The U.S. Equal Employment Opportunity Commission

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COURT SPEAKS: ENGLISH ONLY RULE UNLAWFUL; AWARDS EEOC $700,000 FOR HISPANIC WORKERS

DALLAS - A speak-English-only policy implemented by Premier Operator Services, Inc., a former long distance operator service, constitutes national origin discrimination, Magistrate Judge Paul D. Stickney has ruled, awarding 13 Hispanic employees over $700,000 in damages. The decision by the U.S. District Court for the Northern District of Texas, Dallas Division, represents the largest monetary award ever obtained by the U.S. Equal Employment Opportunity Commission (EEOC) in a lawsuit for English-only violations.

The rule enforced by the company, banning the speaking of languages other than English at all times in the workplace including lunch and other breaks discriminated against mostly Mexican-American bilingual employees hired, ironically, for their ability to speak Spanish. The Court held that the policy resulted in discrimination against workers based on their national origin in violation of Title VII of the Civil Rights Act of 1964.

EEOC's lawsuit maintained that the Hispanic workers were first hired for their ability to speak Spanish as a benefit to the business, then told not to speak their native language at any time while on the premises except to non-English speaking customers. The workers, some of whom had previously received performance awards, were fired and retaliated against after refusing to sign the restrictive language policy and filing discrimination charges with EEOC.

"This significant ruling serves to remind us that language differences must not make employees the target of mean-spirited or even well-intended language policies when there is no real business necessity or justification for such policies," said EEOC Chairwoman Ida L. Castro. "The timing of this decision during our nation's celebration of Hispanic Heritage Month makes it even more noteworthy as we focus on the value of diversity in the workplace and all other areas of society."

The individual workers were awarded back pay for wages lost as a result of their discharge, totaling approximately $59,000, and an additional $50,000 each representing the maximum allowable recovery in this case under the Civil Rights Act of 1991 for compensatory and punitive damages.

In deciding the case, Judge Stickney relied on expert testimony from linguist Susan Berk- Seligson of the University of Pittsburgh, who testified that "code switching" an unconscious habit where persons who are bilingual switch from one language to another during casual conversation makes it extremely difficult to completely suppress one's primary language. The judge also rejected the idea that the policy and its enforcement promoted harmony, or was needed to improve communication, stating, "Quite the opposite...the policy served to create a disruption in the workplace and feelings of alienation and inadequacy by...proven performers."

The court noted in the 22-page decision that the company's language policy, posted on a sign at the

entrance of the building where the employees reported to work each day, was accompanied by a warning that, "Absolutely no guns, knives or weapons of any kind" were allowed on the premises, thereby "implying a combined concern about the conduct of those persons who speak a language other than English" and "setting the scene for stigmatization."

EEOC General Counsel C. Gregory Stewart said, "Cases involving English-only rules, restrictive language policies, and language or accent discrimination are litigation priorities for the Commission. Employers must refrain from targeting workers for discrimination based on myths, fears, and stereotypes regarding their primary language and country of origin."

The ruling followed an abbreviated trial on July 28, 2000, at which the company did not appear. While Premier Operator Services had declared bankruptcy prior to the trial, the court noted evidence presented by EEOC that the President and CEO may have transferred assets from the company and that the judgment could be enforced against successor employers. The suit was filed in January 1998.

Robert Canino, Regional Attorney for EEOC's Dallas District Office, said, "With the rapid growth of the Latino population in Texas, California, Florida, New York, Illinois, and other large states, it should be obvious to employers that bilingual workers are an asset to business. Rather than implementing discriminatory workplace policies that alienate language minorities, companies should embrace and promote diversity because it makes good business sense."

EEOC has observed an increasing trend in English-only charge filings since the agency started separately tracking such charges in Fiscal Year 1996. Charges alleging national origin discrimination based on English-only rules have skyrocketed from 77 charge filings in FY 1996 to 365 charge filings thus far in FY 2000. Earlier this month, EEOC reached a $192,500 settlement in an English-only lawsuit against Illinois-based Watlow Batavia, a subsidiary of Watlow Electrical Manufacturing Co. of St. Louis, on behalf of eight Hispanic former workers in the assembly department of a plant in suburban Chicago. EEOC's policy on English-only rules is set out in its Guidelines on Discrimination Because of National Origin (Part 29, Code of Federal Regulations, Section 1606.1).

In addition to enforcing Title VII, which prohibits employment discrimination based on race, color, religion, sex or national origin, EEOC enforces the Age Discrimination in Employment Act; the Equal Pay Act; Title I of the Americans with Disabilities Act, which prohibits employment discrimination against people with disabilities in the private sector and state and local governments; prohibitions against discrimination affecting individuals with disabilities in the federal government; and sections of the Civil Rights Act of 1991. Further information about the Commission, including its Guidelines on Discrimination Because of National Origin, is available on the agency's web site at www.eeoc.gov.

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