

Carton 11:40

THE BROTHERHOOD of SLEEPING CAR PORTERS

Fair Employment & Housing - Coalition 1984-1989

FAIR EMPLOYMENT & HOUSING COMMISSION

1390 MARKET STREET, SUITE 410
SAN FRANCISCO, CALIFORNIA 94102
(415) 557-2325



PRESS RELEASE

#84-3C

date: October 8, 1984

contact: Steven C. Owyang
Exec. & Legal
Affairs Secretary
(415) 557-2325

COMMISSION FINDS ALLERGY TO SMOKE TO BE
A PHYSICAL HANDICAP

In a precedential ruling adopting a settlement agreement between litigants before the Fair Employment and Housing Commission, the state civil rights agency held that a sensitivity to smoke or an allergy to smoking which significantly affects an employee's normal functioning can constitute a physical handicap under the Fair Employment and Housing Act. A draftsman with the Fresno County's Assessor Office, Linda Marie Batchelor was bothered from the beginning of her employment by her co-workers' smoke. She suffered from a combination of allergic and vasomotor rhinitis which made her extraordinarily sensitive to tobacco smoke and other fumes. Tobacco smoke caused Batchelor to suffer nasal congestion and discharge, nausea, severe headaches, shortness of breath and vision impairment. These reactions were often so severe as to seriously impair Batchelor's normal functioning.

Although Batchelor asked to have her desk placed away from other smokers to alleviate her problem, documented her sensitivity to smoke with letters and reports from doctors, and missed many days of work because of her allergy to smoke, Fresno County refused to accommodate her condition. Indeed, Batchelor's supervisors on one occasion encouraged a smoking co-worker to buy a large fan to blow smoke directly at Batchelor's desk. The condition became so intolerable that Batchelor eventually resigned.

The settlement agreement awards Batchelor \$27,396.59 in back pay as well as \$10,000 in compensatory damages for the emotional distress that she suffered as a result of Fresno County's conduct. Fresno County has, since June 1983, adopted a non-smoking ordinance in its office buildings.

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PRESS RELEASE

#84-2C

date: October 8, 1984

contact: Steven C. Owyang
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WOMEN WIN SEX HARASSMENT CASE AGAINST
PIZZA PARLOR

Four women have prevailed in a sexual harassment case brought by the California Department of Fair Employment and Housing against their former employers, Hart and Starkey, Inc. and Garry Hart, operators of two Shakey's Pizza Parlors in Redding.

A decision issued by the Fair Employment and Housing Commission found that the women were sexually harassed in violation of state employment discrimination laws when a supervisor repeatedly subjected the women to explicit sexual propositions and comments, as well as offensive physical contact although the women made clear that such conduct was offensive and unwanted. The Commission held that the supervisor's conduct created a hostile and offensive work environment in violation of an employer's obligation to provide a non-discriminatory workplace. The Commission also found that the women's resignations were in effect unlawful terminations caused by the harassment. The Commission also found that Garry Hart, chief executive officer and owner of all the stock of Hart and Starkey, Inc., was aware of the harassment, failed to investigate his employees' complaints, and refused to provide a guarantee against future harassment. Hart was held personally liable for the violations.

The Department sought \$200,000 compensatory damages for emotional distress and punitive damages for the egregious nature of the conduct. The Commission ordered a total of \$135,000 compensatory damages and \$40,000 punitive damages, in addition to back pay.

FAIR EMPLOYMENT & HOUSING COMMISSION

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PRESS RELEASE

#84-1C

date: October 8, 1984

contact: Steven C. Owyang
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WAITRESS AWARDED BACK PAY AND \$25,000 COMPENSATORY
DAMAGES IN AGE DISCRIMINATION CASE

California's civil rights commission has ordered a Modesto employer to pay \$6,057.36 back wages and \$25,000 compensatory damages for emotional distress, and to offer reinstatement to a former waitress terminated from her job because of her age.

The Fair Employment and Housing Commission found that Ruby Hunt, an employee at Smitty's Coffee Shop from 1954 to 1966 and again from 1969 until her termination in October 1981, was terminated on account of her age, 59, soon after Henry Woo became owner of the restaurant. According to the Commission's findings, Woo remarked that Hunt was "too old" to be a waitress, and asked another employee to find him waitresses who were "young and slim." Woo laid off a number of other waitresses over the age of 45 and replaced them with younger women after he took over the coffee shop.

The Commission found that Hunt suffered extreme emotional distress as a result of her termination. Hunt testified at the hearing that her "whole world had closed" and that for weeks after termination she sat in her house with the drapes drawn and cried.

The case, DFEH v. Smitty's Coffee Shop and Henry Woo, owner, was brought to the Commission by the Department of Fair Employment and Housing, the state government agency responsible for investigating, conciliating, and prosecuting violations of state laws banning discrimination in employment, housing, and public accommodations. Employment discrimination on the basis of age over 40 is banned by the law.

FAIR EMPLOYMENT & HOUSING COMMISSION

1390 MARKET STREET, SUITE 410
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PRESS RELEASE

date: December 17, 1984

contact: Steven C. Owyang
Exec. & Legal
Affairs Secretary
(415) 557-2325

CANCER SURVIVOR AWARDED \$40,000 COMPENSATORY DAMAGES
REINSTATEMENT, BACK PAY AND RESTORATION OF
RETIREMENT BENEFITS IN CANCER
DISCRIMINATION CASE

California's civil rights commission has found a Fresno area employer guilty of discrimination against a cancer survivor and has ordered it to rehire Virginia C. Austin and pay her \$40,000 compensatory damages for the severe emotional distress she suffered when she was abruptly discharged after 23 years of dedicated service to the company.

In its first decision involving cancer discrimination, the Fair Employment and Housing Commission found that Austin, a rehabilitated survivor of two bouts of cancer (she is in remission but can never be deemed cured), is protected by the Fair Employment and Housing Act's provisions prohibiting discrimination in employment against individuals who have a medical condition (rehabilitated or cured cancer) or a physical handicap.

Austin, then age 57, unexpectedly became ill with pneumonia and later with severe diarrhea during the fall in 1980. Immediately upon her return to work on December 29, 1980, she was fired by Kingsburg Cotton Oil Company for "excessive absenteeism over a long period of time." Austin survived bouts of cancer in 1975 and 1976 and was welcomed back to work each time with Kingsburg's assurance that she was a valued employee whom the company wanted back.

The Commission found that Kingsburg penalized Austin for her cancer-related absences from 1975 on, as well as her absences during the last quarter of 1980. Thus, the Commission determined that Austin's cancer history and Kingsburg's belief

PRESS RELEASE

December 17, 1984

Page Two

that Austin would suffer future impairment because of cancer were factors in its decision to fire her, and that Kingsburg violated the Fair Employment and Housing Act when it terminated Austin's employment because of her medical condition and physical handicap.

Austin described her termination as a "terrible shock" which left her feeling worthless and unworthy of another job. The Commission observed that for several weeks thereafter, Austin rarely left her home because she was unable to face her friends and acquaintances and that the experience "was so shattering that Austin, a deeply religious woman, even questioned her faith in God." In addition to the \$40,000 the Commission awarded Austin for the emotional injury she sustained, it also ordered Kingsburg to restore Austin's lost retirement benefits and to pay her back pay.

The case was brought to the Commission by the Department of Fair Employment and Housing, the state government agency responsible for investigating, conciliating, and prosecuting violations of state laws banning discrimination in employment, housing, and public accommodations. The Commission is a separate state agency and is responsible for adjudicating cases brought by the Department and for interpreting and enforcing California's Fair Employment and Housing Act.



Memorandum

To: All Enforcement Staff

Date: March 25, 1985

Due Date:

From: Office of the Director

Subject: DFEH v. County of Madera
FEHC Decision No. 83-22

There are two typographical errors in the recently issued Precedent Decision Summary of the above-captioned decision.

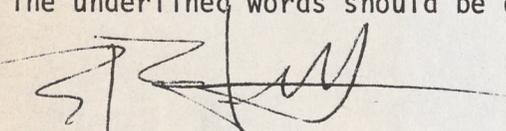
- o Page 1 - the second paragraph of the summary should read:

"The five complainants were awarded back pay and benefits for a period of three years . . ."

- o Page 2 - the paragraph under the heading, Employment Practices, Compensation, should read:

"The ultimate issue in a wage . . ."

The underlined words should be corrected in the copy of the summary in your files.


Earl E. Sullaway for
Michael E. Vader
Chief Deputy Director

EES:MG:emm

RECEIVED

MAR 29 1985

FAIR EMPLOYMENT
& HOUSING COMMISSION



News from the



STATE OF CALIFORNIA

Department of Fair Employment and Housing



Date: Immediate

Contact: Karl Greene
(916) 323-5275

1201 I STREET, SACRAMENTO, CA 95814

#85-6

PROGRESS FOR HANDICAPPED WORKERS AT TELEDYNE AFFILIATE IN TORRANCE

Teledyne INET, a Torrance manufacturer of printed circuit boards, has changed its job application procedures to remove any remaining barriers to the employment of handicapped individuals. The actions resulted from a discrimination complaint brought against the firm by a deaf job applicant.

The complaint was investigated by the state Department of Fair Employment and Housing. The state found no evidence of illegal discrimination. However, Teledyne managers learned that some parts of their application process could be a problem for handicapped applicants. According to state officials, the company cooperated with the state agency to improve their screening procedures for handicapped jobseekers. The Teledyne plant in Torrance is an affiliate of the giant Teledyne Corporation.

The agreement between Teledyne INET and the state calls for the following policies to be implemented at the Torrance plant:

1. During the process of applying for a job, handicapped individuals will be asked if any "accommodation" will be needed during the interview or any other part of the application process.

(OVER)

2. Handicapped applicants and employees will be evaluated individually with regard to their abilities to safely perform a particular job.
3. "Reasonable accommodation" shall be made whenever such accommodation would enable an employee to perform certain job duties.
4. If a dispute arises between a handicapped applicant or employee and the company, the company will seek expert advice so that decisions will be in accord with state regulations.

The California Fair Employment & Housing Act protects the right of all persons to seek, obtain and hold employment without discrimination because of race, color, national origin, ancestry, religion, sex, marital status, physical handicap, age (40 or over) and medical condition (cancer related).

Individuals who believe they have been discriminated against can contact an office of the Department of Fair Employment and Housing for assistance. The department conducts an impartial investigation for every complaint registered and seeks to achieve a just and fair resolution of the complaint.

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For more information, contact Steve White, Senior Consultant, (213) 620-4752.

KG:wpc



STATE AND CONSUMER SERVICES AGENCY
Department of Fair
Employment and Housing

Memorandum

To: All Enforcement Staff

Date: February 22, 1985

Due Date:

From: Office of the Director

Subject: DFEH V. Carefree Ranch Mobile
Home Park, et al., FEHC Dec.
No. 84-31

Attached is a summary of a recent precedent decision.

Statute: Unruh Civil Rights Act

Basis: Age (Under 30 years)

Adverse Action: Refusal to rent space.

Respondent: Mobile Home Park.

This case is notable because:

1. It is the first Commission decision concerning age discrimination in housing under the Unruh Act.
2. The Commission closely analyzes the history of the legislation giving it authority over Unruh Act cases and finds that the Legislature intended it to have jurisdiction over all Unruh Act cases, even those on bases not otherwise covered by the FEHA, and even bases not enumerated in the Unruh Act itself.

Michael E. Vader
Chief Deputy Director

MEV:MG:wpc

Attachment



PRECEDENTIAL DECISION SUMMARY

DFEH v. Carefree Ranch Mobile Home Park FEHC Dec. No. 84-31

In an Unruh Act complaint alleging discrimination in rental of mobile home park rental space because of the complainants' age under 30, the Commission held that it had jurisdiction under Government Code Section 12948 over charges of discrimination in housing on account of age and found in favor of complainants. They were awarded their actual out-of-pocket losses in the amount of \$1,754. The Commission declined to award compensatory damages.

UNRUH ACT

Jurisdiction

Generally

The Commission has jurisdiction over all Unruh Act complaints under Government Code Section 12948, including housing discrimination complaints not covered by the former Rumford Act, now codified as Government Code Section 12955. Government Code Section 12995(c), which provides that nothing in the Act shall be construed as prohibiting selection based on factors other than race, color, religion, sex, marital status, national origin, or ancestry, as originally written, was intended to clarify the old Rumford Act. It was not intended, when the old Rumford Act was combined with the old FEPA to form the current FEHA, that 12995(c) would limit the broad Unruh Act coverage afforded the Department under Government Code Section 12948. Thus the Commission does have jurisdiction over discrimination in housing on account of age. Carefree, 84-31:5-16.

Business Establishment

The Unruh Civil Rights Act prohibits arbitrary discrimination in all business establishments or every kind whatsoever. Carefree, 84-31:16. Mobile home park operators are in the business of providing housing accommodations and are therefore clearly business establishments under the Unruh Act. However, the Commission held that the plain meaning of Civil Code sections 798.76 and 25.1 is to permit mobile home parks to exclude persons under the age of eighteen by limiting residence to adults. Carefree, 84-31:16-17.

Discrimination

The Unruh Civil Rights Act prohibits all arbitrary discrimination, and is not limited to the basis set forth in the Act itself. Carefree, 84-31:17.



STATE AND CONSUMER SERVICES AGENCY
Department of Fair
Employment and Housing

Memorandum

To: All Enforcement Staff

Date: February 20, 1985

Due Date:

From: Office of the Director

Subject: DFEH v. City of Napa
Housing Authority, FEHC
Dec. No. 81-12

Attached is a summary of a Commission Precedent Decision issued in 1981. It is final.

Type of Adverse Action: Compensation
Classification
Promotion
Constructive Discharge

Respondent: City of Napa Housing

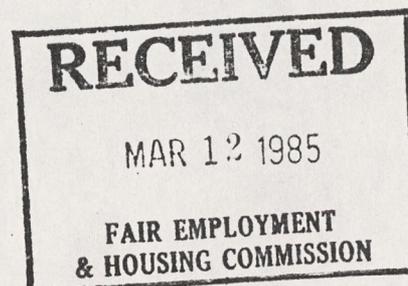
This case is notable because:

1. The Commission held that a public employer was covered by the Act even when it employed less than five employees.
2. This is the Commission's first pay discrimination or "comparable worth" case. The Commission found complainant was discriminated against because of her sex, in pay, classification and promotion, by comparing her job duties to those of a male co-worker whose job duties were comparable to those of the complainant but not substantially equal.
3. The Commission held that where there is a continuing violation--as there usually is in a pay case--the back pay calculation may be started three years before the filing of the complaint.

Michael E. Vader
Chief Deputy Director

MEV/MG/pg

Attachment



PRECEDENT DECISION SUMMARY

DFEH v. CITY OF NAPA HOUSING AUTHORITY
FEHC Dec. No. 81-12

Commission found sex discrimination in compensation and classification where female was classified and paid at secretarial level, despite her performing quasi-professional work, while a male colleague working for the same agency performing functions different but comparable was classified and paid at a higher level. Complainant was awarded back pay calculated as the difference between her salary and that of her male colleague.

JURISDICTION

Employer

Five or more employees

The Act defines a public employer as a covered employer regardless of the number of employees. The requirement that an employer, to be covered by the FEHA, have five or more employees does not apply to a governmental unit such as the Housing Authority. Napa, 81-12:11-12.

Public employer

The requirement that an employer, to be covered by the FEHA, have five or more employees does not apply to a governmental unit such as the Housing Authority. Napa, 81-12:11

Religious organizations

The term "religious associations or corporations" refers to religious organizations only and not other nonprofit groups. Napa, 81-12:11; Bohemian Club, 81-19:12-15.

PROOF

Evidence

Reputation testimony

A finding of sex discrimination is buttressed by reputation and opinion testimony that respondent's ultimate decision maker had a discriminatory attitude toward female employees and thought of women employees as secretaries. Napa, 81-12:18

given a managerial job title and rate of pay, while a female performing comparable but not the same duties is labeled a secretary and paid at a lower secretarial level. Napa, 81-12:16

Summary rejection of a female's request for reclassification, without benefit of job analysis or desk audit permits the inference of discrimination. Napa, 81-12:16

Compensation Discrimination

Discrimination, generally

Compensation discrimination is proved where female complainant was improperly classified as a secretary, denied reclassification, promotions and job accurate descriptions, while a male co-worker was accurately classified and promoted and had more accurate job descriptions. Napa, 81-12:14.

Compensation and classification discrimination is established where a male performing certain duties is given a managerial job title and rate of pay, while a female performing comparable but not the same duties is labeled a secretary and paid at a lower secretarial level. Napa, 81-12:16

Summary rejection of a female's request for reclassification, without benefit of job analysis or desk audit permits the inference of discrimination. Napa, 81-12:16

Rebuttals

The evidence failed to establish that a male employee was justifiably paid more than a similarly situated female because of his education and experience, because there was no evidence that the salaries were based on education and experience or that the possession of those qualifications was relevant to the job in question or gave a benefit to the employer. Napa, 81-12:20-21

The fact that women are paid less in the market place does not excuse paying women less because of their sex. Napa, 81-12:21

There was no evidence that the job of the male colleague of complainant required more skill, knowledge, responsibility or was performed under more difficult working conditions, than her job. Napa, 81-12:22-23



STATE AND CONSUMER SERVICES AGENCY
Department of Fair
Employment and Housing

Memorandum

To: All Enforcement Staff

Date: February 20, 1985

Due Date:

From: Office of the Director

Subject: DFEH v. County of Madera
FEHC Dec. No. 83-22

Attached is a summary of a Commission Precedent Decision issued in 1983. It is on appeal.

Basis: Sex

Adverse Action: Compensation Discrimination

Respondent: Madera County Sheriff's Department

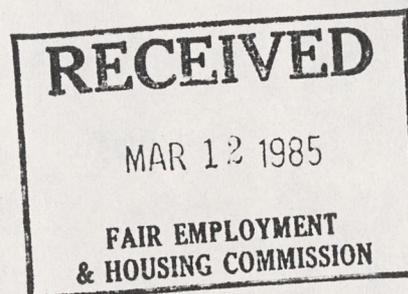
This case is notable because:

1. It was the most far reaching Commission decision on a pay discrimination or comparable worth theory. Complainants were awarded a total of over \$250,000.00.
2. The Commission reaffirmed that compensation discrimination can be established even if the jobs involved were not similar, if the surrounding circumstances indicate discrimination.
3. The Commission held that a woman complainant did not have to accept an offer of the male job to which her job was compared to be entitled to back pay.

Michael E. Vader
Chief Deputy Director

MEV/MG/pg

Attachment



PRECEDENT DECISION SUMMARY

DFEH v. County of Madera (Lawler)

FEHC Dec. No. 83-22

Complainants, Matrons-Dispatchers for the County of Madera Sheriff's Department, alleged that they were paid less than Deputy Sheriffs who performed similar, although not identical duties in the county jail. The Commission found compensation discrimination existed because the County historically discriminated against women and, in setting salaries, maintained the historical relationship between men's and women's jobs.

The five complainants were awarded back pay and benefits for a period starting five years before their complaints were filed with DFEH.

JURISDICTION

Complainant

Timeliness of Filing

Where a challenged practice is of a continuing nature, the complaint is timely if filed within one year of the alleged occurrence unlawful practice even if it is not within one year of the discovery that the practice exists. Madera, 83-22:31

Accusation

Other

Although more than three and-a-half years elapsed between the filing of the complaint and the issuance of the accusation, the defense of laches fails because the delay was not unreasonable in light of the Department's backlog and the respondent's requests for delays and because the respondent did not prove prejudice. Madera, 83-22:31

development was likely; had complainants sworn, uniformed, armed, and identified as Deputy Sheriffs but classified and compensated as Matron-Dispatchers; provided a lesser uniform allowance for essentially identical uniforms; ignored recommendations designed to bring it into compliance with employment discrimination law; omitted women from the County affirmative action plan; and betrayed discriminatory attitudes about the role of women. These, the Commission's consideration of the County's compensation setting practices themselves, which maintained historical salary relationships between men and women, and the fact that the complainants' jobs were substantially similar to the jobs of their male colleagues, support the finding of discrimination. Madera, 83-22:36 and 38

REMEDIES

Back Pay

Calculation

Where the discrimination is of a continuing nature, calculation of back pay starts three years prior to the filing of a charge. Madera 83-22:39, Napa, 81-12:28

In a pay discrimination case complainants are entitled to the difference between the amount of county-paid retirement benefits they actually received and the amount of those benefits they would have received had they been compensated at the same level and in the same manner as male comparables. Madera, 83-22:41

Mitigation

In a compensation case, a female complainant performing a job for which she is discriminatorily underpaid, is not required by any mitigation principle to accept an offer of the male job to which her job was compared. Madera, 83-22:41

A complainant is not required by any principle of mitigation to accept a promotion where in so doing she would sacrifice her many years of seniority and be on probationary status, especially where males accepting such a promotion would not have been subject to these conditions. Madera, 83-22:41

FAIR EMPLOYMENT & HOUSING COMMISSION

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SAN FRANCISCO, CALIFORNIA 94102
(415) 557-2325

**PRESS RELEASE**

December 7, 1989

Contact: Ann Noel, 557-2325

FOR IMMEDIATE RELEASE**CIVIL RIGHTS AND LABOR
LEADER C. L. DELLUMS DIES**

C. L. Dellums, who spent a lifetime fighting for racial equality as a labor and civil rights leader, died yesterday from cardiac arrest. He was 89. His work and his advocacy left an indelible mark on the history of the trade union and civil rights movements, both in the state and nationally.

Born in Corsicana, Texas, Dellums moved to Oakland in 1923 where he lived to the time of his death. In the hostile labor climate of the 1920's, he worked with A. Philip Randolph to organize the Brotherhood of Sleeping Car Porters, the first international union to be founded and led by Blacks. In 1929, he was elected Vice-President of the Brotherhood; when Randolph retired in 1966, Dellums was unanimously chosen as his successor.

Dellums and the Brotherhood led a major crusade against racial discrimination in the trade union movement. When the Brotherhood joined the American Federation of Labor in 1919, it aimed to have all "color clauses" removed from trade union constitutions. The Brotherhood's crusade involved publicly naming all unions with color clauses until all color clauses were removed from all AFL union constitutions.

During World War II, Dellums was a leader in the "March on Washington," which resulted in President Roosevelt's creation of a wartime fair employment commission. After the war, Dellums led a 14-year effort to pass fair employment legislation in California and lobbied then-Governor Earl Warren to support it.

When the legislation was finally passed in 1959, Governor Pat Brown appointed Dellums to the first Fair Employment Practice Commission. He was a member of the Commission (now the Fair Employment and Housing Commission) for 26 years thereafter, the only Commissioner to have been reappointed by both Governors Reagan and Jerry Brown.

Dellums was an active member of the NAACP from 1927 to his death. When 18 Western states were formed into an NAACP region in 1948, Dellums was unanimously chosen as the first regional chairperson, a position he held until 1967.

Press Release

Re: C. L. Dellums Obituary

December 7, 1989

Page 2

Dellums, who was the uncle of 8th District Congressman Ronald V. Dellums, is also survived by a daughter, Marva Dellums, and numerous grandchildren.