

Press

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U.S. Census Bureau Sued for Hiring Discrimination, According to Outten & Golden LLP and Co-Counsel

NEW YORK, April 13, 2010 /PRNewswire/ -- Thousands of African Americans, Latinos, and Native Americans have been rejected for jobs by the U.S. Census Bureau during the federal government's massive hiring campaign for this year's census because of systematic discrimination, according to a class action filed today in New York federal court.

Filed on behalf of plaintiffs Eugene Johnson, 48, of New York, and Evelyn Houser, 68, of Philadelphia, by **Outten & Golden LLP** and a coalition of leading public interest organizations, the suit is the first of its kind to be filed against a federal agency.

The lawsuit alleges the Census Bureau unlawfully screens out job applicants who have arrest records, regardless of whether the arrest led to an actual criminal conviction . . . or to nothing at all. Government records show that more than 70 million people in the U.S. have been arrested, but more than 35 percent of all arrests nationwide never lead to prosecutions or convictions.

The coalition actively supporting the lawsuit as co-counsel includes the [Center for Constitutional Rights](#); [Community Legal Services of Philadelphia](#); [Community Service Society, of New York](#); [Indian Law Resource Center, of Helena, Mont.](#); [LatinoJustice PRLDEF, of New York](#); [Lawyers Committee for Civil Rights, of Washington, D.C.](#); and [Public Citizen Litigation Group, of Washington, D.C.](#)

The lawsuit asserts that Census job applicants are screened out after their names are located in an FBI database, indicating a match with an arrest record. At that point, all job applicants are required by Census to produce official records from any criminal case that shows up on their record, within 30 days. Census does not provide job applicants with copies of their FBI records, so they are unsure whether they are responding to the cases that Census has located. In addition, the official court documentation requested by Census may be impossible to locate because the

records have been sealed or expunged – or simply lost or destroyed because they are decades old.

Plaintiffs also assert that Census demands compliance with these burdensome procedures from all job applicants, not distinguishing, for instance, between job applicants who have recent, serious convictions and might not be appropriate for Census work, and those with records of minor, often non-criminal, violations such as loitering or disorderly conduct.

As the lawsuit points out, African Americans, Latinos, and Native Americans are far more likely to have arrest records and convictions as whites, and so Census's hiring policies discriminate against people of color in violation of Title VII of the Civil Rights Act.

Eugene Johnson stated, "I've lived in New York City practically all my life and have 24 years' experience in doing exactly the kind of survey work Census is hiring for. I'm good with people and am not a threat to anyone. This job would make a real difference in my life." It has been 15 years since Mr. Johnson was convicted of a misdemeanor for which he was not sentenced to any jail time.

Evelyn Houser stated, "I worked for Census in 1990 and I've lived in my Philadelphia neighborhood for decades. The Bureau never should have put me through this confusing process about old arrest records in the first place. I'm retired, but I want to continue contributing to my community." It has been nearly 30 years since Ms. Houser was arrested and completed a diversionary program, without being formally convicted of any crime.

Adam Klein, one of plaintiffs' attorneys, stated, "The crux of the problem is that the Census Bureau deters and excludes many people who, on a fair review of their record, would readily meet the Bureau's own standards for having no relevant criminal history."

Samuel Miller, another attorney for the plaintiffs, stated, "The Census Bureau expresses a desire to reach communities at risk of being undercounted – particularly low-income people of color and immigrants – by hiring within those communities, yet it has erected an unnecessary and discriminatory obstacle to achieving that very goal."

Plaintiffs will seek to have the lawsuit certified as a class action.

More information about the lawsuit is available
at www.censusdiscriminationlawsuit.com.

The case is “Eugene Johnson, et al., v. Gary Locke, Secretary, U.S. Department of Commerce,” No. ___, in the U.S. District Court, Southern District of New York.

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