

The U.S. Equal Employment Opportunity Commission

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JURY ORDERS FEDERAL EXPRESS TO PAY \$1.57 MILLION IN EMPLOYMENT BIAS SUIT BY EEOC

EEOC and Plaintiff's Counsel Score Victory for White Senior Manager Retaliated Against for Lodging Discrimination Complaint

ORLANDO, Fla. - In a trial ending today, a jury in Federal District Court for the Middle District of Florida in Orlando returned a \$1.57 million dollar verdict in favor of the U.S. Equal Employment Opportunity Commission (EEOC), Ted Maines and his private counsel, Jill Schwartz & Associates, P.A., in their workplace discrimination lawsuit against Memphis, Tenn.-based shipping giant Federal Express Corporation for violating Title VII of Civil Rights Act of 1964.

The jury found Federal Express liable for retaliation and the constructive termination of Maines, a 21-year employee of the company, and awarded him \$201,000 in back pay and \$1,370,000 in compensatory damages for emotional pain and distress. Maines, who is white, sought to promote an African American and a Hispanic, both longtime Federal Express employees, to supervisory positions, but was rebuffed and retaliated against by a corporate management official who favored a white female recently employed by Federal Express.

Maines began his career with Federal Express more than two decades ago answering telephones in their customer call center and rose through the ranks over the years to Senior Manager of the Customer Account Service Department in Orlando. After the jury verdict was read, he commented:

"I feel vindicated for trying to do the right thing," said Maines. "As a senior manager for one of the world's most recognized companies, I tried promoting people based on merit and their qualifications for the job, regardless of what their skin color, race or ethnicity happened to be. When I saw that management was engaging in what I believed was discrimination against individuals I selected for promotion, I thought that calling the Legal Department was the right thing to do. For that, I was met with harsh retaliation by corporate management which nearly ruined my life and career. I am grateful for the EEOC and my attorneys, Jill Schwartz and Andrew Wedmore, for their efforts on my behalf to ensure that justice was done and the rule of law prevailed."

The suit (Case 6:02-CV-1112-ORL-28DAB), filed by EEOC in September of 2002, alleged that Federal Express violated the law when it retaliated against Maines after he consulted the company's in-house legal department at corporate headquarters on or about February 7, 2001. At the time, Maines reported what he reasonably believed to be discriminatory employment practices on the part of one of the company's vice presidents who rejected his attempt to promote an African American and Hispanic employee to the supervisory level.

Approximately one week later, as a result on his speaking out, Federal Express gave Maines the following ultimatum: either accept a demotion of five pay grade levels and report to his subordinate, or be issued a strongly worded warning letter and face immediate termination for any subsequent "mistake."

When Maines advised the company that he could not reasonably accept either "option," Federal Express immediately issued a disciplinary warning letter containing a threat of termination as well as a verbal admonishment stating that the vice president wanted him to know that the very next mistake he makes

would be his last as a Federal Express employee. Thereafter, Maines was subjected to intense scrutiny, including electronic monitoring. He believed that his phones were monitored and his work was subjected to a heightened level of review. As a result of his being targeted by Federal Express for retaliatory conduct, the terms and conditions of Maines' employment became so intolerable that he was forced to resign (constructive discharge).

Delner Franklin-Thomas, EEOC's Miami Regional Attorney who oversees the federal agency's litigation in the state of Florida, said Maines should be applauded for his willingness and courage to speak out against what he reasonably believed to be discrimination by a high ranking Federal Express officer. "Maines spoke to the Federal Express legal department because he sincerely believed that a Black and Hispanic employee were being deprived of promotions due to a company vice president's discriminatory desire to promote a recently hired white employee into the vacant management position."

Federico Costales, Director of the EEOC's Miami District Office, noted: "It is unfortunate that Federal Express, in this instance, failed to exhibit model corporate responsibility by addressing the concerns raised by Maines, but instead launched a campaign of unlawful retaliation against him. This jury's million dollar verdict sends a strong message to Federal Express and other employers that EEOC will vigorously prosecute employers who chose to retaliate against employees who engage in conduct protected by the federal anti-discrimination laws."

Private counsel Jill Schwartz, who joined with EEOC to represent Maines' interests in this matter, said: "This was a blatant example of prohibited retaliation in the workplace. The outcome of this case sends a clear message that retaliation has serious consequences. We can never stop discrimination in the workplace if the very people who have the courage to oppose it are silenced."

Title VII of the 1964 Civil Rights Act prohibits an employer from taking adverse action against an individual for exercising his or her right to complain about behavior reasonably believed to violate Title VII which prohibits discrimination on the basis of race, color, sex, religion or national origin.

In addition to enforcing Title VII, the EEOC enforces the Age Discrimination in Employment Act, which protects workers age 40 and older from discrimination based on age; the Equal Pay Act of 1963, which prohibits sex-based wage discrimination; the Rehabilitation Act of 1973, which prohibits employment discrimination against people with disabilities in the federal sector; Title I of the Americans with Disabilities Act, which prohibits employment discrimination against people with disabilities in the private sector and state and local governments; and sections of the Civil Rights Act of 1991. Further information about the Commission is available on the agency's web site at www.eeoc.gov.

This page was last modified on December 22, 2004.



[Return to Home Page](#)