

The U.S. Equal Employment Opportunity Commission

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EEOC RACE BIAS SUIT AGAINST UNIVERSAL PICTURES MOVES FORWARD TO TRIAL, COURT RULES

Judge Rejects Hollywood Motion Picture Giant's Attempt to Dismiss Case

LOS ANGELES – In a legal victory for the U.S. Equal Employment Opportunity Commission (EEOC), the federal district court for the Central District of California rejected a motion by Universal Pictures to dismiss a race discrimination lawsuit filed by the EEOC, allowing the case to move forward to trial, the federal agency announced today. The trial date is currently set for June 27, 2006.

EEOC's suit, filed on September 30, 2003 (Case No. LACV 03-7023 GAF [JTLx]) against Vivendi Universal Pictures LLLP, et al., alleges that Universal fired charging party Frank Davis because of his race (African American). Davis, who has more than two decades of Hollywood experience on numerous feature films, was the First Assistant Director (FAD) on the recent blockbuster film, "2 Fast 2 Furious." Davis was selected to be the FAD by John Singleton, the first African American director to be nominated for an Academy Award. EEOC asserts that Singleton did not find Davis to have any performance problems and opposed Universal's illegal firing of him.

In denying Universal Pictures' motion for Summary Judgment, the federal court concluded that Universal hired Davis to work as the FAD after inquiring into his background and experience in other films; that he met the Directors Guild of America's minimum requirements to work as a FAD; and the director of the film found Davis qualified and performing satisfactorily in the position. The court further held that the EEOC had presented not only direct evidence that Universal's decision to fire Davis was motivated by his race, but that the reasons given by Universal for his firing "raise a genuine issue for trial regarding the true motive for Davis's termination, and could support an inference that he was terminated because of race."

Specifically, the court stated that, "the Plaintiff presents evidence of Matthew Weiner's telephone interview with a production manager for Universal, Terry Miller, who defense counsel concedes had a role in the decision to terminate Davis, regarding a position to replace Jason Roberts, Davis's second assistant director on FF2." Miller asked Weiner during the course of the job interview, "what color are you, are you black?"

Federal District Court Judge Gary Allen Feess specifically stated that, "Such an inquiry which Weiner found surprising and defense counsel concedes was improper, is the kind of remark that the Circuit has found sufficient to give rise to an inference that the termination decision was motivated by illegal discrimination."

Moreover, after firing Davis, Universal replaced him with a white Assistant Director. Although Universal claimed it fired Davis for performance issues, the federal judge found that the EEOC has provided evidence to show that the reasons given by Universal to fire Davis were not to be believed. In the first instance, Universal has given inconsistent explanations for firing Davis. The court specifically pointed out that, "Defendants' description of Davis's shortcomings further suggest pretext" or that the reasons should not be believed. The court cited examples in which White FADs were not terminated for the same alleged shortcomings that resulted in Davis's termination.

"Movie studios like Universal are not above the law and cannot flagrantly violate the rights of people brave enough to complain about discrimination," said EEOC Los Angeles Regional Attorney Anna Y. Park. "Title VII of the Civil Rights Act applies to every employer, including the entertainment industry. We look forward to a jury vindicating Frank Davis's rights and recognizing him for his bravery. Despite years of consistently working as a First Assistant Director, Davis has been excluded from working in the industry since being fired unjustly due to his race."

The EEOC is the federal government agency responsible for enforcing the nation's anti-discrimination laws in the workplace. Further information about the Commission is available on the agency's web site at www.eeoc.gov.

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