

Leading the News

Race Discrimination

EEOC Announces \$2.5 Million Settlement Of Harassment Case Against Lockheed Martin

The Equal Employment Opportunity Commission and a unit of Lockheed Martin Corp. have settled for \$2.5 million a suit under Title VII of the 1964 Civil Rights Act charging that a black aviation worker was subjected to racial epithets and other harassment by co-workers and that the company retaliated against him for complaining, EEOC announced Jan. 2 (*EEOC v. Lockheed Martin d/b/a Lockheed Martin Logistics Mgmt. Inc.*, D. Haw., No. 05-00479, *proposed consent decree filed 1/2/08*).

The proposed two-year consent decree, filed in the U.S. District Court for the District of Hawaii on behalf of former Lockheed employee Charles Daniels, is subject to approval by Judge David Alan Ezra. In the suit, EEOC had contended that Daniels, a 45-year-old Navy veteran who worked as an aviation electrician for Lockheed Martin Logistics Management Inc. at several Navy facilities, was subjected to racial epithets and physical threats from co-workers and at least one supervisor, including "the 'n' word," and retaliated against after he complained.

Would Be Largest Settlement in Individual Case

The \$2.5 million settlement, which includes attorneys' fees, would be the largest EEOC settlement in an individual race discrimination suit if approved by the court, said EEOC Regional Attorney William Tamayo, who joined other EEOC attorneys, Daniels, and private plaintiffs' lawyer Carl Varady at a Jan. 2 news conference in Honolulu. Lockheed has agreed to fire one supervisor and not to rehire four employees who allegedly harassed Daniels, Tamayo said. The settlement also requires the company to conduct equal employment opportunity training for current and new employees at Lockheed Martin Aircraft & Logistics Centers, which is headquartered in Greenville, S.C., and to ensure no future retaliation against employees in that unit who file bias complaints, he said.

Daniels was part of a small Lockheed team that serviced Navy jets at air stations across the United States. He alleged the racial harassment occurred at facilities in Florida, Maine, Washington state, and Hawaii. When co-workers in Washington became aware of his race bias complaints, they threatened to secure Daniels's "disappearance" with the help of the Aryan Nation, a white supremacist group, Daniels said at the Jan. 2 news conference. He added that despite Lockheed's written "zero tolerance" policy on harassment, company officials responded to his bias complaints by threatening to "blackball" Daniels in the industry. Daniels was laid off by Lockheed in 2001 and now works for another federal contractor at Warner-Robins Air Force Base in Georgia, he said.

The proposed consent decree "shall not constitute an adjudication and/or a finding on the merits" of the Title VII suit, the decree provides.

Company Defends 'Appropriate' Response

In a Jan. 2 written statement, Lockheed Martin expressed "regret" that "the EEOC, for whatever reason, has chosen to distort the factual record in this matter." The company emphasized the alleged racial harassment involved "a small number" of employees in "a small, single operating unit of the company." It said that Lockheed responded appropriately when confronted with Daniels's complaint.

"When management became aware of the allegations, it conducted investigations and took the appropriate remedial action based on the facts presented at that time," the company said. "At no time was the operating unit aware of or did it ignore any unlawful conduct. All individuals involved in this matter have either left the company or are being terminated. Additionally, as a result of this settlement, we've barred the individuals allegedly involved in this matter from future work with the company."

Joe Stout, a Lockheed Martin spokesman in Fort Worth, Texas, said the employer settled because "we believed it was in the best interests of the company and Daniels to move on." In a Jan. 2 interview with BNA, Stout said that contrary to EEOC's account, there is no record testimony about "lynching" or "nooses" in reference to the alleged threats against Daniels. He also emphasized the alleged harassment was not "nationwide" but involved a "single, small operating unit" headed by a "crew leader," rather than a "supervisor," as alleged by EEOC. Stout said the company took "appropriate steps at the time" to resolve Daniels's bias complaint and that Daniels had agreed to those moves at the time.

Lockheed Martin has "strong policies" prohibiting inappropriate behavior by employees, including race-based jokes and use of racial epithets, Stout said. He said that if the matter had gone to trial, the company believes the evidence would have substantiated its defense to Title VII liability.

Reaction to Complaint Faulted

At the Honolulu news conference, Tamayo said Daniels was laid off by Lockheed in 2001 after he refused a job reassignment that would have placed him back among the alleged harassers. EEOC filed the suit under Title VII of the 1964 Civil Rights Act in federal district court in Hawaii in 2005. Tamayo said that following a vigorously contested case, "we're glad that Lockheed-Martin agreed to settle and not to rehire" the alleged harassers.

Daniels's case presented "some of the most severe misconduct" ever investigated by the EEOC's Hawaii office, said Timothy Riera, the district director in Honolulu. He said that although Lockheed Martin had an impressive written "no tolerance" policy, its application was wanting. The case reminds employers "how essential it is to have effective procedures in place," Riera said.

Carl Varady, the Honolulu attorney who represented Daniels as an intervenor, said the case illustrates the risks for bias claimants of "relying exclusively" on a company's internal investigation. He said that company personnel conducting such probes often are more interested in a "cover up" or have "no clue" about the proper legal standards. Varady advised employees who suspect discrimination to file an EEOC charge and hire private counsel, if possible. "The more timely the

better [because] you can't really rely on the policies of big companies to protect you," he said.

Varady said that although Daniels invoked Lockheed's anti-harassment policy, the plaintiff was subjected to the "most egregious retaliation" in response to his complaint. "They did it for one reason and that's the color of his skin," Varady said. The attorney added that he hopes the settlement leads Lockheed Martin and other employers to "make a commitment" to apply their no-tolerance policies as written.

Responding to reporters' questions, Daniels said the alleged racial harassment began while he was working in Jacksonville, Fla., and persisted through subsequent assignments in Brunswick, Maine, Washington, and Hawaii. Daniels related that the alleged harassment was "pretty humiliating" and that he was "frustrated" by the reaction of his supervisor or crew leader, who allegedly joined in the harassment. Daniels said that after his co-workers knew he had complained, two crew members allegedly said "we know people in the Aryan Nation" who could make "people like me disappear." Daniels said that on another occasions in Florida, a white co-worker said it would have been better if the South had won the Civil War and the United States had treated black people "the way that Hitler treated the Jews."

Asked if the litigation had unearthed other possible racial harassment at Lockheed, EEOC trial attorney Raymond Cheung said that no one else has complained but that during discovery, EEOC learned of other information that could be construed as harassment. He added, however, that such information is confidential and at this point, probably could not form the basis of a timely EEOC charge.

EEOC Regional Attorney William Tamayo, Raymond Cheung, and David Offen-Brown of EEOC's San Francisco office and Timothy Riera, EEOC district director in Honolulu, represented the commission. Carl Varady in Honolulu represented Daniels. Barry W. Marr of Marr, Hipp, Jones & Wang in Honolulu and Caroline L. Elkin and Elena R. Baca of Paul Hastings Janofsky and Walker in Los Angeles represented Lockheed Martin.