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A Compliance Check Newsletter

SPS TEMPORARIES AND TWO CLIENTS TO PAY UP TO \$580,000 IN CLASS ACTION LITIGATION SETTLEMENT WITH EEOC

Employers Charged with Bias Based on Race, Sex, Age, Disability and National Origin

SPS Temporaries, Inc. and two of its clients, Jamestown Container and Whiting Door Manufacturing Corporation, will pay up to \$580,000 and take substantial steps to prevent future workplace discrimination as part of a class action litigation settlement announced recently by the U.S. Equal Employment Opportunity Commission (EEOC). The lawsuit charged that a large group of temporary workers (potentially hundreds or thousands) was denied work assignments based on race, sex, national origin, disability and/or age in violation of various federal laws.

Additionally, the EEOC had alleged that SPS dismissed a full-time employee due to her pregnancy and fired another for opposing the company's discriminatory practices. Three consent decrees resolving the case were filed by the EEOC with Judge John Elfvin of the U.S. District Court for the Western District of New York (*EEOC v. SPS Temporaries, Inc., Professional Personnel Management Corp., Jamestown Container Companies and Whiting Door Manufacturing Corp.*, Case No. 04-CV-0052).

"As one of the largest temporary agencies in the Buffalo area, SPS's discriminatory practices affected hundreds, if not thousands, of temporary workers," said Robert D. Rose, the EEOC's lead attorney on the case. "This resolution will fairly compensate the victims of that discrimination and put protective measures in place to prevent further discrimination."

The consent decrees establish a claims fund of nearly \$600,000 to compensate victims of the discrimination. EEOC will issue public announcements regarding the claims process and accept claim forms from eligible individuals who applied for temporary employment with SPS between January 1, 1999, and the approval date of the settlement.

The consent decrees also require the companies to take numerous steps to prevent further discrimination, including the adoption of new policies and procedures prohibiting discrimination, training for their employees, and periodic reporting to the EEOC regarding their hiring practices.

COMMISSION APPROVES REVISIONS TO EEO-1 REPORT

New Survey Format for Employers Would Be Effective in 2007 Reporting Cycle

The U.S. Equal Employment Opportunity Commission (EEOC) voted to approve final proposed revisions to the Employer Information Report, also known as the EEO-1 Report, which would be effective for the 2007 reporting cycle. The EEO-1 report is the principal reporting form by which certain employers provide the federal government with a count of their workforces by ethnicity, race and gender, divided into job categories.

"The proposal approved today modernizes the EEO-1 Report so that it continues to be relevant and have value, while minimizing the reporting burden," said EEOC Chair Cari M. Dominguez, noting that the report has not been significantly revised since 1966.

A notice about the revisions to the EEO-1 Report will be published shortly in the Federal Register, and the public will have 30 days to submit comments to OMB on the final proposal. OMB can approve a final EEO-1 after considering the public comments -- at which time the Commission will post on its web site the final EEO-1, with valid OMB number, along with the revised Instruction Booklet.

EEO-1 reports are submitted annually to the Joint Reporting Committee for the use of the EEOC and OFCCP. The survey must be filed annually by employers with 100 or more employees, or employers with federal government contracts of \$50,000 or more and 50 or more employees. The survey includes data on the size of employer establishments, the existence of other establishments within the company, the locations of the company's establishments, the industry of each company establishment, and the metropolitan area of the establishment. Further information about the EEO-1 Report, including questions and answers on the final proposed revisions, is available on the agency's web site at www.eeoc.gov.

EMPLOYER OSHA RESPONSIBILITIES

Employers have certain responsibilities under the Occupational Safety and Health Act of 1970. The following list is a summary of the most important ones

- Provide a workplace free from serious recognized hazards and comply with standards, rules and regulations issued under the OSHA Act.
- Examine workplace conditions to make sure they conform to applicable OSHA standards.
- Make sure employees have and use safe tools and equipment and properly maintain this equipment.
- Use color codes, posters, labels or signs to warn employees of potential hazards.
- Establish or update operating procedures and communicate them so that employees follow safety and health requirements.
- Provide medical examinations and training when required by OSHA standards.

The Focus

- Post, at a prominent location within the workplace, the OSHA poster (or the state-plan equivalent) informing employees of their rights and responsibilities.
- Report to the nearest OSHA office within 8 hours any fatal accident or one that results in the hospitalization of three or more employees.
- Keep records of work-related injuries and illnesses. (Note: Employers with 10 or fewer employees and employers in certain low-hazard industries are exempt from this requirement.)
- Provide employees, former employees and their representatives access to the Log of Work-Related Injuries and Illnesses (OSHA Form 300).
- For 2002 only, post a copy of the totals from the last page of the OSHA 200 Log during the entire month of February 2002.
- Provide access to employee medical records and exposure records to employees or their authorized representatives.
- Provide to the OSHA compliance officer the names of authorized employee representatives who may be asked to accompany the compliance officer during an inspection.
- Not discriminate against employees who exercise their rights under the Act.
- Post OSHA citations at or near the work area involved. Each citation must remain posted until the violation has been corrected, or for three working days, whichever is longer. Post abatement verification documents or tags.
- Correct cited violations by the deadline set in the OSHA citation and submit required abatement verification documentation.