

Employers Beware: More Plaintiffs Claiming Both Discrimination and Retaliation

Salinas Californian

February 20, 2007

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Earlier this month, the California Appellate Court decided a case in which the plaintiff claimed both discrimination and retaliation. The facts of this case, *Jones v. The Lodge at Torrey Pines Partnership*, provide guidance to employers on what they should not do.

Scott Jones began working for a restaurant affiliated with the defendant in 1995. He received numerous promotions until 2000 when he became the outlet manager. In October 2000, the defendant hired Jean Weiss as its food and beverage director. Weiss and a hotel manager promised Jones another promotion when the company completed building a new hotel. They told him his salary could double.

Weiss and Jerry Steen, a kitchen manager, began telling jokes that Jones found offensive. Jones testified that they made daily comments about Jones being homosexual, including that he would be good at decorating, and they directed graphic gay-bashing jokes at him. Jones also testified that several female employees complained to him that they felt uncomfortable around Weiss and Steen because Weiss and Steen used offensive language around them, calling them “bitch”, and that Weiss leered at them.

In early 2001, Jones told Weiss that Steen was unprofessional toward the women in the workplace. Weiss threatened to fire Jones if he “aired any dirty laundry”. Jones sent a written notice to Weiss in May 2001, telling him to refrain from his unprofessional remarks. Weiss crumpled the note, yelled at Jones, and threw the note at him. Steen was promoted in June 2001.