

- **EEOC v. SPS Temporaries, Inc.; Professional Personnel Management Corp.; Jamestown Container Lockport, Inc., dba Jamestown Container Companies; Jamestown Container Corp. dba Jamestown Container Companies.; and Whiting Door Manufacturing Corp.**
No. 04-CV-0052E(SC) (W.D.N.Y. Nov. 22, 2005)

In this suit, the New York District Office alleged that SPS Temporaries, Inc., and Professional Personnel Management Corp. (jointly "SPS"), the largest temporary employment agency in the Buffalo, New York area, and two SPS clients, Whiting Door Manufacturing and Jamestown Container Companies, engaged in various violations of Title VII, the ADA, and the ADEA. The suit alleged that SPS: (1) failed to refer applicants for temporary employment based on their race, gender, pregnancy, national origin, age, disability, and responses to preemployment medical inquiries; (2) violated the Commission's recordkeeping regulations at 29 C.F.R. .1602.14 by intentionally and systematically destroying documentary evidence during the EEOC's investigation; (3) required applicants for temporary employment to complete a preemployment questionnaire that elicited information regarding potential disability; (4) failed to hire/refer a charging party for a machinist position because it regarded him as disabled due to his disclosure of carpal tunnel syndrome on a preemployment medical questionnaire; (5) discharged a second charging party from a sales representative position for questioning defendants' failure to hire the first charging party; and (6) discharged a third charging party from a service coordinator position because of her pregnancy. The suit also alleged that defendants Whiting Door (an Akron, New York manufacturer of roll-up and swing doors for trucks and trailers) and Jamestown Container (which has container-manufacturing facilities in Lockport and Cheektowaga, New York) engaged in hiring discrimination in violation of Title VII in filling temporary general laborer positions. The District Office claimed that Whiting Door asked SPS not to refer female applicants and that Jamestown Container asked SPS to not to refer black or female applicants.

The EEOC entered into separate consent decrees with the defendants, settling the case for a total of \$580,000 in monetary relief. The 4-year decree with SPS requires defendants to pay \$500,000 (\$125,000 within 5 days of signing the decree and \$7,812.50 monthly thereafter for the duration of the decree) into a Claims Fund, administered by CAC Services Group, LLC. The Whiting Door and Jamestown Container decrees (both 3 years) require those defendants to pay \$60,000 and \$20,000, respectively, into the Claims Fund described in the SPS decree within a few weeks after each executes its decree. The SPS decree provides that the three charging parties will receive payments of \$20,000, \$60,000, and \$45,000 respectively in compensatory damages from the Claims Fund within 30 days of execution of the decree. The Claims Administrator will distribute the remaining funds to eligible claimants determined by EEOC as compensatory damages after a notice and claims procedure and a fairness hearing. The distribution will be in two installments, the first about 2 years after execution of the decree and the second at the expiration of the decree.

The SPS decree enjoins defendants from discriminating against any individual on the basis of race, sex, pregnancy, national origin, disability, or age, including complying with discriminatory requests from clients and requiring applicants for temporary employment to complete preemployment questionnaires containing questions that may reveal information about actual or potential disabilities. The Whiting decree enjoins it from refusing to hire temporary employees based on their sex and from making requests for temporary employees based on sex.

The SPS decree also requires defendants to distribute a notice regarding resolution of the case and a memorandum setting forth the coverage of federal employment discrimination laws to: (1) each applicant for full-time or temporary employment at SPS during the term of the decree, (2) each current full-time or temporary employee with his/her paycheck for the first eight payroll cycles following execution of the decree, and (3) each future full-time or temporary employee at the commencement of his/her employment. SPS is also required to distribute a notice to current clients and to new clients obtained during the term of the decree delineating SPS' and its clients' obligations under federal EEO laws and emphasizing SPS' commitment to abide by such laws. SPS must place job advertisements for temporary positions in the Buffalo News, Niagara Gazette, and Lockport Union-Sun and Journal with the goal of increasing applications from underrepresented populations (including blacks, Latinos, females, disabled individuals, and persons 40 years old and above) each time SPS recruits for temporary positions in the distribution area and no less than 45 times per year for the duration of the decree. All job advertisements shall state "Equal Opportunity Employer" or "EOE." Once every 60 days throughout the decree, SPS must send a job notice to specified organizations stating that it is an equal opportunity employer, encouraging applications for temporary positions from underrepresented groups, and requesting the organizations to publicize the notice for 2 months. SPS will provide the EEOC with semiannual reports on the race, sex, age, national origin, and disability

status of applicants for temporary employment. The Whiting Door and Jamestown Container decrees require training, the adoption of nondiscrimination policies, and reporting on the hiring of temporary employees and on temporary employment agencies each defendant uses.