

- **EEOC v. Union Pacific Railroad Co.**

No. EP-02-CA-0445-DB (W.D. Tex. Feb. 2, 2004)

The San Antonio District Office filed this Title VII race discrimination lawsuit against defendant, a railroad, because it terminated charging party, an African American switchman/brakeman/conductor, for allegedly lying on his job application about his criminal background but did not terminate non-black employees who actually lied on their applications. According to charging party, when he applied for employment defendant's interviewer asked him whether he had ever been convicted of a felony or misdemeanor. Charging party answered "no" to the question even though he had been convicted of misdemeanor theft. Charging party had initially checked "yes," but after explaining to his interviewer that his guilty plea resulted in his being placed on probation and a dismissal and discharge of the theft charge once he completed probation, the interviewer told him to check the "no" box. Charging party's application showed that there is a mark in both the "yes" and "no" boxes. Further, documents revealed that at least three non-African American employees had checked "no" in response to the conviction question even though they had felonies or misdemeanors on their records, and they were not fired.

In accordance with a two-year consent decree, defendant is required to pay \$84,000 to charging party, who had been reinstated to his job (without back pay) through defendant's internal complaint process approximately 20 months after his discharge. Defendant is enjoined from terminating the employment of any African American employee on the basis of his or her race and from retaliation. In addition, on an annual basis, defendant must mail or e-mail copies of its EEO policies to its employees in the El Paso, Texas Transportation Department and provide EEO training to its managerial and supervisory employees that explains the damaging effects of race discrimination and retaliation.