

- **EEOC v. Boston Market Corp.**

No. CV-034227 (LDW/WDW) (E.D.N.Y. Oct. 5, 2005)

The New York District Office filed this ADA/Title VII case alleging that defendant, a national fast-food restaurant chain, subjected charging party, a cashier/server/greeter at its Ronkonkoma, New York restaurant, to a hostile work environment because of her disability (Asperger's Syndrome a neurological impairment causing autistic-like behaviors and deficiencies in social and communication skills) and sex (female), and retaliated against her for her complaints about the harassment, resulting in her constructive discharge.

Defendant hired charging party in May 1999 into a part-time position assisting servers, cleaning tables, collecting trays, and operating the cash register during nonpeak hours. A cashier who trained charging party was intolerant of her disability and berated her when she had difficulty learning her job tasks. The cashier and two other employees who provided supervision or training to charging party made disparaging comments to her, such as telling her there must be something very mentally wrong with her because she had a job coach and calling her worthless and an embarrassment to Boston Market. The sexual harassment began in December 2000 when a newly-hired male employee began propositioning charging party for sex and making sexual comments to her. Other male employees sometimes joined in the sexual comments, and charging party and others complained to management many times. Following an egregious incident in which the harasser threw charging party against a wall and ground his hips into her buttocks, charging party and coworkers complained to management to no avail. Charging party's parents helped her file a criminal complaint against the harasser, who admitted to harassment and pled guilty to a stalking offense. Defendant fired the harasser after the police investigation revealed that he was using a false identity. Charging party continued working, but defendant cut her hours, and a coworker who was a friend of the harasser intensified her harassment of charging party, causing her to resign.

The parties resolved the case through a 3-year consent decree. Charging party intervened and the decree provides that she will receive \$150,000 pursuant to a separate agreement between her and defendant to which EEOC is not a party. The decree provides that defendant has adopted a nondiscrimination policy and a complaint procedure and within 60 days of entry of the decree will establish a toll-free telephone number for reporting incidents of discrimination, harassment, or retaliation. Defendant will display its nondiscrimination policy and complaint procedure in each of its facilities. Defendant will provide antidiscrimination training annually to employees in the area that currently includes the restaurants in Ronkonkoma, Smithtown, Selden, Commack, Shirley, Deer Park, and East Islip, New York, and in any restaurants opened in that area while the decree is in effect.