

Abercrombie Settles Employment Suit Over “Look Policy”

by Christina M. Michelson on October 4, 2013

Abercrombie & Fitch, which recently made headlines when CEO Mike Jeffries stated the company did not want overweight people wearing its brand, has settled two employment suits over its controversial “Look Policy.” The latest black mark against the clothing retailer comes amidst declining sales and a growing public image problem.

The bias lawsuits both challenged Abercrombie’s employee policies discriminated against Muslim teens who sought to wear religious headscarves while working. In one case, a Muslim employee was terminated after four months on the job because she refused to remove her hijab. In another, Abercrombie refused to hire an applicant due to her headscarf and specifically asked if she was Muslim.

The suits specifically allege that Abercrombie’s actions violate Title VII of the Civil Rights Act of 1964, which prohibits discrimination based on religion and requires employers to accommodate the sincere religious beliefs or practices of employees unless doing so would impose an undue hardship on the business.

Ironically, this was not the first time the company’s “Look Policy” has been a focus of scrutiny. In 2005, litigation by the Equal Employment Opportunity Commission (EEOC) resulted in a six-year consent decree and \$40 million paid to a class of African Americans, Asian Americans, Latinos and women who were excluded from hiring or promotions.

In the latest cases, one California district court judge rejected Abercrombie’s arguments that allowing employees to wear religious headscarves would constitute an undue burden on the company, finding there was no evidence that making an exception to the “Look Policy” would hurt sales or branding. Another judge agreed, finding Abercrombie liable for religious discrimination.

Likely seeing the writing on the wall, Abercrombie elected to settle the suits. Under the consent decree with the EEOC, Abercrombie must institute an appeals process for denials of religious accommodation requests, inform applicants during interviews that accommodations to the “Look Policy” may be available, and incorporate headscarf scenarios into all manager training.

If you have any questions about these cases or would like to discuss the legal issues involved, please contact me, Christina Michelson, or the Scarinci Hollenbeck attorney with whom you work.