

Workers' Religious Beliefs May Get New Attention

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Already schooled in the finer points of retailing, managers at Wal-Mart Stores Inc. will now be trained in certain aspects of religion.

Wal-Mart has agreed to a groundbreaking settlement of a religious-discrimination lawsuit brought by a former employee who said the chain forced him to quit in 1993 after refusing to work on his Sabbath. The settlement, which calls for Wal-Mart to train all managers in how to reasonably accommodate workers' religious beliefs, could have far-reaching implications for other companies, with weekend staffing needs that conflict with a worker's religious practices.

Indeed, lawyers familiar with discrimination law believe the training program could eventually be copied by other companies and thus make classes in preventing religious discrimination as common as those aimed at preventing gender and race bias. Right now, says Mathew Staver, president and general counsel of Liberty Counsel, a religious civil-liberties defense group in Orlando, Fla., "religious discrimination is the forgotten discrimination. It's something that's often overlooked in the workplace."

Wal-Mart officials couldn't be reached for comment.

The Wal-Mart settlement comes as lawsuits alleging religious discrimination brought by Christian fundamentalists are on the rise, especially in the Midwest and South where voters in recent years have repealed laws requiring businesses to close on Sundays, say lawyers and representatives. In the past two years, the Equal Employment Opportunity Commission has brought several religious-discrimination suits against retailers there, including two against Wal-Mart and at least one against rival Kmart Corp. In these other suits, the agency either didn't prevail or obtained a more limited settlement.

The Wal-Mart suit, filed in federal court in Springfield, Mo., was brought by Scott Hamby, who said he was forced to quit in 1993 after refusing to work on Sunday, his Sabbath. The suit alleged that Wal-Mart's action regarding Mr. Hamby, who was also a theology student at the time, violated Title VII of the federal civil-rights laws, which prohibits discrimination on the basis of gender, race and religion. Both sides agreed to settle a few days before the scheduled June trial but didn't formalize an agreement until earlier this month.

While denying any wrongdoing, the nation's largest retailer has agreed to take "reasonable steps and use its best efforts" to hold a meeting in Kansas City, Mo., this month for Wal-Mart managers, in part to instruct them on employees' rights to have their religious beliefs "reasonably accommodated." The company will also

immediately train those managers in charge of hiring and scheduling in its 2,173 stores, prepare a computer-based manual describing employees' rights and religious harassment, and hire 30 to 40 regional trainers on the subject.

Wal-Mart, based in Bentonville, Ark., also has agreed to pay Mr. Hamby a sum of money, but neither side would disclose the amount because of a confidentiality agreement. The retailer also declined to estimate the cost of complying with the settlement except to say it would be "minimal." The settlement will be subject to oversight by Russell Clark, the federal district court judge presiding over the case. Legal experts and religious advocacy groups say that the settlement is likely to augur a new awareness among employers of bias against religious beliefs and practices.

The number of such claims has risen steadily in recent years, especially in industries such as transportation, public safety and retailing where weekend work is often an expected part of the job. According to the EEOC, the number of

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charges of religious discrimination filed with state and federal agencies grew to 2,900 last year from 2,651 in 1993 and 2,200 in 1990. Of those suits filed in 1994, 179 alleged that employers failed to reasonably accommodate a religious practice, up from 107 in 1993.

Most disputes are settled without the filing of a lawsuit, though most employers remain ignorant of what is required to accommodate a religion-oriented request, says Ann-Marie Amiel, an attorney with the Rutherford Institute, a religious-rights group based in Charlottesville, Va.

Courts have said that employers must "reasonably accommodate" requests to observe the Sabbath or other religious days unless the request would cause "undue hardship" to the business. The employees' religious beliefs are assumed to be sincerely held unless proved otherwise.

Most companies, however, have no guidelines about how to handle the requests, preferring instead to have a simple one-sentence statement that they don't discriminate on the basis of religion. Retailers and others who require weekend work often adopt blanket policies exempting no one. They fear that any exceptions

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to the policy would create "an administrative headache," says Thomas Borde, EEOC attorney in St. Louis.

Earlier this year the EEOC entered a settlement of a religious-discrimination action that it had filed against I. Department Stores Inc. on behalf of a dozen individuals. The company agreed not to ask job applicants whether they work on weekends and not to screen those who can't work for religious reasons. In addition, it agreed to pay up to \$30,000 back pay to the plaintiffs, a grant of Sabbath-observing job seekers all denied employment at one of its stores.

Mr. Hamby's lawyer, Jay Kirk Bolivar, Mo., says that in the Wal-Mart case, there was evidence that company managers had intentionally scheduled Hamby on successive Sundays to get him to quit, entitling him to seek punitive damages. In June, a Missouri jury awarded \$50 million in punitive damages against Wal-Mart in a sexual-harassment case, and Mr. Kirksey says that the verdict of another huge Missouri jury verdict against Wal-Mart in a sexual-harassment case, and Mr. Kirksey says that the unusually broad settlement in Hamby's case.

"In the last 10 years, Christians have gotten to be known as pushovers," Mr. Hamby, who is now unemployed and pursuing a career in law enforcement, says. His suit, he says, shows times are changing: "This should put Wal-Mart up to the seriousness of a conviction by someone's convictions."