

*The U.S. Equal Employment Opportunity Commission*

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CONTACT: SIDNEY B. CHESNIN  
SR. TRIAL ATTORNEY  
(214) 655-3330

HOLLY COLE  
SR. TRIAL ATTORNEY  
(405) 231-5853  
TTY: (214) 655-3363

## Worker with Bipolar Disorder to Receive \$91,000 in Disability Discrimination Case Settled by EEOC

### *Employer's Motion to Dismiss Lawsuit Rejected by Court in Rare EEOC Litigation on Issue of Psychiatric Disability*

DALLAS - The U.S. Equal Employment Opportunity Commission (EEOC) announced today the settlement of a disability discrimination lawsuit against Lincoln, Nebraska-based Voss Electric Company (Voss) for \$91,250 on behalf of a former worker with bipolar disorder. Voss is a distributor of commercial lighting products, with 12 branches and 16 sales locations located throughout the central United States.

In its lawsuit, case number CIV-02-92-C in U.S. District Court for the Western District of Oklahoma in Oklahoma City, the EEOC charged Voss with violating the Americans with Disabilities Act of 1990 (ADA) by terminating a long-time employee of its Oklahoma City facility who needed in-patient care due to bipolar disorder, a psychiatric disability. Rather than allow the employee the additional time off recommended by his physicians, Voss fired him by taping a termination letter to the front door of his home, the EEOC said in the suit.

Voss had filed a motion requesting the Court to dismiss the EEOC's lawsuit, but the Court ordered that the case be tried. On February 28, 2003, the Court, in a detailed 17-page opinion, ruled against Voss on all arguments raised against the EEOC, and held that the EEOC's claims should be submitted to a jury for trial.

The Court ruled that the EEOC had submitted evidence that the former employee's mental illness, at the time of his termination, severely impaired a number of his major life activities, including thinking, interacting with others, communicating with others, and the ability to take care of himself. Voss then argued that, at the time of his termination, the former employee was unable to perform the essential functions of his job.

The Court, however, ruled that a jury should determine whether the employee was entitled to a reasonable medical leave to enable him to recover sufficiently to return to his former position. After the Court's ruling, the parties reached an agreement embodied in a Consent Decree approved and signed by the Court.

"For years I did a good job for this company, but soon after I became ill they discarded me as I was trying to get well, which just compounded my struggles," the fired employee said. "I am thankful to the EEOC for standing up for me and obtaining a fair settlement."

Robert A. Canino, Regional Attorney of the EEOC's Dallas District Office, said, "We should credit the sound legal analysis by the Court in this case. This is a difficult area of law to enforce due to interpretational issues challenging the courts, but the EEOC will not shrink from the task of educating the public about the ADA through the pursuit of civil actions when necessary. Decisions like this one which allow a jury to apply the law to specific facts can give victims of disability discrimination confidence that their voice will be heard."

The EEOC filed suit after exhausting its conciliation efforts to reach a voluntary pre-litigation settlement. The Consent Decree settling the suit provides monetary and prospective non-monetary relief, including training of all Voss employees, officers, managers, and supervisors on the requirements of the ADA, and the posting of a notice informing employees of their rights under federal law at all of its locations.

"Mentally disabled employees are protected under the ADA just as those who are physically disabled," said Sidney B. Chesnin, lead trial counsel for the EEOC. "Disabled employees are entitled to consideration of a reasonable accommodation for their disability. By simply giving a worker a reasonable period of leave to adjust to a medical condition related to a disability, the employer can often pave the way for the return of a productive employee."

In addition to enforcing Title I of the ADA, which prohibits employment discrimination against people with disabilities in the private sector and state and local governments, the EEOC enforces Title VII of the Civil Rights Act of 1964, which prohibits employment discrimination based on race, color, religion, sex (including sexual harassment or pregnancy) or national origin and protects employees who complain about such offenses from retaliation; the Age Discrimination in Employment Act of 1967, which protects workers age 40 and older from discrimination based on age; the Equal Pay Act of 1963, which prohibits gender-based wage discrimination; the Rehabilitation Act of 1973, which prohibits employment discrimination against people with disabilities in the federal sector; 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](http://www.eeoc.gov).

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