

EMPLOYMENT Ford Motor, American Samoa targeted

EEOC showing late summer spike in discrimination suits

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There's no such thing as dog days of summer at the U.S. Equal Employment Opportunity Commission. In the final 10 days of August, the agency burst into action, filing 15 discrimination suits targeting major companies including Ford Motor, Kohl's Department Stores, air transporter SITA Information Networking Computing USA, as well as the government of American Samoa.

The cases against Ford, SITA and Kohl's all involve alleged violations of the Americans With Disabilities Act, an increasingly sticky area of employment law.

Led by chair Jacqueline Berrien, the EEOC finalized regulations implementing amendments to the Americans With Disabilities Act in March, widening the definition of who is considered disabled. The 2008 amendments overturned several Supreme Court decisions that Congress believed interpreted the definition of "disability" too narrowly, denying protection for people with impairments like cancer, diabetes or epilepsy.

The focus now, as evidenced in the EEOC's latest cases, is not on whether someone is disabled, but rather when and how employers must provide reasonable accommodation.

The case against Ford involves the company's alleged refusal to allow an employee who suffered from irritable bowel syndrome to telecommute.

The EEOC sued Ford in U.S. District Court for the Eastern District of Michigan on Aug. 26, charging that rather than providing accommodation, the company began to criticize the employee's performance and eventually fired her.

The suit seeks back pay, reinstatement, and punitive damages. For reasons not specified, the EEOC also wants Ford to pay for the plaintiffs' chest x-ray tuberculosis test.

A Ford spokesperson said in an email that the company "is vigilant in protecting the ADA rights of its employees and is confident it will establish that it complied in full with its ADA obligations."

The suit against SITA, an Atlanta-based air transport communications company, stems from a job applicant,



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The EEOC says department store Kohl's violated the Americans With Disabilities Act by allegedly refusing to accommodate a diabetic employee's request for a regular schedule and forced her to quit her job.

Darlene Case, who received an offer of employment to serve as the personal assistant to a company vice-president, only to learn that she would need cancer surgery. According to the EEOC, Case asked that her start date be moved back, and that she be allowed to work part-time for the first two weeks. The company said no and rescinded the job offer.

The EEOC announced on Aug. 30 that it filed suit against SITA seeking reinstatement, back pay and compensatory and punitive damages for Case plus injunctive relief.

"This suit is being filed to ensure that employers understand that they have an obligation, short of incurring undue hardship, to provide a reasonable accommodation to employees," Robert Dawkins, regional attorney for EEOC's Atlanta District Office, which filed the suit, said in a news release.

SITA responded in a statement that it "robustly denies the EEOC's allegations in their entirety. SITA is an equal employment opportunity employer and does not discriminate against individuals with disabilities. The Company intends vigorously to defend itself with respect to the EEOC's unfounded claims."

Department store Kohl's was also sued by the EEOC last week for disability discrimination. The Wisconsin-based retailer allegedly refused to accommodate a diabetic employee's request for a regular schedule and forced her to quit her job at a Westbrook, Maine, Kohl's store.

A Kohl's spokeswoman did not return a call seeking comment.

Disability suits aren't the only area where the EEOC has been active. In a novel move,

the agency on Aug. 30 sued the government of American Samoa for age discrimination — its first-ever action against the U.S. territory.

According to the EEOC, the American Samoa government launched a campaign to remove older employees from its work force in order to open up positions for younger people. The EEOC alleges that the director of human resources executed plans in 2009 to remove older staff by involuntarily reassigning employees over the age of 50 into undesirable positions. The EEOC asserts that the reassignments were designed to pressure older workers to retire or resign.

"Age discrimination is on the rise and the EEOC stands vigilant to protect all workers," said Anna Park, regional attorney for the EEOC's Los Angeles District Office, which has jurisdiction over the U.S. Territory of American Samoa, in a written statement. "The governments of U.S. territories should act as model employers and prevent civil rights violations."

Other EEOC suits filed in the last 10 days of August have hit more or less every category of discrimination, including sex bias (against Crime Scene Cleaners); discrimination based on national origin (Rugo Stone); pregnancy discrimination (DTM and Belmont Village); religious discrimination (The Patty Tipton Co.); retaliation (Pine View Living); age discrimination (Advance Components); harassment and retaliation (Fremont Toyota); and sexual harassment (New Pine Ridge Restaurant, Gaucho's Brazilian Steakhouse, and Pepe's Mexican Restaurant).

Jenna Greene reports for the National Law Journal, an ALM affiliate of the Daily Business Review.

COMPANY BRIEFS

BID TO BLOCK AT&T DEAL REFLECTS INDUSTRY

by 50 state attorneys general, one person said.



The Obama administration has explained its effort to block AT&T's purchase of T-Mobile USA by saying it will fight mergers that would reduce competition and hurt consumers.

Yet few think the lawsuit the administration filed last week signals a more aggressive stance toward acquisitions in other industries. Rather, experts say, the administration's challenge of AT&T's purchase comes down to this: Telecom is dominated by just a few big companies. Reducing the number of major players could all but kill competition and drive prices up.

By contrast, few other major industries are controlled by just a handful of giants. And none relies on access to a limited number of public airwaves.

With previous big mergers, the administration has taken a middle-ground approach to antitrust: It's green-lighted deals such as cable company Comcast's acquisition of media giant NBC Universal and Ticketmaster's merger with concert promoter Live Nation. But it also imposed conditions in those deals that are intended to preserve competition. (Associated Press)

SUIT AGAINST LENDERS FOR MORTGAGE FRAUD



Bank of America and JPMorgan Chase are among lenders that will face a lawsuit by the U.S. Federal Housing Finance Agency over faulty mortgage loans, according to four people with knowledge of the matter.

The agency representing Fannie Mae and Freddie Mac is likely to act before a next week's deadline for legal claims, according to the people, who weren't authorized to speak publicly. The amount may dwarf the \$20 billion sought from the biggest mortgage servicers in a separate probe of lending and foreclosures

The FHFA has been demanding refunds from banks for loans sold to Fannie Mae and Freddie Mac that were based on false or missing information about borrowers and properties. The two mortgage finance firm had to be rescued by taxpayers as defaults on home loans soared toward

record levels. Bank of America, JPMorgan, Goldman Sachs Group and Deutsche Bank are among firms that may be sued by the agency for misrepresenting the quality of mortgage securities sold at the height of the housing bubble, the Times said.

The FHFA may not have determined how strong a case it has and may be filing the lawsuits before the deadline to keep its options open, said one of the people. (Bloomberg News)

WORKERS ASKED TO SKIP BREAKS TO MEET DEADLINE



Westfield Stratford City will be Europe's largest urban mall.

Westfield Group, the world's largest owner of shopping centers, is asking contractors and employees to work weekends and discouraging them from taking vacation as the company tries to open its new mall in east London on schedule, according to two people familiar with the project.

Work will be carried out every day until Westfield Stratford City is completed on Sept. 13, said the people, who declined to be identified because the matter is private. As many as 4,500 people are working on the 1.45 billion-pound (\$2.4 billion) development close to the main site for the 2012 Olympic Games, according to Sydney-based Westfield's U.K. website.

Westfield Stratford City will be Europe's largest urban mall. The 1.9 million square feet (177,000 square meters) of space in the shopping center will be divided into about 300 outlets, according to Westfield. The development also includes 1.1 million square feet of office space, three hotels, a 17-screen cinema, apartments and parking for 5,000 cars. About 25,000 construction jobs have been created during the construction of Westfield Stratford City, the Australian company's website shows. (Bloomberg News)