

*The U.S. Equal Employment Opportunity Commission*

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## JUDGE DECIDES MAJOR PUNITIVE DAMAGES ISSUE IN FAVOR OF EEOC IN DIAL SEXUAL HARASSMENT SUIT

*Trial Set for April 28 in Biggest Sex Harassment Suit Since Landmark Mitsubishi Case*

CHICAGO - Federal District Judge Warren K. Urbom has dealt The Dial Corporation another defeat in its continuing effort to fragment and limit relief to a large class of sexual harassment victims at its Aurora, Illinois, plant, the U.S. Equal Employment Opportunity Commission (EEOC) announced today. The Judge this afternoon issued a critical decision in the EEOC's sexual harassment class case against The Dial Corporation, the federal agency's biggest sexual harassment litigation since its landmark \$34 million settlement with Mitsubishi Motor Manufacturing of America in 1998.

The judge's ruling provides for a single jury to decide in the first phases of the upcoming trial whether Dial shall be required to pay punitive damages to the class of victims as a whole (*EEOC v. The Dial Corporation*, N.D. Illinois No. 99 C 3356). In so doing, the Court adopted the approach urged by the EEOC and rejected a Dial motion which sought to have awards of punitive damages decided on an individualized basis in separate proceedings by jurors who would not have heard all of the evidence as to Dial's pattern or practice of tolerating sexual harassment.

In his opinion, Judge Urbom wrote: "I am persuaded that awarding one punitive award to the class is the best way to go. Expecting several separate juries to determine with reason separate and individual amounts with the purpose of punishment of the defendant and deterrence of the defendant and others from such pattern and practice in the future is unrealistic at best."

John C. Hendrickson, EEOC Regional Attorney in Chicago, said: "This decision is of enormous importance not only in our *Dial* case but in all sexual harassment cases in which there are numerous victims of an employer's sexually hostile and abusive work environment."

Hendrickson continued: "It means that the jury which hears the most egregious evidence of the worst harassment occurring on a repeated basis will be the one making the decision on awarding punitive damages and that the jury will be making an award to the class as a whole."

"The approach sought by Dial was to divorce punitive damages from evidence of broad patterns of harassment and to fragment the issue into dozens and dozens of individualized assessments. That has been flatly rejected by the Court. It can only be described as a huge victory for the EEOC and for the victims of harassment."

EEOC Supervisory Trial Attorney Noelle Brennan said that if there were an award of punitive damages

to the class, the court would apportion that award among individual victims at a later stage of the proceedings. "Punitive damages are supposed to focus on the misconduct of the employer and to educate other employers about avoiding discrimination. The process by which they are awarded should be appropriate to the case. That has been our position from the start and we are happy to see it vindicated," she said.

Brennan continued, "EEOC is looking forward to the trial of this case against Dial beginning on April 28. The pieces are all in place to assure, finally, that the victims of the long- term pattern of harassment at the company's Aurora facility have a fair opportunity to receive appropriate relief, including punitive damages."

EEOC is the federal agency charged with the administration, interpretation and enforcement of Title VII of the Civil Rights Act of 1964, as amended, which prohibits employment discrimination based on race, color, religion, sex, pregnancy or national origin. The EEOC is also responsible for enforcing the Age Discrimination in Employment Act of 1967, as amended; the Equal Pay Act of 1963; and the Americans with Disabilities Act of 1990, which prohibits discrimination based on disability. More information about the EEOC and the laws it enforces can also be found at <http://www.eeoc.gov>.

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