

## AT-HOME EMPLOYEE FILES SUIT AGAINST SIEMENS MEDICAL

### SIEMENS

A lawsuit filed against Siemens Medical Solutions USA, Inc. alleged race discrimination and retaliation. The company claimed that it was a simple matter of poor job performance. Let's see what the courts decided. The plaintiff, who is black, worked as a network consultant in an at-home position in Atlanta, assisting customers with Siemens' medical equipment. The man's supervisor stressed customer consulting over technical aspects relating to the job. In 2008, the supervisor emailed the plaintiff and explained that his job performance was falling below expectations, due to missed deadlines and not meeting objectives such as developing new services and communicating with customers. The man was put on a 30-day outline to allow for improvement, but, as he had allegedly not improved in the area of consulting, he was subsequently placed on a 30-day performance improvement plan. Around that time, the plaintiff made a charge of racial discrimination to his supervisor's supervisor and an HR representative. At the end of the 30-day plan, the supervisor noted that the man's performance had improved, but he still was not meeting certain objectives, and the plan was extended for an additional 30 days. Meanwhile, the plaintiff applied for a job at Siemens Government Services in Virginia. After another 30 days, problems remained, according to the supervisor, and he provided the employee with 30 more days. The supervisor also denied the man's request for certification exams, which he later testified



was done for budgetary reasons. The same day that the plaintiff flew to Virginia for his job interview with Siemens Government, he had a conference call with the supervisor, who claimed to hear "traffic noise." The plaintiff later alleged that he was at home during the time and left for his flight afterwards. He returned from Virginia three days later and took approved vacation leave the following week. The man had not notified his supervisor of the Virginia trip or the interview with another company department, both of which were required by company policy. A "termination procedure" was initiated, and a "delegation of authority" cited the two infractions and 51 instances – separated into five categories – of poor job performance. The ensuing termination letter stated the reasons as: unsatisfactory performance, insubordination (not asking for time off for the interview) and falsification of a timecard (he marked eight hours of time worked during the days he was in Virginia). The man's lawsuit alleged violations of the Civil Rights Act. In court, a white at-home co-worker testified that he was cited for numerous instances of poor performance but was never placed on a plan. A district court found that the plaintiff had adequately shown a case of discrimination but had failed to show pretext in the reasons for firing him. Summary judgment was granted in favor of Siemens. The appeals court noted that the plaintiff was unable to refute the 51 references of feeble performance and likewise could not sufficiently contest the insubordination – and since he had to properly refute each reason, the court disregarded the alleged timecard falsification. The co-worker, unlike the plaintiff, had no explicit problems with customer consulting, considered "most critical," and though the plaintiff deemed the performance plan unfair, he was unable to show improvement. The appeals court, also finding no support for the retaliation claim, affirmed the district court's decision.