



Employment Discrimination Case Study

Client Name / Client Descriptor

A company in a highly-competitive industry forced to close a number of regional locations due to poor performance.

Practice Groups Involved

Civil Litigation, Employment and Labor

Client Problem / Case Background

In a company-wide effort to reduce costs in order to stay competitive in a highly competitive industry, a Cincinnati regional manager implemented a plan to close down a number of its poorer performing locations. All of the employees were offered the option of a transfer to a better performing location or a retirement package. The manager at one of the poorer performing locations did not want either option since a transfer would be a demotion (due to lack of manager openings) and his benefits package would be fairly modest (he had a long history of employment in this industry, but only a few years employment with our client,). When terminated, this former manager filed suit in federal court in Cincinnati under the federal age discrimination laws. At the conclusion of the trial, the jury returned its verdict in favor of our client, the employer.

Firm's Resolution to Problem

During the four days of trial, the employee presented two main lines of attack. First, there was no decline in the revenues generated by his location, as compared to his predecessor managers at the same location. In response, we were able to show that he was hired to be the manager at this location only because of his many years of experience in working for a competitor in this area. He was hired to turn around this location, but failed to do so over a period of five years. The revenues at this location remained at the bottom one-third level for the Cincinnati region for each of the five years of his employment.

The employee's second line of attack at trial was an obvious play for sympathy. He and two other former employees mentioned repeatedly in their testimony that this terminated manager was raising a disabled child. We never objected to this irrelevant testimony since an objection could lead the jurors to believe that our client was attempting to conceal the hurtful human effect of its employment decision. Instead, we reviewed in significant detail the employee's own decision to terminate employees at his location in his five years with our client. He never took into consideration, he admitted,

the family circumstances of any of these terminated employees. He made strictly business decisions, which he believed were in the best interest of the company. The jury believed that our client did likewise.

Absent any information that this former manager himself had terminated a number of employees, we probably would have objected to his testimony about his disabled child. But based on the information we did have, we made the decision to use this information to educate the jurors on the need for businesses to make business decisions and offer all employees the same benefits regardless of personal circumstances.

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