

EMPLOYEE COMPLAINTS RESULT IN MULTIPLE ALLEGATIONS, TWO TRIALS AND TWO JURIES

ExxonMobil

A man working for Station Operators, Inc., a division of Exxon Mobil, claimed that the company had discriminated against him based on his race and national origin and retaliated against him for taking medical leave. His claims made it to two separate trials, both of which he appealed. The man is a Muslim who immigrated to the U.S. in 2000. He began working at an Exxon Mobil Rhode Island gas station and convenience store in 2003. The assistant manager took over scheduling in September 2004 – and was the manager two months later – and the man's hours were allegedly reduced as a result of the new schedules. Around that time, the employee missed an eight-hour shift, which he later blamed on car trouble and lack of access to a phone. Regardless, he was cited for failing to notify the store that he would not be at work. A few weeks later, the man was injured in a car accident. He informed the manager that he was taking FMLA leave (Family and Medical Leave Act) for a month, which was extended for another month during the leave. His hours were reduced when he returned to work, though he sometimes called in to say he couldn't work a shift. Two days after suffering a panic attack, resulting in a trip to the emergency room, the man quit. His initial lawsuit claimed national origin, race and religion discrimination, violating the Civil Rights Act and state laws. It further alleged disparate treatment, failure to promote and a hostile work environment. An amended complaint added interference with FMLA rights and FMLA retaliation, as well as sex discrimination. He later asserted that the



disparate treatment amounted to a constructive discharge, which would equate his quitting with having been fired. The failure-to-promote and FMLA interference claims were dismissed as time-barred. The first four-day trial ended with the plaintiff's counsel agreeing to dismiss the hostile work environment claim and supporting the disparate treatment claim only with national origin and race discrimination – no longer asserting religion or sex discrimination. Only the FMLA retaliation claim made it to trial, and the jury awarded the man \$20,000 in damages. No final judgment was entered. The company made a motion for a new trial, which was granted. At the conclusion of the second trial, which lasted three days and only included the FMLA retaliation claim, the jury ruled in favor of Station Operators. The man appealed the dismissal of the disparate treatment claims in the first trial, the court granting the company a new trial and the exclusion of evidence in the second trial – work hours and schedules from a particular time period, and testimony from physicians who'd treated the man after his panic attack. Appellate judges agreed with the district court's belief that the plaintiff did not provide adequate evidence to substantiate the disparate treatment claims, and similarly, too much irrelevant evidence had been proffered during the first trial, and a new trial was necessary. The additional evidence that was excluded was, according to judges, essentially redundant when compared to evidence that had already been heard. The appeals court affirmed the district court's judgment on all counts for both trials.