

Labor and Employment Alert

Company Hit with \$25 Million Jury Verdict in Employee's Hostile Work Environment Case

July 11, 2012

A recent verdict by a New York jury serves as the latest reminder to employers and executives of the importance of promulgating and strictly enforcing anti-harassment and anti-discrimination policies – and of the significant financial and reputational repercussions that can befall companies that fail to do so.

On June 12, 2012, a federal jury in New York awarded \$25 million to an African-American steel plant worker who alleged that his employer, ArcelorMittal, failed to address racial epithets, vandalism, and graffiti directed at him in the workplace. The award also found three managers at the company personally liable for aiding and abetting the unlawful conduct.

The employee's complaint alleged that over a period of three years, he was subjected to racist comments and harassment, including an incident in which a stuffed monkey was hung from a noose in his car. While the employee's complaint portrayed a workplace run amok with offensive language and conduct, the employee did not allege any explicit threats, physical contact, or "quid pro quo" harassment, which often are features of cases involving such sizable jury awards. Perhaps fueling the jury's verdict was the plaintiff's contention that the alleged harassment was well known to senior company personnel, who nevertheless failed to take steps to stop it.

Although the company is expected to appeal this staggering verdict, the financial impact is still likely to be significant. The case is *Turley v. ISG Lackawanna Inc. et al.*, case number 1:06-cv-00794, in the U.S. District Court for the Western District of New York.

Companies in New York and elsewhere should take note of this development. There is no shortage of plaintiffs' attorneys in New York and elsewhere looking for aggrieved employees who can make credible threats of workplace discrimination or harassment. These counsel know that employers often are wary of the negative press such claims can generate, and seek to leverage the threat of such publicity into significant settlements. The *Turley* case reminds us that when these disputes ultimately find their way to a jury, both the reputational and the financial consequences for defendants can be severe.

Companies should take this opportunity to re-examine their anti-discrimination and anti-harassment policies and practices to ensure that they reflect best industry practices. When allegations of harassment do arise, employers should carefully document and promptly address such incidents, no matter how seemingly minor, and should issue appropriate reminders of the company's policy prohibiting retaliation against complaining employees. Regular equal employment opportunity training programs for employees and supervisors also is highly advisable and, in some states, required by law. Finally, companies should strongly consider requiring employees to enter into arbitration and confidentiality agreements as a condition of employment, to ensure that claims of discrimination or harassment are resolved by seasoned, legally-trained arbitrators rather than being tried in the press or before often-unpredictable juries.



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