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Edward Jones & Co. Financial Advisors Reach $34 Million Settlement In Discrimination Case

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A federal court recently gave its stamp of approval to a $34 million settlement agreement between Edward Jones & Co. and the company's Black financial advisors (FAs). The settlement resolves a years-long litigation battle and includes provisions aimed at promoting a more inclusive corporate culture going forward.

Background

The lawsuit, which was first filed in 2018, described "systemic, intentional race discrimination" within the company, leading to the underrepresentation of Black FAs as well as lower pay than their counterparts. According to the plaintiffs' complaint, only 6 percent of FAs employed by Edward Jones were non-white, lagging well behind the national average of 21 percent. Moreover, the suit alleged that Black FAs who work for Edward Jones are put at a disadvantage compared to their non-Black colleagues.

Specifically, the plaintiffs argued that Edward Jones disadvantages its Black FAs in several key ways:

- Edward Jones selected Black FAs for its "Goodknight" and "Legacy" programs at a disproportionately low rate. These programs guarantee new FAs a dedicated office space, mentorship, and assistance in finding clients. FAs not selected usually begin their careers working from home with minimal support.
- Black FAs were disproportionately relegated to less lucrative territories.
- Black FAs were disproportionately disfavored by the firm's retirement policy, which allowed a retiring FA to redistribute their clients to another FA.

Additionally, the plaintiffs took issue with Edward Jones' burdensome repayment policies, which required employees who leave for a different company to repay $75,000 in training costs.

The suit was led by three named plaintiffs who were FAs with Edward Jones and were denied opportunities despite their qualifications. All three raised their concerns about discrimination to

management and experienced retaliation as a result.

A class-action suit was filed in May of 2018. The plaintiffs alleged violations under 42 U.S.C. §1981 as well as Title VII of the Civil Rights Act of 1964. Last November, a District Court Judge denied Edward Jones' motion to dismiss, allowing their claims to move forward.

Legal Claims

The plaintiffs in this case alleged violations of both 42 U.S.C. §1981 and Title VII. Both of these statutes prohibit race-based discrimination, but there are several key differences:

1. §1981 has no cap on damages, while Title VII caps non-economic damages (such as emotional distress, reputational damage, and punitive damages) at $300,000 for the largest employers;

2. §1981 does not require a plaintiff to first file a charge with the Equal Employment Opportunity Commission (EEOC); and

3. Title VII recognizes claims based on disparate impact, while §1981 does not.

In this case, plaintiffs brought claims for both intentional race discrimination (under both Title VII and §1981) and disparate impact (under Title VII). The court considered Edward Jones' motion to dismiss on both these issues, and denied both motions.

To withstand a motion for dismiss, a plaintiff claiming that they were subject to intentional race discrimination must plausibly allege that they were subject to disparate treatment because of their race. *Murdock-Alexander v. Tempsnow Employment*, 2016 WL 6833961, at *6 (N.D.Ill. Nov. 21, 2016). The Court found that the plaintiffs satisfied this burden by claiming that:

- Edward Jones routinely assigned Black FAs to less lucrative territories and clients; and

- Edward Jones routinely denied Black FAs the same mentoring and support offered to non-Black FAs.

Bland v. Edward D. Jones & Co., L.P., 2020 WL 7027595, at *14 (N.D.Ill. Nov. 30, 2020). These allegations were supported by a named plaintiff's accounts of her experience at Edward Jones. The District Court thus denied Edward Jones' motion to dismiss.

The plaintiffs also alleged disparate impact discrimination under Title VII. Disparate impact claims occur when, even if an employer did not *intend* to discriminate, their policies disproportionately burden members of a protected class.

In order to sufficiently state a claim of disparate impact, a plaintiff must:

- identify a specific employment practice;

- allege its causal connection to the disparate impact; and

- give defendants fair notice of the claim.

Id. at 15. The facts that a plaintiff alleges in support must plausibly indicate a "relevant and statistically significant disparity" between the affected groups. *Id*.

Here, the plaintiffs alleged multiple employment policies that had a disparate impact: selection to the Goodknight or Legacy programs; assignment of offices/territories; and distribution of client accounts.

Plaintiffs alleged that these policies impact the compensation of FAs, and that because Black FAs were disproportionately disadvantaged by these policies, Black FAs received lower compensation and more limited opportunities for advancement than their non-Black colleagues. The District Court found that the claim was sufficiently stated and denied Edward Jones' motion to dismiss.

The $34 Million Settlement

The parties settled for $34 million, which will be paid out to eligible Black employees of Edward Jones & Co. who were licensed, field-based financial advisers between May 24, 2014 and December 31, 2020.

Additionally, the settlement includes a $150,000 service fee for each of the three named plaintiffs. One-quarter of the settlement ($8.5 million) will go towards attorney's fees.

In addition to monetary compensation, the settlement stipulates multiple forms of programmatic relief. This includes:

- release of repayment obligations for any employees who departed the company before January 1, 2021;
- a permanent reduction in the training cost repayment obligation from $75,000 to $50,000;
- mandatory demographic data and diversity reporting to leadership; and
- creation of a "FA Advisory Council" which will include a cross-section of employees of all backgrounds and will help leadership identify issues of diversity, equity, and inclusion.

As part of the settlement, Edward Jones has made no admission of wrongdoing or liability of any kind.

Other Recent Racial Discrimination Cases

Edward Jones is just one of many companies to face recent legal action for racial discrimination in employment. In a similar case in 2017, MetLife MET -0.9% reached a $32.5 million settlement agreement in a suit on behalf of its Black financial services representatives. There, the suit alleged that MetLife had denied its Black employees proper training, support, and access to lucrative opportunities.

A number of other employers have recently settled cases alleging systemic racial discrimination in hiring and employment:

1. Just three months ago, Kaiser Permanente reached an $11.5 million settlement in a race discrimination suit on behalf of more than 2,000 Black employees.

2. In December, the City of Brockton, MA settled for $2.05 million in a case brought by a class of applicants who alleged they were denied job opportunities with the City's Department of Public Works based on their race.

3. Last summer, Wells Fargo WFC -1.2% reached a $7.8 million settlement in a suit alleging that they discriminated against Black and female applicants in the hiring process.

As in the case of Edward Jones, many of these settlements also include agreements to establish programs that will help promote diversity and inclusion going forward.

Takeaways

When employers discriminate against employees or applicants on the basis of race, they can be held legally accountable. Employees who have faced racial discrimination may have a cause of action under either 42 U.S.C. §1981 or Title VII.

Bringing a claim under §1981 poses some advantages, including having no cap on damages. However, for plaintiffs wishing to bring a disparate impact claim, they will have to do so under Title VII. Title VII also covers other forms of discrimination, while §1981 applies exclusively to race discrimination.

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