



January 2010

US Department Of Labor's OSHA Fines Printing Company Nearly \$160,000 for Workplace Safety and Health Hazards

The U.S. Department of Labor's Occupational Safety and Health Administration (OSHA) has cited Chapman Printing Co. for workplace safety and health violations. Proposed penalties total \$158,400.

OSHA initiated its inspection on June 18 in response to a formal complaint. As a result of the investigation, the company has been issued citations for six willful violations, with a penalty of \$126,000; eight serious violations, with a penalty of \$27,900; and five other-than-serious violations, with a penalty of \$4,500.

The willful violations address the company's failure to provide adequate energy control procedures and a hearing conservation program. OSHA defines a willful violation as one committed with plain indifference to, or intentional disregard for, employee safety and health.

The serious violations include a lack of machine guarding, failure to conduct a hazard assessment of the workplace to determine the need for personal protective equipment, failure to provide personal protective equipment for employees, and failure to provide and use protective equipment when working on or near energized electrical equipment. OSHA issues a serious citation when there is substantial probability that death or serious physical harm could result and the employer knew, or should have known, of the hazard.

The other-than-serious violations are due to the company's inadequate recordkeeping.

Outback Steakhouse to Pay \$19 Million for Sex Bias against Women in 'Glass Ceiling' Suit by EEOC

Consent Decree Includes Online Application System, Creation Of Executive HR Position

The U.S. Equal Employment Opportunity Commission (EEOC) recently announced that Outback Steakhouse has agreed to pay \$19 million and furnish significant remedial relief to settle a major class lawsuit alleging sex discrimination against thousands of women at hundreds of its corporately-owned restaurants nationwide.

The Focus

According to the EEOC, Outback discriminated against its female employees with respect to the terms and conditions of employment, and denied women equal opportunities for advancement. The EEOC alleged in the lawsuit that female employees hit a glass ceiling at Outback and could not get promoted to the higher-level profit-sharing management positions in the restaurants.

Moreover, the EEOC also alleged that women were denied favorable job assignments, particularly kitchen management experience, which was required for employees to be considered for the top management job in the restaurants.

The settlement stems from a lawsuit filed by the EEOC in September 2006 under Title VII of the Civil Rights Act in U.S. District Court for the District of Colorado. In addition to the monetary relief, the settlement, contained in a four-year consent decree signed by Federal Court Judge Christine M. Arguello, requires that:

- Outback institute an online application system for employees interested in managerial and other supervisory positions;
- Employ a human resource executive in the newly created position of Vice President of People;
- Employ an outside consultant for at least two years who will determine compliance with the terms of the decree and analyze data from the online application system to determine whether women are being provided equal opportunities for promotion; and
- Report every six months to the EEOC on carrying out the terms of the decree;

The \$19 million in monetary relief contained in the settlement will be administered through a claims process in which an administrator will send letters to all female workers employed at corporately-owned Outback restaurants from 2002 to the present who have at least three years of tenure.

Question of the Month

Question: Does the Uniformed Services Employment and Reemployment Rights Act (USERRA) require that an employee receive pension credit while absent to perform military service?

Answer: USERRA applies to a wide range of pension plans including defined benefit and defined contribution plans. Upon reemployment following qualifying military service, an employee must be treated for vesting and benefit accrual purposes as if he or she had been continuously employed. If benefits are tied to employee contributions, the employee must be allowed a specified period of time to make up contributions missed during the period of military service.