

- **EEOC v. Spylen of Denville, Inc., dba Wendy's**

No. 02-4091 (WHW) (D. N.J March 16, 2004)

The Philadelphia District Office alleged in this ADA action that defendant subjected charging party to a hostile work environment because of his disability, Down's Syndrome, causing charging party's constructive discharge. Charging party is moderately mentally retarded and is limited in learning, communicating, and caring for himself. The Commission alleged that management staff and coworkers at the Wendy's restaurant where charging party worked repeatedly harassed him because of his disability. Coworkers screamed profanities at charging party and called him "stupid." Charging party was subjected to physical assaults including pushing, shoving, placing a knife against his stomach, putting ice down his clothes, and throwing water in his face. As a result of this harassment charging party was forced to resign. The case was resolved through a consent decree providing \$90,000 to charging party, which (less \$9,000 in attorney's fees) shall be used to fund a special needs trust established for charging party by his mother. Creation of the trust allows charging party to remain eligible for needs-based government benefits notwithstanding receipt of the monetary relief. The decree enjoins defendant from violating the ADA and specifically from creating or tolerating a disability-based hostile work environment and from retaliation.