Summary:** Plaintiff, a female, was promoted in 2000 to the position of detective with the police department in Lynwood, WA. In May of 2002, plaintiff complained that she was given inferior training and less interesting crime investigation. Notably, not assigned to a high-profile shooting, she remarked that to get a good assignment one “needed to have a dick.”

Thereafter plaintiff was demoted back to patrol and ultimately fired. She thought the adverse actions represented retaliation for her having complained of gender discrimination. The police defended that plaintiff was demoted because she used the police database to check on her husband. The later firing was linked to professionalism when she was caught shopping on the job. Any sexism was denied.

Plaintiff persuaded this federal jury on discrimination and retaliation. She was awarded compensatory damages of $322,350, including $300,000 for emotional distress. Another $25,000 was imposed in punitives against her boss. A consistent judgment followed for the plaintiff.

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**National Origin Discrimination** - A Puerto Rican laborer with poor English-language skills alleged he was fired because of his origin – the company explained plaintiff was let go because his job had become more complex and required better English.

**Caption:** Cotto v. Berkshire Manufacturing, 3:04-30216

**Massachusetts - Springfield**

Judge Kenneth P. Neiman

May 5, 2006

**Plaintiff:** Suzanne Garrow, Heisler Feldman & McCormick, Springfield, MA

**Defense:** Robert Aronson, Springfield, MA

**Verdict:** Defense verdict on liability

**Summary:** Plaintiff, a Puerto Rican by birth, was employed by Berkshire Manufacturing in a labor position. Plaintiff has limited English-language skills – that initially was not important to employer as plaintiff performed basic tasks.

Employer laid off plaintiff in November of 2003 citing his poor English skills. As it had reorganized jobs, they were
now more complex and required a better English-language understanding. Plaintiff lacked those skills.

Plaintiff countered he was let go because of hostility to his national origin – he suggested his job duties had not changed. Employer replied that it has since hired several Hispanics who can speak English.

Employer prevailed on the discrimination claim and plaintiff took nothing.

National Origin Discrimination - A math teacher of Chinese origin alleged she was forced out because of her principal's hostility to her origin

Caption: Auvenshine v. Troy School District, 5:02-60223
Michigan Eastern - Ann Arbor
Judge J. Marianne O'Battani
April 28, 2006

Plaintiff: Joseph A. Golden and Kevin J. Stoops, Sommers Schwartz Silver & Schwartz, Southfield, MI
Defense: George M. DeGrood, III and Michael D. Ritenour, Thomas DeGrood Witenoff & Hoffman, Southfield, MI
Verdict: $2,439,389 for plaintiff

Summary: Plaintiff, a high school math teacher of Chinese origin, alleged her teaching contract was not renewed because of hostility to her origin by her principal. She recalled the principal remarked on and degraded her Asian accent and customs. Plaintiff sued and alleged national origin discrimination.

Employer (school district) alleged national origin was unrelated to the employment decision – plaintiff was not rehired because of poor performance. Employer noted she was poorly prepared, didn’t learn student names and did math problems incorrectly on the blackboard. Plaintiff thought these excuses represented a pretext.

Plaintiff prevailed at trial on both federal and state civil rights claims. The verdict totaled $2,439,389, including the assessment of punitives against the principal in the sum of $600,000.

National Origin/Gender Discrimination - Iranian doctor alleged disability discrimination

Caption: Mohammadkhani v. University Medical Center, 2:02-95
Nevada - Las Vegas
Judge Kent J. Dawson
November 15, 2005

Plaintiff: Randall M. Rumpf, Rumph & Peyton, Las Vegas, NV
Defense: Diane Carr Roth and Chara L. Allen, Alverson Taylor Mortensen Nelson & Sanders, Las Vegas, NV
Verdict: $310,000 for plaintiff

Summary: Plaintiff is a physician of Iranian origin who worked for a medical clinic. She alleged her boss was hostile to her origin – it was her allegation she was transferred to a dangerous part of town and ultimately forced out. [Her claim also had a gender component, her boss telling her “ovaries and medicine” don’t mix.]

Employer defended and denied either harassment or retaliation in transferring the plaintiff. Instead, it was a business decision, the clinic moving the plaintiff to meet a staffing need.

Plaintiff prevailed on both hostile environment and retaliation, the jury awarding her $310,000 – that included punitive damages of $225,000.

National Origin Discrimination - The president (an American) of a Swiss-based company alleged he was fired, company management preferring a Swiss to run the firm

Caption: Imwalle v. Haag-Streit USA, 1:04-275
Ohio Southern - Cincinnati
Judge Herman J. Weber
May 10, 2006

Plaintiff: Randolph H. Freking and George M. Ruel, Jr., Freking & Betz, Cincinnati, OH
Defense: Doreen Canton and Mark J. Stepaniak, Taft Stettinius & Hollister, Cincinnati, OH
Verdict: $185,000 for plaintiff

Summary: Plaintiff, age 62, was employed as the president of Haag-Streit USA – the Swiss-based company makes products for ophthalmologists. Employer fired plaintiff on 1-27-04 – it cited poor performance.

Plaintiff sued and alleged the company, operated by Swiss owners, discriminated against him because of a combination of his national origin and his age – that is Haag-Streit preferred a younger Swiss manager. [After plaintiff was fired, he was replaced by a Swiss-native who was just 37.] A retaliation count was also presented.

Employer defended that plaintiff was let go because of his performance. Retaliation was defended, the company noting that plaintiff didn’t even complain about age discrimination until after the firing decision had been made.
The verdict was mixed – employer prevailed on both discrimination counts. However the verdict was for plaintiff on retaliation – the award of damages was $185,000.

**National Origin Discrimination** - A Polish shoe salesperson alleged her hours were reduced because of hostility to her national origin

Caption: Klimczak v. Shoe Show, 3:03-1973
Pennsylvania Middle - Scranton
Judge A. Richard Caputo
May 5, 2005

Plaintiff: Peter G. Loftus, Loftus Law Firm, Waverly, PA

Defense: G. Michael Smith, Gordon Feinblatt Rothman Hoffberger & Hollander, Baltimore, MD

Verdict: Defense verdict on liability

Summary: Plaintiff, age 49 and of Polish origin, worked for six years as a shoe salesperson for Shoe Show at its Rocky Mount, PA store. In November of 2002, her hours were reduced. Plaintiff believed it represented a combination of national origin hostility and age discrimination.

Plaintiff recalled that her boss was nice to everyone but her. Employer defended the hour reduction was related instead to a combination of (1) plaintiff’s performance, and (2) a desire to equalize hours on the sales staff.

Employer prevailed on both national origin and age discrimination, plaintiff taking nothing.

**Pregnancy Discrimination** - As soon as an unmarried daycare worker announced her pregnancy, her biblically based Employer fired her

Caption: Lewis v. Covenant School, 2:04-2355
Alabama Northern - Birmingham
Judge William M. Acker, Jr.
February 10, 2006

Plaintiff: David R. Arendall, Arendall & Associates, Birmingham, AL

Defense: Clint L. Mize and Richard R. Raleigh, Jr., Wilmer & Lee, Birmingham, AL

Verdict: $15,500 for plaintiff

Summary: Female plaintiff, unmarried and working at a Christian daycare, announced her pregnancy. She was promptly fired, Employer citing that her pregnancy was inconsistent with its Christian principles.

Plaintiff sued and alleged blatant pregnancy discrimination – she noted the policy as applied only affected women. Employer defended that it was statutorily exempt as a religious sect. [Plaintiff countered it was a daycare, not a religion.]

Plaintiff prevailed on the discrimination count, the jury making an additional finding that in firing plaintiff, Employer was implementing a moral code based on its belief system. Then to damages, plaintiff took $15,500 for lost wages and emotional distress – punitives were rejected.

The trial court set aside the damages citing the finding regarding the morality code. Plaintiff has appealed.

**Race Discrimination** - Black auto-body technician alleged hostile environment discrimination

Caption: Murray v. Cars Collision Center, 1:04-1456
Colorado - Denver
Judge Edward W. Nottingham
April 20, 2006

Plaintiff: Theresa L. Corrada and William W. Hood, III, Isaacson Rosenbaum, Denver, CO

Defense: Harold R. Bruno, III and Zachary P. Mugge, Robinson Walters & O’Dorisio, Denver, CO

Verdict: $1,750,000 for plaintiff

Summary: Plaintiff, a black auto-body technician, alleged he was subjected over the course of six-months to a course of verbal harassment and demeaning comments based on his race. Despite complaining to management, nothing was done.

Plaintiff sued Employer and alleged hostile environment race discrimination. Employer denied notice of the harassment. Plaintiff prevailed and took $250,000 in compensatory damages, plus $1.5 million more in punitives. The verdict totaled $1,750,000.
Race/Sex Discrimination - A black female FBI agent alleged that following leave for a stress disorder, the FBI discriminated against her by requiring that she undergo a fitness for duty psychiatric examination.

Caption: Davis v. FBI, 1:01-331
District of Columbia
Judge Reggie B. Walton
March 17, 2006

Plaintiff: Raymond C. Fox and Michael J. Schrier, Bell Bell & Lloyd, Washington, DC

Defense: Rudolph Contreras and Peter D. Blumberg, Assistant U.S. Attorneys, Washington D.C.

Verdict: $500,000 for plaintiff

Summary: Plaintiff, a black woman, was a long-time special agent at the FBI that handled Freedom of Information requests. In 1998, she took leave for a stress disorder. Returning to work sixteen months later, the FBI required that Davis undergo a fitness for duty (FFD) psychiatric examination.

Plaintiff submitted but wasn’t cleared for duty for a year – rather than come back to work, she quit. Plaintiff then sued and alleged the FBI engaged in race and sex discrimination by requiring the FFD exam. By her measure, she was well-qualified to return to duty.

The FBI defended that based on her lengthy leave for emotional problems and because she was on Xanax, it was reasonable to require an examination. Thus the decision had nothing to do with her race or gender, but rather confirming her emotional fitness to return to work.

The jury made two findings: (1) plaintiff’s race or sex was a motivating factor in the decision to require the FFD, and (2) the FBI had not proved the exam was job related. Then to damages, plaintiff was awarded $500,000.

Race Discrimination - Two black workers at the Chattanooga UPS facility alleged they were exposed to a racially hostile work environment.

Caption: Johnson et al v. UPS, 1:00-310
Tennessee Eastern - Chattanooga
Judge Curtis L. Collier
April 5, 2006


Defense: Waverly D. Crenshaw, Jr. and Brian A. Lapps, Jr. Waller Lansden Dortch & Davis, Nashville, TN

Verdict: Defense verdict on liability

Summary: The two plaintiffs in this case, both black, worked as drivers at the UPS facility in Chattanooga, TN. While each claim was unique, the plaintiffs alleged they were subjected to a racially hostile work environment – that included being belittled and having black speech patterns mimicked. It was also noted that blacks were regularly referred to as “niggers.”

In this lawsuit, the men sued and sought damages from UPS. It defended that the alleged conduct was sporadic and sometimes just offensive, not having anything to do with race. Moreover, once the company learned of the allegations, it made a reasonable investigation.

First tried in August of 2002, the court granted UPS’s judgment as a matter of law – plaintiffs appealed and the Sixth Circuit reversed. Tried again in 2006 through to verdict, UPS prevailed and plaintiffs took nothing.

Race Discrimination - Black toy store manager alleged he was fired after complaining of race discrimination – employer countered he was let go for selling a DVD prior to the release date.

Caption: Moore v. Toys R Us, 2:04-2416
Tennessee Western - Memphis
Judge J. Daniel Breen
April 7, 2006

Plaintiff: Venita M. Martin and Van D. Turner, Jr., Glankler Brown, Memphis, TN

Defense: Ronald M. Cherry, Towson, MD and Kimberly Hodges, Lewis Fischer Henderson Clayton & Mulroy, Memphis, TN

Verdict: Defense verdict on liability

Summary: Plaintiff, who is black, worked as a manager for a Toys R Us store in suburban Memphis, TN. He alleged employer transferred him to a store in a racially hostile part of the city – besides lower volume, he was referred to as “nigger” by customers. When plaintiff complained, he was told to get tougher skin.

Thereafter, plaintiff noted that he came under increased scrutiny. It culminated with his firing nine months later, purportedly for having helped himself to a pre-release copy of a DVD. Plaintiff thought this was all a pretext to mask retaliation for his having complained of race discrimination. It was also noted he was replaced by a white manager.

Toys R Us defended that plaintiff was let go solely because of the DVD issue – a serious matter, it could have exposed the company to large fines from movie distributors.

Resolved in Memphis, the verdict was for Toys R Us and plaintiff took nothing.
Religious Discrimination - A Christian library employee objected to being forced to work on Sundays

Caption: Rehm v. Rolling Hills Library, 5:04-6088
Missouri Western - St. Joseph
Judge John T. Maughmer
May 4, 2006

Plaintiff: David C. Gibbs, III and Drew Gardner,
Gibbs Law Firm, Seminole, FL

Defense: John M. Waldeck and Brian Goldstein,
Waldeck Matteuzzi & Sloan,
Overland Park, KS

Verdict: $53,712 for plaintiff

Summary: Plaintiff, a devout Christian, was a long-time clerical employee at a municipal library. In 2003, the library decided to instituted Sunday hours. Plaintiff cited religious objections to working on Sundays. Employer countered that if someone would take her Sunday hours, it would not be a problem. No one wanted to work Sundays and when plaintiff didn’t show up for work, she was fired. In this lawsuit, she alleged the firing represented religious discrimination. Employer defended that the Sunday hours served the library’s mission and there was no one available to cover for the plaintiff. Plaintiff prevailed on the religious discrimination count and was awarded lost wages of $53,712.

Religious/National Origin Discrimination - A Bosnian immigrant of Muslim faith alleged she was demoted because of a combination of her national origin and religious beliefs

Caption: Sijamhodzic v. Mayo Clinic Jacksonville, 3:02-895
Florida Middle - Jacksonville
Judge Timothy J. Corrigan
May 12, 2006

Plaintiff: David B. Sacks, Jacksonville, FL

Defense: Bradley R. Johnson, Taylor Day Currie Boyd & Johnson, Jacksonville, FL and Joanne L. Martin, Mayo Clinic, Jacksonville, FL

Verdict: Defense verdict on liability

Summary: Plaintiff, a Bosnian immigrant and a Muslim, worked in a clerical position for the Mayo Clinic Jacksonville. After she was transferred to a new spot (from the afternoon to the day shift, making it impossible for her to attend college), plaintiff complained that it represented both religious and national origin discrimination. In this regard, plaintiff cited proof that co-workers regarded foreigners as different, calling them hairy and stinky. Employer defended that plaintiff’s shift was switched because there were two workers on the afternoon shift and only one was needed. Any discrimination or retaliation was denied. The verdict was for the employer on both discrimination counts and retaliation, the plaintiff taking nothing.

Reverse Race/Gender Discrimination - White male lawyer for municipal housing authority alleged he was fired because of both his race and gender

Caption: Tucker v. Housing Authority of Birmingham 2:01-2038
Alabama Northern - Birmingham
Judge R. David Proctor
February 6, 2006

Plaintiff: Kenneth D. Haynes, Haynes & Haynes, Birmingham, AL

Defense: James C. Ayers and Paula I. Cobia, Law Offices of James Ayers, Columbiana, AL

Verdict: $193,990 for plaintiff

Summary: Plaintiff, a white male lawyer, worked for the municipal housing authority. He alleged he was fired because of his race and gender – plaintiff believed his boss, a black woman, was hostile to him, replacing his position with two black female paralegals. Plaintiff sued and alleged both race and gender discrimination. Employer defended that plaintiff was let go as part of a cost-saving reorganization. [Plaintiff noted the two paralegals together cost more than his salary.] Plaintiff prevailed on liability and took backpay of $93,000, plus $100,000 for emotional suffering. Employer
has defended that while plaintiff’s boss may have been hard to deal with, that did not equate to discrimination.

**Reverse Race Discrimination** - White applicant for Dept. of Agriculture position alleged he was passed over because of his race

*Caption:* Moncus v. Dept. of Agriculture, 2:03-416  
*Alabama Middle - Montgomery*  
*Judge Lyle E. Strom*  
*March 16, 2006*

*Plaintiff:* Dawn Wiggins Hare, *Hare & Hare*, Monroeville, AL and Cecelia J. Collins, *Johnstone Adams Bailey Gordon & Harris*, Mobile, AL

*Defense:* Stephen M. Doyle and James J. DuBois,  
*Assistant U.S. Attorneys*, Montgomery, AL

*Verdict:* Defense verdict on liability

*Summary:* Plaintiff, a white male, applied for a customer service position within the Department of Agriculture providing farm services. The Dept. had fifteen spots to fill. Of the fifteen persons hired, only one was a white male – nine of the hires were black.

Plaintiff alleged the disproportionate hiring represented reverse race and gender discrimination. Dept. defended that the hiring decisions were based on merit. Tried for four days, a defense verdict was returned.

**Reverse Race/Gender Discrimination** - A white male community college president alleged he was fired because of his race and gender

*Caption:* Garmon v. Peralta Community College, 4:04-3722  
*California Northern - Oakland*  
*Judge Wayne D. Brazil*  
*May 10, 2006*

*Plaintiff:* Stephanie M. Wells and William R. Hopkins,  
*Wells & Hopkins*, Tiburon, CA

*Defense:* Larry Frierson,  
*Calistoga, CA*

*Verdict:* $1.00 for plaintiff

*Summary:* Plaintiff was employed as the president of Vista Community College, part of the Peralta Community College District. His contract was not renewed in 2004. It was plaintiff’s belief the college favored blacks and women in hiring and promotion – retaliation was also alleged.

The college defended and cited performance, having poor leadership and fundraising skills. Plaintiff thought this was a canard as the position of president within this system was mostly administrative. The criticism of his performance at the time of the firing by a college trustee also formed the basis of a defamation claim.

The verdict was for the college on the discrimination and defamation counts – however plaintiff prevailed on retaliation, the jury further finding that the college would have acted this way in any event. Thus damages were nominal, the jury writing $1.00 on the verdict form.

**Reverse Race Discrimination** - A white assistant principal at a historically black high school alleged she was forced out because of her race

*Caption:* Cauthen v. Richmond County (GA) Board of Education, 1:03-187  
*Georgia Southern - Augusta*  
*Judge Dudley H. Bowen*  
*March 17, 2006*

*Plaintiff:* William J. Atkins and Eleanor M. Atwood,  
*Parks Chesin & Walbert*, Atlanta, GA

*Defense:* Troy A. Lanier,  
*Tucker, Everett Long Brewton & Lanier*, Augusta, GA and Leonard O. Fletcher,  
*Fletcher Harley & Fletcher*, Augusta, GA

*Verdict:* $258,000 for plaintiff

*Summary:* Plaintiff, a long-time educator, worked as an assistant principal at Laney High School in Augusta, GA. Laney is historically black – plaintiff is white. On graduation day in 2002, the school ran short of diplomas – this caused great consternation in the audience, which included several school board members.

Plaintiff was blamed for the diploma snafu and several weeks later, she was transferred out of Laney and given a lesser assignment. The school board cited her having botched the graduation and then appearing indifferent to the problem (as observed by her facial expressions) during the graduation.

It was plaintiff’s belief that the school board’s action represented reverse race discrimination. Her proof focused that while on stage at the graduation, she was not in charge of the diplomas. The demotion, she thought, was related to vocal Laney High alumni who wanted an all-black administration. Any discrimination was flatly denied by the school board.

Plaintiff prevailed on the race count and took an award of $258,000 for emotional distress. A consistent judgment followed.
Sexual Harassment - A municipal water department employee alleged she was exposed to chronic sexual harassment

Caption:  

Ortega-Guerin v. City of Phoenix, 2:04-289
Arizona - Phoenix
Judge Mary H. Murguia
December 22, 2005

Plaintiff: Stephen G. Montoya, Montoya Jimenez, Phoenix, AZ

Defense: David Gaona and Nicole Seder Cantelme, Gaona Law Firm, Phoenix, AZ

Verdict: $1,225,002 for plaintiff

Summary: Plaintiff worked in 2002 for the City of Phoenix Water Department. It was her allegation that a co-worker, Frank Peralta, subjected her to chronic verbal sexual harassment. When plaintiff complained to her boss, nothing was done.

Plaintiff suffered from the harassment – she described sleeplessness, depression and that her hair fell out. In this lawsuit, she sued the city, the harasser and her indifferent boss.

Employer defended and denied any wrongdoing. At best, Peralta’s conduct was described as non-sexual horseplay. While it may have been boorish, it did not represent a cognizable federal claim.

Plaintiff prevailed on the harassment count and took a total of $1,225,002 – that included punitive damages of $350,000. The city has since moved for relief calling the award of damages excessive.

Sexual Harassment - A research assistant was raped and otherwise sexually abused by her supervising professor

Caption:  

Ruehiman v. University of Colorado, 1:02-1490
Colorado - Denver
Judge Walker D. Miller
May 4, 2006

Plaintiff: George A. Johnson, Boulder, CO

Defense: David P. Temple, Office of University Counsel, Denver, CO and Elizabeth A. Starrs, Starrs Mihm & Caschette, Denver, CO

Verdict: $285,000 for plaintiff

Summary: Plaintiff, a visiting law professor at Howard University, alleged she was stalked by a homeless man who frequented the law library. After she complained of the conduct, it was alleged Employer retaliated against her and forced her out.

She sued and alleged sexual harassment, retaliation and breach of contract. Employer defended that it lacked notice of the harassment and when it became aware, the homeless man was barred from the law school. It also noted that the man’s conduct, while bizarre, was not sexual in nature. It also denied retaliation.

The verdict on all counts was for Employer and the pro se plaintiff took nothing.

Sexual Harassment - Law school professor alleged she was stalked by a homeless man at the law library

Caption:  

Martin v. Howard University, 1:99-1175
District of Columbia
Judge Thomas F. Hogan
April 28, 2006

Plaintiff: Pro se


Verdict: Defense verdict on liability

Summary: Plaintiff, a visiting law professor at Howard University, alleged she was stalked by a homeless man who frequented the law library. After she complained of the conduct, it was alleged Employer retaliated against her and forced her out.

She sued and alleged sexual harassment, retaliation and breach of contract. Employer defended that it lacked notice of the harassment and when it became aware, the homeless man was barred from the law school. It also noted that the man’s conduct, while bizarre, was not sexual in nature. It also denied retaliation.

The verdict on all counts was for Employer and the pro se plaintiff took nothing.

Sexual Harassment - In a same sex harassment case, a gay waiter alleged he was subjected to advances by his supervisor

Caption:  

Garner v. Schooners, 5:05-113
Florida Northern - Panama City
Judge Richard Smoak
March 28, 2006

Plaintiff: Bradley Odom, Kievit Odom & Barlow, Panama City, FL

Defense: Patricia G. Griffith, Ford & Harrison, Atlanta, GA and Jacalyn N. Polk, Panama City, FL

Verdict: Defense verdict on liability

Summary: Plaintiff, a gay male, was hired in 2003 as a server for Schooners restaurant in Panama City, FL. He alleged in this lawsuit that he was sexually harassed by his male supervisor. That included inquiries about his sex life
and frequently commenting on the "package" in plaintiff's pants. [It was same-sex harassment.]

It became so bad, plaintiff finally complained to his boss. The next day a pattern of retaliation began and plaintiff was fired within weeks. Employer cited performance – quite simply, plaintiff was a terrible waiter.

Plaintiff sued and alleged both harassment and retaliation. Schooners defended as above and denied the allegations.

The verdict was mixed. While finding that plaintiff was sexually harassed, the jury further concluded he suffered no damages – retaliation was also rejected. A defense judgment followed.

Sexual Harassment - A school custodian alleged she was harassed by her supervisor – still working, the entire verdict represented emotional suffering.

Caption: Bradshaw v. Broward County School Board, 0:03-62151
Florida Southern - Miami
Judge Ted E. Bandstra
February 10, 2006

Plaintiff: Michael F. McAuliffe and Robin L. Rosenberg, Rosenberg & McAuliffe, West Palm Beach, FL
Defense: Michael T. Burke, Johnson Anselmo Murdoch Burke Piper & McDuff, Fort Lauderdale, FL
Verdict: $500,000 for plaintiff

Summary: The plaintiff, a female, worked as a school custodian for the Broward County School Board. Assigned to Novi High School in Davie, FL, plaintiff alleged she was sexually harassed by her boss. The offensive conduct included unwelcome advances and improper touchings. On one occasion, plaintiff recalled her boss pressed his groin against her as she waxed a floor.

Employer defended the case – part of that defense focused on the alleged harasser's denial of any harassment. Employer further postured that once it learned of the harassment, an investigation was conducted.

Plaintiff prevailed on the harassment claim and took an award of $500,000, all of it representing emotional distress. [She continues to work for the school board.]

Sexual Harassment - Female finance manager at a car dealership alleged pervasive harassment – the company countered that while plaintiff endured rude and obnoxious behavior, it was not gender-based.

Caption: Benson v. Thompson Cadillac-Oldsmobile, 5:04-237
North Carolina Eastern - Wilmington
Judge James C. Fox
April 18, 2006

Plaintiff: James E. Hairston, Durham, NC and Robert J. Lane, III and Anthony M. Brannon, Lane & Brannon, Raleigh, NC
Defense: Lyn K. Broom, Teague Rotenstreich & Stanaland, Greensboro, NC
Verdict: $100,000 for plaintiff

Summary: Plaintiff, a female, worked as a finance manager for Thompson Cadillac-Oldsmobile. A co-worker, Dallas Britt, regularly harassed her – that included sexual remarks and advising her this was no job for a woman. He also referred to a female customer who is a physician as a bitch.

After plaintiff was fired, she sued and alleged sexual harassment based on Britt's conduct. Employer defended that while Britt's conduct was boorish, it was neither gender-based nor severe and pervasive. Plaintiff countered it occurred on a daily basis.

Plaintiff persuaded a Wilmington jury on the merits and took an award of $100,000 in compensatory damages. A judgment for her followed.

Sexual Harassment - A female employee at an Italian restaurant alleged sexual harassment and then retaliation for having complained.

Caption: Bridges v. Café Italia, 3:04-2109
Texas Northern - Dallas
Judge Barefoot Sanders
April 25, 2006

Plaintiff: William C. Backhaus and Suzanne M. Anderson, EEOC, Dallas, TX
Defense: L. Randall Yazbeck, Dallas, TX
Verdict: $10,000 for plaintiff

Summary: The plaintiff was a female employee at an Italian restaurant, Café Italia. It was her allegation she was sexually harassed by the restaurant's principal and a general manager. When she complained of the harassment, she was fired. In this lawsuit, she alleged both sexual harassment and retaliation.

Employer defended that plaintiff was let go for poor performance – she was rude to customers and gave away free bottles of wine. Also denying harassment, it suggested Bridges concocted the story in an attempt to protect her boyfriend (also an employee) who was being disciplined.

It cited that plaintiff told her boss that if boyfriend was fired, she'd allege sexual harassment.

The verdict was mixed. Employer prevailed on the
Sexual Harassment - A female employee at a steel company alleged she was sexually harassed by the CEO

Caption: Leonard v. Follansbee Steel, 5:03-109
West Virginia Northern - Wheeling
Judge Frederick P. Stamp, Jr.
February 27, 2006

Plaintiff: Michael J. Hoare, Washington, D.C. and Timothy F. Cogan, Cassidy Myers Cogan & Voegelin, Wheeling, WV

Defense: Larry W. Blalock, Teena Y. Miller, Jackson Kelly, Wheeling, WV and Wm. Michael Hanna and Susan C. Hastings, Squire Sanders & Dempsey, Cleveland, OH

Verdict: Defense verdict on liability

Summary: Plaintiff, a female, started working in 1991 as a secretary for Follansbee Steel. In 2000, she became the company’s Director of Marketing. In this lawsuit, plaintiff alleged the company’s CEO sexually harassed her – as it was her boss that harassed her, she had no meaningful way to complain. The alleged conduct included offensive remarks and touchings.

Employer defended the case and minimized the harassment – in any event, whatever happened, the conduct was not sufficiently severe and pervasive. Tried on the hostile environment claim, the verdict was for the employer and plaintiff took nothing.
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