

Lockheed Martin Settlement – Employers have Got To Wake Up!

By Sheila Lowden, SPHR

A victim of racial harassment and employment discrimination during his employment at Lockheed Martin has won \$2.5 million in what the U.S. Equal Employment Opportunity Commission (EEOC) calls one of the largest recoveries for an individual case.

What is so amazing about this settlement is such blatantly inappropriate and unacceptable comments and behaviors existed in any workplace this day and age. You would think that by now all employers know the importance of making sure that their work environments are free of ANY type of harassment. There are basic steps that Lockheed failed to take to stop the harassment, ultimately avoiding such a settlement.

The lawsuit against the *Fortune* 100 corporation and the world's largest military contractor includes an agreement from the Bethesda, Md.-based company to terminate the four co-workers and the supervisor who harassed former employee and Navy veteran Charles Daniels, and to make significant policy changes to address any future discrimination, the EEOC said during a Jan. 3, 2007, news conference in Hawaii.

Charles Daniels, 45, was subjected to severe racial harassment, including the "N-word," and to physical threats while he was part of a field service team in Jacksonville, Fla., Whidbey Island, Wash., and Oah'u, Hawaii, while working on military aircraft.



Charles Daniels

Daniels was the only black worker on the team, which moved to a new site every four to six weeks. The harassment started in September 1999 after Daniels was hired as an avionics electrician.

There was distribution of weekly "newsletters" in the employees' break room for Ku Klux Klan meetings and racist graffiti in restrooms. The harassment followed Daniels to Jacksonville, Fla., in 2000, then to Whidbey Island later that year, continuing in Hawaii in 2001.

The settlement, he said, "sends a powerful message that racism cannot and must not be tolerated.", stated Regional Attorney William R. Tamayo.

During the news conference, Daniels said: "I think the individuals were a little upset that I was progressing within the company and doing my job and doing it well. I think their main goal was to chase me out of that job."

Daniels and a white co-worker reported the racist harassment to HR. After Lockheed Martin's HR investigator distributed their reports to co-workers, both men were subjected to severe retaliation and threats of violence; the harassers grew from two men to four, according to the EEOC.

Every Non-discrimination Policy must include a non-retaliation clause so that it is in compliance with the law. More importantly is ensuring that retaliation does not occur and if it does that appropriate disciplinary action is taken immediately to stop such behavior.

Daniels was threatened with lynching, was told how easy it would be for him to be made to disappear on Whidbey Island, and saw co-workers in a vehicle circling the block around his apartment late at night, according to the EEOC, prompting him to move off the island to Seattle.

"They are responsible for what they said. They're responsible for their actions. They're responsible for their threats. But Lockheed Martin knew about it," said Raymond T. Cheung, the EEOC attorney who served as lead lawyer in the case.

A huge mistake that Lockheed Martin made was that they continued to pair Daniels with the team that consisted of the harassers.

Lockheed failed to discipline the harassers and instead allowed the discrimination to continue unabated even though the company was aware of the unlawful conduct and had an antidiscrimination policy on paper, the EEOC said.

Daniels continued to report the harassment, but "I endured it way too long," he said.

At the end of his Hawaii assignment, he was assigned to join his former team in Maine, which was at that time supervised by one of his harassers. On his last day in Hawaii in 2001 he went to the EEOC Honolulu Office and filed a charge.

According to the EEOC, Daniels begged the HR person not to send him to Maine but was told he would be terminated if he did not go. When he made it known he had filed an EEOC complaint, the HR person became angry, according to the EEOC.

"You did what? I could have given you a job. We have 130,000 employees. I could create a job if I wanted to. You see that file cabinet behind you? It's filled with thousands of complaints just like yours. We're Lockheed Martin. We never lose. You can take your chances with the EEOC," he said he was told by HR before being terminated.

Unfortunately it is sometimes arrogance as displayed by this HR person that gets Companies in trouble. Each complaint that an organization receives should be taken seriously and investigated thoroughly, no matter what the size the company is or how far fetched the complaint may seem. We have seen more organizations make this mistake and end up with suits and even unionizing campaign as a result.

The suit, filed in August 2005, was resolved with a consent decree that includes the \$2.5 million payment and a requirement for Lockheed Martin to provide annual antidiscrimination training to all its employees, including management to report annually to the EEOC on whether any new claims of discrimination have been made by employees, and the steps taken to remedy the situations. Lockheed was also required to terminate the harassers involved in this case and to permanently bar them from future employment.

In a statement appearing in *Pacific Business News*, Lockheed Martin said the government's characterization of the case was "false" and that it settled "to enable all parties to move on." The company said it has "strong policies" against harassment and discrimination and that it took "appropriate remedial action" when it became aware of the allegations in the Daniels case.

"The conduct in question involved a small number of first-line employees in a small, single operating unit of the company. When management became aware of the allegations, it conducted investigations and took the appropriate remedial actions based on the facts presented at that time. At no time was the operating unit aware of or did it ignore any unlawful conduct. All individuals involved in this matter have either left the company or are being terminated. Additionally, as a result of this settlement, we've barred the individuals allegedly involved in this matter from future work with the company."

As an experienced HR person, there are clearly steps that Lockheed should of and could of taken to rectify this issue. It would have not only resulted in a different outcome but also in retention of a talented employee.

Lessons Learned from this case for all employers

1. Have a non-discrimination policy and enforce it. Make sure all your employees sign off on acknowledgement of receipt of the policy and commitment to the policy.
2. Educate your managers and employees on what is acceptable behavior in the workplace and what to do if they do have a concern or complaint.

3. Take action on all complaints. Take them seriously and do a thorough investigation. If you do not have the HR resources internally to do this, look at hiring an HR firm or attorney to do so. Today there are so many outsourced solutions for businesses to utilize, ultimately saving them thousands and thousands of dollars.

4. Take appropriate disciplinary action against any offenders of your policy and follow up with the person bringing the complaint and concern forward. Document the steps taken and the outcome.

These are easy steps that are so critical to keeping business in compliance, creating a work environment where employees can flourish and want to be.

Make sure you and your business do not end up in the news like Lockheed Martin. Not too many business can afford a \$2.5 million settlement. Taking these steps can help prevent you and your company from creating similar liability.

Racial harassment charge filings with EEOC offices nationwide have more than doubled since the early 1990s from 3,075 in fiscal 1991 to about 7,000 in fiscal 2007, based on preliminary year-end data.

Race is the most frequently alleged basis of discrimination in charges brought to the EEOC, accounting for about 36 percent of the agency's private-sector caseload.

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