

## FOOD CHAIN LAWSUIT RAISES QUESTIONS: DOES TIGHT JOB MARKET LEAD TO DISCRIMINATION OR IS IT A CASE OF SOUR GRAPES?



A Berkeley law firm has filed a class action lawsuit against Irvine-based restaurant chain In-N-Out Burger alleging that its hiring practices discriminated on the basis of race, color and age. The firm filed the suit in Alameda County Superior Court on Tuesday on behalf of two black men from Oakland who accused the company of denying them jobs because they were colored and over 40 years of age. The two had applied for jobs in the chain's restaurants in Oakland and San Francisco. The lawsuits alleges that even though the two were told that the restaurant was hiring, when they sought the positions, they were told that they were not hiring. The suit charges that the food chain has more than 200 restaurants in California yet there are very employees who are over 40 years of age and who are black. The chain however refutes this and says that more than 23 percent of the workforce at the company's Oakland and San Francisco restaurants is African-American. The plaintiffs' attorney Steve Tidrick alleges in the suit that the firm follows "a pervasive policy of discrimination on the basis of race, color and age" and through injunctive relief the suit seeks to end these discriminatory hiring practices. The suit also seeks back pay and other monetary compensation to the plaintiffs who, the suit claims were unfairly denied employment. In-N-Out Burger vice president and general counsel Arnie Wensinger refuted the allegations and said: "We hire from our local communities and our restaurants reflect the demographics of that community. The company will aggressively defend itself against these baseless and irresponsible allegations." In-N-Out Burger amongst fast food chains is a preferred destination for job seekers who find its payment policies attractive, considering that it pays \$ 2 an hour more than the California minimum mandated wage of \$8 per hour. This is for entry-level employees. Full time employees receive a benefits package that includes medical, vision and dental coverage. Company Vice President Carl Van Fleet confirmed that owing to its relatively higher pay In-N-Out averages about half the employee turnover of other food chains in the fast food industry. Alonzo Brown had applied for a store associate job the chains restaurant in Oakland. Even though the store manager assured him that a job was available, he was denied the job. Carlos Dubose the second plaintiff applied for a cleanup associate job at the In-N-Out Burger at Fisherman's Wharf in San Francisco. He alleges that at the time of his application the company still had an advertisement on its website that clearly stated that it was "accepting applications for all shifts." Furthermore the manager had assured Dubose that they planned to take 5 people on board over the next couple of months. The lawsuit says, "These are not isolated examples of employment practices or individual decisions," the lawsuit states. "On the contrary, these incidents are representative of the Company's systematic discrimination against the Class and in favor of applicants who are under the age of forty and/or not African American." The case opens up debates on two wider issues. Is it that employers have become discriminatory and less sympathetic to people of other races, because the job market is tight and there are more job-seekers than jobs? Or is the suit a result of the disappointment and disillusionment at not being able to land a lucrative job and taking out their frustration in the guise of discrimination. Is it a case of sour grapes from unsuccessful candidates?