

Mickey Mouse – You Got Served: Former Disney Employees File Discrimination Claims

Labor & Employment Law Update

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EMPLOYERS BEWARE! Not even the magical Mickey Mouse can escape lawsuits. Former employees of the Walt Disney Company filed complaints with the Equal Employment Opportunity Commission (EEOC), intending to sue the house of Mickey Mouse (and now even Yoda's) for replacing them with foreign workers. Not only are former employees complaining because they were laid off, but they are also accusing Disney of hostile treatment. Two employees recently recounted to ABC news how they were given 90 days to train their replacements in order to receive the bonuses they were promised. The workers claim that they were victims of national origin discrimination in violation of Title VII of the Civil Rights Act of 1964, which prevents employers from discriminating against an individual based upon "race, color, religion, sex, or national origin."

The EEOC states that national origin discrimination involves treating people (applicants or employees) unfavorably because:

- they are from a particular country or part of the world
- of ethnicity or accent
- they appear to be of a certain ethnic background (even if they are not)
- they are married to (or associated with) a person of a certain national origin
- of their connection with an ethnic organization or group

Of note, the EEOC asserts that "[d]iscrimination can occur when the victim and the person who inflicted the discrimination are the same national origin."

The former employees allege that Disney replaced US workers with subcontracted foreign workers and temporary work visa holders. Under the visa, a US company can employ foreign workers – in highly specialized fields such as in engineering, mathematics, science, and medicine – for up to six years.

Employers must be especially cognizant of the fact that complaints of national origin discrimination are becoming increasingly commonplace. In fact, so commonplace that it has prompted two United States Senators – Chuck Grassley,

Chairman of Senate Judiciary Committee, and Dick Durbin, Assistant Democratic Leader – to introduce a bill that would prohibit companies from hiring such employees. The senators say that this provision would crack down on outsourcing companies that import influxes of such workers for condensed training periods who then send these workers back to their country of origin to do the work that would otherwise be performed by American workers.

Companies must be aware that replacing American workers with their foreign counterparts can place a company at risk for discrimination claims. Thus, prior to doing so, employers should consult both employment and immigration counsel and consider having retained workers and/or management involved in the training process of any replaced employee.

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