



EEOC News

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FOR IMMEDIATE RELEASE
September 19, 2012

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INTELLECTUALLY DISABLED WORKERS AWARDED \$1.3M FOR PAY DISCRIMINATION BY HENRY'S TURKEY SERVICE *Federal Judge Rules for Workers in EEOC Lawsuit; Further Proceedings on Disability-Based Abuse and Harassment Allegations Lie Ahead*

DALLAS -- Hill County Farms Inc., doing business as Henry's Turkey Service, violated the Americans with Disabilities Act (ADA) by paying 32 workers with intellectual disabilities severely substandard wages, a judge has ruled in a lawsuit filed by the U.S. Equal Employment Opportunity Commission (EEOC). The court ordered the company, based in Goldthwaite, Texas, to pay its former employees lawful wages totaling \$1.3 million for jobs they performed under contract at a turkey processing plant in West Liberty, Iowa between 2007 and 2009.

The EEOC alleged in its lawsuit (No. 3:11-cv-00041, filed in U.S. District Court for the Southern District of Iowa, Davenport Division,) that Henry's Turkey exploited a class of disabled workers because their intellectual impairments made them vulnerable and unaware of the extent to which their legal rights were being violated.

In this latest ruling, Senior U.S. District Court Judge Charles R. Wolle found that, rather than the total of \$65 dollars per month Henry's Turkey paid to the disabled workers while contracted to work on an evisceration line at the plant, the employees should have been compensated at the average wage of \$11-12 per hour, reflecting pay typically earned by non-disabled workers who performed the same or similar work. The EEOC's wage claims for each worker ranged from \$28,000 to \$45,000 in lost income over the course of their last two years before the Henry's Turkey Service operation was shut down in February 2009.

"This case reflects the Commission's longstanding commitment to enforce the anti-discrimination laws nationwide on behalf of all workers, including workers with intellectual

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disabilities and other vulnerable communities,” said EEOC General Counsel P. David Lopez. “It is a serious mistake for any employer not to adopt safeguards against unlawful discrimination based on the assumption that workers will not exercise their rights due to fear or the lack of understanding.”

Robert A. Canino, regional attorney for the Dallas District Office of the EEOC, which is litigating the case, said, “I believe that this positive result furthers the ongoing discussion about how far our country has come in promoting and supporting employment opportunities for persons with mental, intellectual and developmental disabilities. Unfortunately, this case also reflects the sad reality that we still have a ways to go to ensure that employment of persons with disabilities does not require them to sacrifice their true earning capacity or their human dignity.”

In its motion for partial summary judgment, the EEOC argued that Henry’s Turkey Service was not justified in paying disabled workers wages that were lower than the minimum wage for Iowa where they lived and worked, and that the disabled workers, some of whom had performed the work for over 25 years, were due the same wage rate as non-disabled workers. In support of its motion, EEOC included the statement of a West Liberty Foods supervisor, who stated that the contracted Henry’s workers were as productive as other workers in the plant, and that they actually demonstrated their knowledge and skills to persons who were being hired to replace them as the Henry’s Turkey contract operations were winding down.

The EEOC also submitted evidence from West Liberty Foods records showing that while the plant paid Henry’s Turkey Service as much as \$11,000 per week for the work performed by the crew of 25-30 disabled men, Henry’s paid the men only an average of \$15 per week each.

Henry’s maintained that it should be credited with wages for providing a 100-year-old former schoolhouse as living quarters. The EEOC submitted evidence, however, from various witnesses, including admissions by Henry’s supervisors, that the “bunkhouse”-- from which the men were later evacuated -- was closed down by the state fire marshal as unsafe, its heating was inadequate, the bug-infested building had rodent problems, and the roof was in such disrepair that buckets were put out to catch water pouring in. The EEOC’s position, supported by testimony of the U.S. Department of Labor, was that it was unlawful for the company to deny the disabled workers their full wages and benefits by claiming a “credit” for these substandard living conditions.

Dr. Sue Gant, an expert witness, supported the EEOC's claims that the company's scheme involved purposeful financial exploitation of the trusting workers. She concluded that Henry’s conduct "including acts of deliberate misrepresentation" about wages and expenditures, was profit-driven and deprived the workers of "economic independence and self-sufficiency." She further declared that the company "took advantage of the workers. . . knowing that they would not likely be discovered because the workers were disabled."

“Company officers were never able to explain why they were deducting about \$1,000 per month from each employee’s wages to cover the company’s alleged room and board and expenses, while simultaneously pulling out hundreds of dollars per month from each of the men’s personal Social Security SSI and disability benefit accounts to reimburse itself for the very same described ‘expenses’,” added Regional Attorney Canino. Anyone could plainly see that the math just didn’t add up, while the personal costs to the men continued to multiply.”

In addition to the discriminatory pay practices which are the subject of the court’s order, the EEOC’s suit also alleges that the company subjected the disabled workers to abusive verbal and physical harassment, unnecessarily restricted their freedom, and imposed harsh punishments and other adverse terms and conditions of employment such as requiring them to live collectively in substandard living conditions and failing to provide proper health care. The EEOC’s trial on these remaining issues regarding mistreatment of the workers is currently scheduled for March 2013.

The EEOC enforces the nation’s laws prohibiting employment discrimination. Further information about the EEOC is available at www.eeoc.gov.

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