

## RACIAL SLUR ON STORE RECEIPT LEADS TO DEFAMATION CLAIM



An African American male was returning merchandise at a Journeys retail store in Missouri and received a receipt that included a racial slur. He complained, and the female employee working the register on that particular day was fired. The woman responded by filing a lawsuit against the company that owned the store – for statements made to the public following the incident. On the day in question, the employee was processing the man's return and, for efficiency, she entered a generic phone number: 555-5555. A former employee, who had been previously terminated, had used a racial slur for a name to associate with the nonexistent number. The woman inadvertently selected the offensive name and printed the receipt, signed it and handed it to the customer. The next day, the man went back to the store with family members. They demanded the employee's name and proceeded to tell people in and around the store about what had happened. The company promptly terminated the woman's employment and released a statement the following day, asserting that the woman had been fired due to "highly inappropriate" material. It furthered claimed to be "shocked and sickened" by the act – clearly placing blame on the employee. News stories regarding the incident were published, and the woman received messages, calls and online comments calling her a racist. She also received threats, and she moved out of her apartment and had her child temporarily move in with her parents. The company later learned that another employee was responsible for the racial slur. Its initial statement was not corrected and, instead, a second statement was released to clarify that the customer database would be more closely monitored. The woman filed suit, alleging false light invasion of privacy and defamation. False light claims are generally made when a contentious statement is not necessarily false but misrepresentative of the facts. As such, the district court dismissed the false light claim because the woman was concurrently arguing that the statements were defamatory – that they were unmistakably untrue. The defamation claim was



also dismissed, however, because the court determined that the company's statements were "substantially true." Appellate judges agreed that the defamation claim invalidated the other claim, but they believed that the plaintiff had made a case for defamation. The comments made to online news stories clearly showed that readers had deemed the woman a racist due to the company's statements. Judges noted that the effect of a general news story – not blaming any one person – would have had different results. Her claim of causation was likewise supported by the fact that the woman received the messages and threats after the statements were released. A reasonable jury, appellate judges believed, might conclude that plaintiff's reputation had been damaged as a direct result of the company's statements – which the jury might also find as false. Accordingly, the appeals court affirmed the dismissal of the false light claim, but the defamation claim was reversed and remanded for further proceedings.