

*The U.S. Equal Employment Opportunity Commission*

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## JUDGE UPHOLDS JURY VERDICT AGAINST DUPONT FOR \$591,000 IN DISABILITY BIAS SUIT BY EEOC

### *'Malice' and 'Reckless Indifference' by Company Cited in Court Ruling*

NEW ORLEANS – A federal court here has rejected the efforts of E.I. DuPont de Nemours & Co. (DuPont) to overturn an October 2004 jury verdict that found the company liable for maliciously and intentionally discriminating against an employee with a disability, the U.S. Equal Employment Opportunity Commission (EEOC) announced today. The judgment entered by the court orders the Delaware-based science and chemical giant to pay \$591,000 to a former employee who was fired due to her disability – including \$300,000 in punitive damages, the maximum allowed under the law.

The EEOC's lawsuit against DuPont, filed in June of 2003, charged the company with violating the Americans with Disabilities Act (ADA) when it terminated the employment of Laura Barrios, who has severe physical impairments, due to her alleged inability to walk well enough to evacuate the premises in an emergency. However, at trial, the jury found that Ms. Barrios was able to perform her job without posing an undue threat to herself or others in the workplace.

The jury originally ordered DuPont to pay \$1.29 million to Ms. Barrios for illegally firing her with malicious intent. The award included \$1,000,000 in punitive damages, \$91,000 in lost past wages, and \$200,000 in lost future wages. On January 31, 2005, pursuant to legal limits imposed by the ADA, the court reduced the punitive damage award to the highest possible amount of \$300,000 (the statutory cap for one individual).

"We are pleased with the jury verdict and court decision in this case," said EEOC General Counsel Eric Dreiband. "Employers need to ensure that their employees do not suffer discrimination based on disability."

In her 60-page opinion dated June 6, 2005, Judge Sarah S. Vance of the United States District Court for the Eastern District of Louisiana found sufficient evidence to uphold all aspects of the jury's verdict. In reference to the punitive damage award, Judge Vance stated, "The jury may have concluded from this evidence that DuPont wished to force out an individual with a disability whether she could work or not – a reprehensible view with respect to individuals with disabilities."

Judge Vance added, "Ultimately, there is ample evidence from which the jury could have concluded that DuPont discriminated against Barrios with both malice and reckless indifference to her rights under the ADA...there was sufficient evidence for the jury to conclude that DuPont engaged in a pattern of intentionally discriminatory and malicious conduct."

EEOC Senior Trial Attorney Gregory T. Juge, who litigated the case for the EEOC, said, "The hard facts and clear evidence we presented at trial led the jury and Judge Vance to their just determinations. The message to employers is a simple one: disability does not mean inability. Employment decisions must be made based on one's ability to do the job, not on disability-based myths, fears or stereotypes."

According to its web site ([www.dupont.com](http://www.dupont.com)), "Founded in 1802, DuPont puts science to work by creating sustainable solutions essential to a better, safer, healthier life for people everywhere. Operating in more than 70 countries, DuPont offers a wide range of innovative products and services for markets including agriculture, nutrition, electronics, communications, safety and protection, home and construction, transportation and apparel."

The EEOC is the federal government agency responsible for enforcing the nation's laws prohibiting discrimination in employment based on race, color, sex, religion, national origin, retaliation, age and disability. Further information about the EEOC is available on its web site at [www.eeoc.gov](http://www.eeoc.gov).

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