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## Rent-A-Center Beats EEOC's Religious Bias Suit

By **Bill Donahue**

Law360, New York (January 22, 2013, 3:22 PM ET) -- A Washington federal judge ruled Friday that Rent-A-Center Inc. didn't violate civil rights laws by firing a Seventh-Day Adventist who refused to work on Saturdays, dismissing a lawsuit filed by the U.S. Equal Employment Opportunity Commission.

Allowing store manager Ferdinand Charles to never work on Saturday — Rent-A-Center's most important day of the week — would cause the company undue hardship, U.S. District Judge Royce C. Lamberth said.

"Such an accommodation would not merely be bothersome to administer or disruptive of the operating routine, but actually would squarely conflict with [Rent-A-Center]'s business model," the judge wrote, quoting precedent. "That is more than sufficient to demonstrate undue hardship."

Unlike most Christian sects, Seventh-Day Adventists observe their holy day on Saturday rather than Sunday. Though Charles was initially given the day off, company executives eventually decided that stores could not properly operate without their manager on Saturday — by far the rental business's busiest day.

Charles was terminated in February 2007 after he refused to come to work on Saturday. The EEOC sued in June 2011, claiming the termination violated Charles' rights under Title VII of the Civil Rights Act of 1964.

Title VII requires employers to respect religious observances, but only if doing so doesn't cause "undue hardship" for the company's business. Since the statute's passage, the U.S. Supreme Court has ruled that any employee accommodation causing more than a "de minimis cost" to the business exceeds the law's protections.

In the case of Rent-A-Center, store managers like Charles are the most important employee at any location, handling a variety of managerial and supervisory responsibilities that can't be replicated by lower-rung workers, Judge Lamberth said. And because Rent-A-Center is closed on Sundays, the only day many consumers can shop at the store is on Saturday, the judge said.

Asking the company to allow its most needed employee to be permanently absent on the most important day of the week, in contravention of established company policy, would be more than "de minimis cost," Judge Lamberth said.

"Leaving the store without a store manager on Saturdays would cause an 'undue hardship' to [Rent-A-Center] by impair[ing] [critical] functions," the judge wrote. "It would deprive the store of the significant supervisory, managerial, customer-care and other functions that [managers] are charged with at the very time when these functions are most

needed."

Robert F. Friedman of Littler Mendelson PC, counsel for Rent-A-Center, praised the court's ruling Tuesday.

"This was an important and thoughtful decision by the court, which recognizes the realities of the retail and rent-to-own industries," Friedman told Law360. "The EEOC's position was completely unworkable for our line of business, and the court recognized that."

EEOC spokeswoman Justine Lisser said, "We are reviewing the court's decision and considering our options."

Rent-A-Center was represented by Robert F. Friedman, Peter John Petesch, Steven E. Kaplan, Andrew Trusevich and Edward F. Berbarie of Littler Mendelson PC.

The EEOC was represented by its own Edward O'Farrell Loughlin and Tracy Hudson Spicer.

The case is Equal Employment Opportunity Commission v. Rent-A-Center Inc., case number 1:11-cv-01170, in the U.S. District Court for District of Columbia.

--Editing by Jeremy Barker.

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**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

**EQUAL EMPLOYMENT OPPORTUNITY  
COMMISSION,**

**Plaintiff,**

**V.**

**Civil No. 11-1170 (RCL)**

**RENT-A-CENTER, INC.,**

**Defendant.**

## MEMORANDUM OPINION

Plaintiff United States Equal Employment Opportunity Commission (“EEOC”) brought this action under Title VII of the Civil Rights Act of 1964 as amended, 42 U.S.C. § 2000e, *et seq.*, alleging that defendant Rent-A-Center, Inc. (“RAC”) discriminated against an employee, Mr. Ferdinand Charles, by refusing to reasonably accommodate his religious belief which prohibited him from working on Saturdays. Now before the Court is RAC’s motion for summary judgment and attorneys’ fees. ECF No. 25. Upon consideration of this motion, EEOC’s Opposition, ECF No. 27, RAC’s Reply, ECF No. 28, applicable law, the record, and for the reasons given below, the Court will GRANT RAC’s motion for summary judgment, DISMISS EEOC’s complaint with prejudice, and DENY RAC’s request for attorneys’ fees.

## I. BACKGROUND

### A. Summary

Mr. Charles worked for RAC for several years at various stores before being promoted to Store Manager at RAC's Seat Pleasant, Maryland location in 2006. Pl.'s Opp'n 2-3; Def.'s

Statement 4, ECF No. 25–1. As was true of his earlier work for RAC, this position required Mr. Charles to work Saturdays. Pl.’s Opp’n 3; Def.’s Statement 4; Dep. of Ferdinand Charles (“Charles Dep.”) 62:13–15, 67:2–4, Pl.’s Ex. A, ECF No. 27–2 & Def.’s Ex. B, ECF No. 25–4. After several months working Saturdays, Mr. Charles informed RAC that his religious beliefs as a Seventh Day Adventist prevented him from continuing to do so. Pl.’s Opp’n 1–2; Def.’s Statement 7; Charles Dep. 51: 5–18, 93–94. Mr. Charles’ supervisor, District Manager Ray Taylor informed Mr. Charles that RAC would not allow him to take every Saturday off, and Mr. Charles submitted his resignation. Pl.’s Opp’n 3–4; Def.’s Statement 7. Before his resignation was effective, however, another RAC District Manager, Monique Jones, offered to accommodate Mr. Charles’ request, and brought him in as Store Manager at RAC’s Alabama Avenue location in Washington, D.C. (“Alabama Ave. Store”). Pl.’s Opp’n 4; Def.’s Statement 7; Charles Dep. 94. Beginning in September 2006, Mr. Charles worked as the Store Manager for this location and did not work Saturdays. Def.’s Statement 7; Charles Dep. 95. In November, RAC “realigned” its stores and Mr. Taylor became District Manager in charge of the Alabama Ave. Store. Pl.’s Statement 7–8; Def.’s Statement 10. Mr. Taylor discussed the issue of Mr. Charles’ no-Saturday schedule with Regional Director David McNichol, who determined that RAC could not continue to accommodate Mr. Charles in this manner. Def.’s Statement 11; Pl. Opp’n 7–9. Mr. Charles was terminated for refusing to work Saturdays in February 2007. Pl.’s Opp’n 9; Def.’s Statement 12.

#### **B. RAC’s Business**

RAC is in the rent-to-own business. At its retail stores, customers select furniture, electronics, appliances, and other merchandise from the showroom floor, enter into rental agreements, and have the merchandise delivered to their homes. Def.’s Statement 1–2; *see also*

Pl.'s Opp'n at 2–3. The rental agreements customers sign provide for weekly or monthly payments, and many of RAC's customers physically come into the store to make these payments. Def.'s Statement 2; Charles Dep. 107:13–20. The stores are leanly staffed: during the fall of 2006 while Mr. Charles was managing the Alabama Avenue store, it was fully staffed with six employees, including Mr. Charles. Def.'s Statement 1, 8; Charles Dep. 102:8–13.

### **C. Store Managers**

The Store Manager is the highest ranking employee at an RAC store, and is charged with special supervisory, training, financial, customer service and managerial responsibilities.<sup>1</sup> Pl.'s Opp'n 3, 5; Def.'s Statement 5; Charles Dep. 72–74, 108–09. In addition, certain tasks can only be performed by a Store Manager, such as awarding “free time” to customers,<sup>2</sup> authorizing reduced payments, and accessing certain “reports.” Def.'s Statement 5–6; Charles Dep. 82–86; 115:4–13; Pl.'s Opp'n 7. While EEOC suggests that many managerial and supervisory functions could also be performed by an Assistant Manager, it does not contest the fact that certain functions can only be performed by the Store Manager. *See* Pl.'s Opp'n 5–7; 18–24.

### **D. Saturdays**

Saturday is the most important day of the week for RAC. Because RAC is closed on Sundays, it is the only weekend day that customers can physically come into the store to shop or make payments. Def.'s Statement 3. Most of RAC's rental agreements provide for payments to

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<sup>1</sup> Mr. Charles acknowledged that, as Store Manager, he was “running the store,” that he was “the highest ranking person in that store” and “all the employees in the store answered to [him],” that he was “responsible for managing all the employees below [him],” as well as “for scheduling,” “for profit and loss for the store,” “for managing [his] account managers to make sure they manage the customers,” “for training,” for “reviewing the account managers’ work, reviewing my sales teamwork . . . for profit and loss, . . . for the inventory, . . . [and] for safety in the store . . . .” Charles Dep. 72–74.

<sup>2</sup> Mr. Charles explained that the store manager had exclusive authority over “free time” promotions: “if we had a promotion where you got pay a week, get a week free, the client needed two weeks free, and pay one week, I don’t think [subordinates] were able to perform that.” Mr. Charles further acknowledge that this promotion was a “tool to try to bring in new clients, new customers.” Charles Dep. 84–85.

be made on Saturdays. Def.'s Statement 3; *see also* Pl.'s Opp'n 6; *see also* Charles Dep. 113:14–16. Accordingly, Saturdays are almost always the highest revenue-generating day of the week for RAC stores, including the Alabama Ave. Store. *See* Alabama Ave. Store Financial Records, ECF No. 25–7 (reporting daily financial data for the Alabama Ave. Store over a two-and-a-half year period); Expert Report of Marshall L. Fisher 1, 4, ECF No. 25–11 (analyzing this data and concluding that “Saturday is by far the busiest day of the week, with more than one third of a week’s business occurring on that day”); Dep. of Richard F. Tonowski 100:14–20, ECF No. 25–13 (acknowledging Dr. Fisher’s conclusion as a “true statement”); *Id.* at 109:3–8 (agreeing that “Saturday is by far the busiest day for this store”); Def.’s Reply 1, 3 (noting that “Plaintiff does not dispute” this assessment).

#### **E. RAC’s Scheduling Policy**

All RAC store employees work on Saturdays. Def.’s Statement 4; *see also* Charles Dep. 62:7–12, 66:15–22; 67:1, 94:20–22. In particular, because of their important role in the store, every Store Manager works on Saturdays. Pl. Opp’n 9; Charles Dep. 129; Def’s Br. 5; Def.’s Reply 1 (noting that “Plaintiff does not dispute [this claim] within its Statement of Genuine Issues and Material Facts in Dispute”).

#### **F. The Impact of Mr. Charles’ Absences**

The parties and their experts disagree as to what impact Mr. Charles’ absence from the store on Saturdays had on RAC’s business and employees.

RAC argues that the store “could not operate effectively on Saturdays” without Mr. Charles, Def.’s Br. 18–19; Def.’s Reply 2–5;<sup>3</sup> that Charles’ coworkers and the District Manager had to take on “additional responsibilities” because of his absences, Def.’s Br. 21–24; Def’s

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<sup>3</sup> RAC’s expert, Dr. Fisher concluded that Mr. Charles’ absence on Saturdays led to a loss of \$486 per week in revenues. Def.’s Br. 32 (citing Marshall L. Fisher, Expert Report, ECF No. 25–11).

Reply 5–8; that this accommodation interfered with RAC’s business model, Def.’s Br. 24–28; Def.’s Reply 9–15; and “lowered employee morale,” Def.’s Br. 28–30; Def.’s Reply 15–16.

EEOC argues that “Charles’ absence . . . on Saturdays did not disrupt the store’s operations” because the store had “satisfactory sales and profit and losses” during this period<sup>4</sup>; Charles’ absence “did not impose additional duties upon his staff” or the District Manager; Assistant Manager, Devon Pryor, was able to perform most of Mr. Charles’ responsibilities as Store Manager and the “staff was adequately supervised” during his absence; and employee “morale at the store was not affected” because no employee complained about his absence. Pl.’s Opp’n 6–7, 18–24.

Notably, Mr. Charles appears to have made several concessions on these points during his deposition testimony. Mr. Charles agreed that “the store could not effectively operate on Saturday without [him] if it was a busy day,” but could do so “if it was a light day.” Charles Dep. 114:8–13. He further stated that when he was absent from the store on Saturdays, his “coworkers had to do more than they normally would have, if [he] had been there,” Charles Dep. 121:2–5, 122:5–8; that, on Saturdays while he was absent, if there was “some function that needed to be performed for which [his] subordinate employees” lacked the authority, the employees would “either not be able to perform the function or they would have to call [District Manager] Monique [Jones],” Charles Dep. 118:14–22; that, when he was absent on Saturdays, his District Manager Monique Jones came in to fill in for him “[g]ive or take, I would say once a month” during this period, Charles Dep. 103:5–20; *see also id.* 125:12–22; and that while, to his knowledge, other managers were not upset about the arrangement, “one manager in particular made a joke about it, he said [‘]I need to join your church,[’] you know,” Charles Dep. 119.

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<sup>4</sup> EEOC’s expert, Dr. Tonowski, rejected the methodology used by Dr. Fisher, and showed that the decline in revenue predated the accommodation to Mr. Charles. *See* Richard F. Tonowski, Rebuttal to Report Prepared by Marshall L. Fisher 4, ECF No. 27–8.

## II. TITLE VII CLAIM

### A. Legal Standard

#### 1. Summary Judgment

Summary Judgment is “appropriate where the pleadings and the record ‘show that there is no genuine issue as to any material fact and that the moving party is entitled to Judgment as a matter of law.’” *TermoRio S.A. E.S.P. v. Electranta S.P.*, 487 F.3d 928, 941 (D.C. Cir. 2007) (quoting *Kingman Park Civic Ass’n v. Williams*, 348 F.3d 1033, 1041 (D.C. Cir. 2003) (quoting Fed. R. Civ. P. 56(c))). A material fact is one that “might affect the outcome of the suit under the governing law.” *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986).

#### 2. Prima Facie Case

Title VII makes it unlawful for an employer, *inter alia*, “to discharge any individual . . . because of such individual’s . . . religion . . .” 42 U.S.C. § 2000e–2(a)(1). To state a prima facie claim, EEOC must show that Mr. Charles (1) “held a bona fide religious belief conflicting with an employment requirement”; (2) “informed [Rent-a-Center] of [his] belief”; and (3) was terminated “for failure to comply with the conflicting employment requirement.” *See Isse v. Am. Univ.*, 540 F. Supp. 2d 9, 29 (D.D.C. 2008) (quoting *Lemmons v. Georgetown Univ. Hosp.*, 431 F. Supp. 2d 76, 95 (D.D.C. 2006)).

#### 3. Undue Hardship

If the plaintiff successfully establishes a prima facie case, “the burden shifts to the employer to show that it was unable reasonably to accommodate the plaintiff’s religious needs without undue hardship.” *Id.* (quoting *Lemmons*, 431 F. Supp. 2d at 95). An employer must “reasonably accommodate” the religious needs of its employees unless the employer “demonstrates that [it] is unable to [do so] . . . without undue hardship on the conduct of the



employer's business." § 2000e(j). While "the employer's statutory obligation to make reasonable accommodation for the religious observances of its employees, short of incurring an undue hardship, is clear," *Trans World Airlines, Inc. v. Hardison* ("TWA") 432 U.S. 63, 75–76 (1977), Congress "did not impose a duty on the employer to accommodate at all costs." *Ansonia Bd. Of Educ. V. Philbrook*, 479 U.S. 60, 70 (1986). The Supreme Court has held that an accommodation which causes anything "more than a de minimis cost" to the employer's business constitutes an "undue hardship." *TWA*, 432 U.S. at 84. An "undue hardship" may also come in the form of costs on other employees. *Id.*

In *TWA*, the Supreme Court found no violation of Title VII where an employer declined to make personnel and scheduling changes in order to allow an employee to avoid working at times prohibited by his religion because all available actions would have caused an "undue hardship" to the employer's business. 432 U.S. at 84–85. The employer argued, and the Court agreed, that leaving the Saturday shift empty would "have impaired [critical] functions." *Id.* at 68–69. The employer could have replaced the employee on the missed shifts with "supervisory personnel," with "qualified personnel" from other departments, or with other available employees through payment of "premium wages," but the Court found that all of these would "involve costs to [the employer], either in the form of lost efficiency in other jobs or higher wages," and thus constituted an "undue hardship." *Id.* at 84. The Court reasoned that any such step would itself "involve unequal treatment of employees on the basis of their religion" by requiring the employer to, in effect, "finance an additional Saturday off and then to choose the employee who will enjoy it on the basis of his religious beliefs." *Id.*

## **B. Analysis**

Assuming for purposes of this opinion that EEOC has stated a prima facie case, “the burden shifts to [RAC] to show that it was unable reasonably to accommodate the plaintiff’s religious needs without undue hardship.” *Isse*, 540 F. Supp. 2d at 9. The issue presented is whether RAC has demonstrated beyond any “genuine dispute” that it could not accommodate Mr. Charles by allowing him to not work on Saturdays without incurring an “undue hardship” on the conduct of its business. *See* 42 U.S.C. § 2000e(j); Fed. R. Civ. P. 56(c).

Three uncontested facts about RAC’s business lead this Court to conclude that it has met its burden.

First, Saturdays are the most important day of the week in RAC stores. As discussed above, the nature of RAC’s business and clients, combined with the fact that it is closed Sundays, means that RAC stores are almost always busier on Saturdays than any other day, and the Alabama Ave. Store was no exception. *See* Def.’s Statement 3; Alabama Ave. Store Financial Records; Fisher Report 1, 4. Nor does EEOC dispute this. *See* Tonowski Dep. 100:14–20, 109:3–8; *see also* Def.’s Reply 1, 3. Indeed, Mr. Charles himself acknowledged Saturdays’ importance in deposition testimony. Charles Dep. 113:14–16.

Second, the Store Manager position is the most important position in the store. As discussed above, this position is the highest ranking store employee, and comes with a variety of managerial and supervisory responsibilities, including several that belong exclusively to the position. Pl.’s Opp’n 3, 5–7; Def.’s Statement 5–6. Again, EEOC does not contest this point. *See* Pl.’s Opp’n 5–7; 18–24. And, again, Mr. Charles acknowledged this point in deposition testimony, explaining that “the store could not effectively operate on Saturday without [him] if it was a busy day.” Charles Dep. 114:8–13; *see also id.* at 72–74, 82–86, 108–09, 115:4–13.

Third, RAC's general policy is to require all Store Managers to work Saturdays. Pl. Opp'n 9; Charles Dep. 129; Def's Br. 5. This third fact reflects RAC's awareness of and focus on the first two facts: as a matter of policy, RAC requires its most important employees to be working on its most important day of the week. Again, this fact is not contested by EEOC. Def.'s Reply 1.

In light of these three uncontested facts about RAC's business, the accommodation EEOC requests is for RAC to carve out an exception to its generally applicable scheduling policy and allow its *most important* employee at a particular store to be regularly absent on the *most important* day of the week at that store. The Court will not require RAC to undertake the accommodation. Leaving the store without a Store Manager on Saturdays would cause an "undue hardship" to RAC by "impair[ing] [critical] functions"—it would deprive the store of the significant supervisory, managerial, customer-care and other functions that RAC Store Managers are charged with at the very time when these functions are most needed. *See TWA*, 432 U.S. at 68–69. Because of the importance of the position, the centrality of Saturdays in RAC's weekly cycle, and of RAC's scheduling policy reflects these two facts by requiring all Store Managers to work on Saturdays, this Court is satisfied that the evidence shows that leaving the position blank on Saturdays imposes "more than a de minimis cost" on the conduct of RAC's business. *TWA*, 432 U.S. at 84.

The three uncontested facts make the accommodation requested in this case even more of an "undue hardship" on the employer than what was previously deemed adequately burdensome by Judge Joyce Hens Green in *Rasch v. Nat'l R.R. Passenger Corp.*, 1991 WL 221270 (D.D.C. Oct. 11, 1991). Judge Green rejected the suggestion that a railroad employer "could accommodate [an employee's] religious needs without incurring undue hardship by 'blanking'

his position on his Sabbath days—that is, not requiring [him] to work . . . and not obtaining a substitute . . . .” *Id.* at \*5. Judge Green noted that the employer “does not regularly blank positions even though it may save money by doing so” and concluded that “blanking the position would create an undue hardship.” *Id.* at \*5. Whereas in that case, Judge Green found “undue hardship” in “blanking” what was essentially an *ordinary* position on an *ordinary* shift, here Mr. Charles asks RAC to routinely “blank” the most important position in the store on its most important day of the week. Such an accommodation would not merely be “bothersome to administer or disruptive of the operating routine,” *Smith v. Pyro Min. Co.*, 827 F.2d 1081, 1086 (6th Cir. 1987), but actually would *squarely conflict* with RAC’s business model. That is more than sufficient to demonstrate “undue hardship.”

This conclusion is not upset by the fact that RAC’s expert testimony purporting to quantify the cost of Charles’ absences may be insufficient to prevail on summary judgment. *Compare* Fisher Report 4–6, *with* Tonowski Report 4. Conclusive empirical support is not required for an employer to show “undue hardship.” Courts have held that an employer need not even actually attempt the requested accommodation. *TWA*, 432 U.S. at 84–85; *see also Bruff v. N. Miss. Health Servs., Inc.*, 244 F.3d 495, 500–01 (5th Cir. 2001). Even those courts that have been skeptical about crediting an employer’s assertion of “hypothetical” harms have not insisted that an employer *must* in every case first implement the accommodation before claiming “undue hardship.” *See, e.g., Anderson v. Gen. Dynamics Convair Aerospace Div.*, 589 F.2d 397, 401 (9th Cir. 1978); *Draper v. U.S. Pipe & Foundry Co.*, 527 F.2d 515, 520 (6th Cir. 1975). That an employer need not experience the “undue hardship” entails that it cannot be obligated to demonstrate that harm with empirical data. Here, the Court finds that the three uncontested facts listed above—that Saturdays are RAC’s most important day, that the Store Manager is the most

important employee at any given RAC store, and that all RAC Store Managers work Saturdays—provide sufficient evidence to conclude that the proposed accommodation would cause an “undue hardship” to RAC’s business. The status of RAC’s attempted empirical demonstration of that harm does not affect that determination.

Because the Court has found an “undue hardship” through direct harm on RAC’s business, it need not go further to consider RAC’s alternative arguments that the proposed accommodation causes an “undue hardship” by imposing additional responsibilities on Mr. Charles’ coworkers and supervisors, or by injuring employee morale.<sup>5</sup> Compare Def.’s Br. 21–24, 28–30, and Def.’s Reply 15–16, with Pl.’s Opp’n 6–7, 18–24.

### III. ATTORNEY’S FEES

RAC also seeks an award of attorneys’ fees. A prevailing defendant under Title VII may be entitled to such an award if plaintiff’s claim was “frivolous, unreasonable, or groundless, or that the plaintiff continued to litigate after it clearly became so.” *Christiansburg Garment Co. v. EEOC*, 434 U.S. 412, 422 (1978). The EEOC may be held “liable for costs the same as a private person.” 42 U.S.C. § 2000e–5(k). And, “a district court may consider distinctions between the

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<sup>5</sup> The Court notes that there appears to be a split as to how readily to recognize such harm. Compare *Draper*, 527 F.2d at 520 (finding no undue hardship from a proposed shift-substitution accommodation where “there [wa]s little or no proof that the other employees would object at all,” and noting that “[i]deally, the substitution would be effected on a voluntary basis” but even “[i]f not, the [employer] could rotate the assignment among several electricians so that the burden would not fall heavily upon any particular employee.”), *Burns v. S. Pac. Transp. Co.*, 589 F.2d 403, 407 (9th Cir. 1978) (finding no undue hardship from a proposed accommodation to allow an individual to pay the equivalent of his union dues to private charity because the financial loss to the union could be made up for simply by collecting additional dues from “the Local’s 300 members at a rate of 2 cents each per month.”), and *Haring v. Blumenthal*, 471 F. Supp. 1172, 1179–82 (D.D.C. 1979) (finding no undue hardship from a proposed accommodation whereby an IRS reviewer would not work on certain cases constituting 2% of the total volume because these “could clearly be processed without undue hardship or burden to the Service, or any significant expense or loss of time, by another reviewer”), with *EEOC v. Firestone Fibers & Textiles Co.* 515 F.3d 307, 318 (4th Cir. 2008) (finding lowered morale among co-workers caused by “the sting of unfairness” of special treatment might cause “real problems in a workforce” and emphasizing that “evenhandedness and fairness are of paramount importance to the functionings of any workplace”), and *Aron v. Quest Diagnostics Inc.*, 174 F. App’x 82, 83 (3d Cir. 2006) (per curiam) (holding that a proposed accommodation would constitute an undue hardship in part because it “would result in unequal treatment of the other employees and negatively affect employee morale”).

Commission and private plaintiffs in determining the reasonableness of the Commission's litigation efforts." *Christiansburg Garment*, 434 U.S. at 422 n.20.

The Court concludes that EEOC's efforts were not unreasonable. Decades after Congress added the language to Title VII, the standard for what constitutes an "undue hardship" remains murky. Our circuit has not elaborated on the precise contours of the term and there appears to be some degree of disagreement among the circuits as to how liberally to construe the term along several dimensions. Compare *EEOC v. Firestone Fibers & Textiles Co.*, 515 F.3d 307, 318 (4th Cir. 2008) (adopting a liberal approach to what constitutes an "undue hardship"), *Bruff*, 244 F.3d at 500–01 (same), and *Aron v. Quest Diagnostics Inc.*, 174 F. App'x 82, 83 (3d Cir. 2006) (per curiam) (same), with *Anderson*, 589 F.2d at 401 (adopting a more restricted approach), and *Draper*, 527 F.2d at 520 (same). Accordingly, although EEOC's claim must fail, it was not "frivolous, unreasonable, or groundless" for them to pursue it, thus attorneys fees will not be awarded. See *Christiansburg Garment*, 434 U.S. at 422.

#### **IV. CONCLUSION**

For the foregoing reasons, RAC's motion for summary judgment will be GRANTED, the case will be DISMISSED with prejudice, and RAC's motion for attorneys' fees will be DENIED.

An Order shall issue with this opinion.

Signed by Royce C. Lamberth, Chief Judge, on January 18, 2013.

**U.S. District Court**  
**District of Columbia (Washington, DC)**  
**CIVIL DOCKET FOR CASE #: 1:11-cv-01170-RCL**

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION v.  
RENT-A-CENTER, INC.  
Assigned to: Chief Judge Royce C. Lamberth  
Cause: 42:2000 Religion

Date Filed: 06/27/2011  
Date Terminated: 01/18/2013  
Jury Demand: Plaintiff  
Nature of Suit: 442 Civil Rights: Jobs  
Jurisdiction: U.S. Government Plaintiff

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## ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
06/27/2011	<a href="#">1</a>	COMPLAINT against RENT-A-CENTER, INC. (Filing fee \$ 0.00) filed by EQUAL EMPLOYMENT OPPORTUNITY COMMISSION. (Attachments: # <a href="#">1</a> Civil Cover Sheet)(dr) (Entered: 06/28/2011)
06/27/2011		SUMMONS Not Issued as to RENT-A-CENTER, INC. (dr) (Entered: 06/28/2011)
09/09/2011	<a href="#">2</a>	LCvR 7.1 CERTIFICATE OF DISCLOSURE of Corporate Affiliations and Financial Interests by RENT-A-CENTER, INC. (Petesch, Peter) (Entered: 09/09/2011)
09/09/2011	<a href="#">3</a>	<i>Defendant's</i> ANSWER to <a href="#">1</a> Complaint by RENT-A-CENTER, INC..(Petesch, Peter) (Entered: 09/09/2011)
09/21/2011	<a href="#">4</a>	ORDER for an Initial Scheduling Conference to be held on October 21, 2011, at 11:00 am, in Courtroom 27A before Judge Henry H. Kennedy, Jr. Signed by Judge Henry H. Kennedy, Jr. on September 21, 2011. (NP) (Entered: 09/21/2011)
10/06/2011	<a href="#">5</a>	MOTION for Leave to Appear Pro Hac Vice :Attorney Name- Robert F. Friedman, :Firm- Littler Mendelson, :Address- 2001 Ross Avenue, Suite 1500, Dallas, TX 75201. Phone No. - 214.880.8100. Fax No. - 214.880.0181 by RENT-A-CENTER, INC. (Attachments: # <a href="#">1</a> Declaration, # <a href="#">2</a> Text of Proposed Order)(Kaplan, Steven) (Entered: 10/06/2011)
10/07/2011		MINUTE ORDER granting <a href="#">5</a> Motion to Admit Robert F. Friedman, Esq., Pro Hac Vice. Accordingly, Mr. Friedman is admitted pro hac vice to appear in this matter on behalf of defendant. Signed by Judge Henry H. Kennedy, Jr. on October 7, 2011. (NP) (Entered: 10/07/2011)
10/07/2011	<a href="#">6</a>	MEET AND CONFER STATEMENT. (Spicer, Tracy) (Entered: 10/07/2011)
10/18/2011	<a href="#">7</a>	MEET AND CONFER STATEMENT. (Kaplan, Steven) (Entered: 10/18/2011)
10/18/2011	<a href="#">8</a>	ENTERED IN ERROR.....MEET AND CONFER STATEMENT. (Doman, Tiane) Modified on 10/19/2011 (znmw, ). (Entered: 10/18/2011)
10/19/2011		NOTICE OF ERROR re <a href="#">8</a> Meet and Confer Statement; emailed to tiane.doman@eeoc.gov, cc'd 6 associated attorneys -- The PDF file you docketed contained errors: 1. Invalid attorney signature, 2. Please refile document, 3. Entered in Error; Must be refiled by T. Spicer; T. Doman is not counsel of record. (znmw, ) (Entered: 10/19/2011)
10/19/2011	<a href="#">9</a>	MEET AND CONFER STATEMENT. (Spicer, Tracy) (Entered: 10/19/2011)
10/20/2011		NOTICE OF COURTROOM CHANGE: Initial Scheduling Conference currently scheduled for 10/21/2011 @ 11:00 AM before Judge Henry H. Kennedy in courtroom 27A is hereby moved to Courtroom 22A before Chief Judge Royce C. Lamberth. (tj ) (Entered: 10/20/2011)

10/20/2011	<a href="#">10</a>	Case reassigned by consent to Chief Judge Royce C. Lamberth. Judge Henry H. Kennedy no longer assigned to the case. (gt, ) (Entered: 10/20/2011)
10/21/2011		Minute Entry for proceedings held before Chief Judge Royce C. Lamberth: Initial Scheduling Conference held on 10/21/2011. Parties to submit a proposed scheduling order for the court's review and approval. (Court Reporter Theresa Sorensen.) (tj ) (Entered: 10/21/2011)
11/02/2011	<a href="#">11</a>	NOTICE of Proposed Order . (Spicer, Tracy) Modified on 11/2/2011 to correct the event(rdj). (Entered: 11/02/2011)
11/21/2011	<a href="#">12</a>	SCHEDULING ORDER. Signed by Chief Judge Royce C. Lamberth on November 21, 2011. (lcrcB) (Entered: 11/21/2011)
11/22/2011		Set/Reset Deadlines: Initial Disclosure due by 11/4/2011. Discovery due by 4/20/2012. Motions due by 5/21/2012. (rje, ) (Entered: 11/22/2011)
03/06/2012	<a href="#">13</a>	Joint MOTION for Extension of Time to <i>File Defendant's Expert Witness Report</i> by EQUAL EMPLOYMENT OPPORTUNITY COMMISSION, RENT-A-CENTER, INC. (Attachments: # <a href="#">1</a> Text of Proposed Order)(Friedman, Robert) (Entered: 03/06/2012)
03/16/2012	<a href="#">14</a>	MOTION for Extension of Time to <i>Provide Expert Disclosures and Proposed Order</i> by RENT-A-CENTER, INC. (Attachments: # <a href="#">1</a> Exhibit A)(Petesch, Peter) (Entered: 03/16/2012)
03/19/2012	<a href="#">15</a>	ORDER granting <a href="#">13</a> Joint Motion for Extension of Time. Signed by Chief Judge Royce C. Lamberth on March 19, 2012. (lchhk1) (Entered: 03/19/2012)
03/20/2012	<a href="#">16</a>	RESPONSE re <a href="#">14</a> MOTION for Extension of Time to <i>Provide Expert Disclosures and Proposed Order</i> filed by EQUAL EMPLOYMENT OPPORTUNITY COMMISSION. (Attachments: # <a href="#">1</a> Exhibit)(Spicer, Tracy) (Entered: 03/20/2012)
03/21/2012	<a href="#">17</a>	NOTICE of Submission of Expert Witness Designations and Expert Witness Report by RENT-A-CENTER, INC. re <a href="#">14</a> MOTION for Extension of Time to <i>Provide Expert Disclosures and Proposed Order</i> (Friedman, Robert) (Entered: 03/21/2012)
03/27/2012	<a href="#">18</a>	MOTION for Leave to Appear Pro Hac Vice :Attorney Name- Edward F. Berbarie, :Firm- Littler Mendelson, :Address- 2001 Ross Avenue, Suite 1500. Phone No. - 2148808100. Fax No. - 2148800181 by RENT-A-CENTER, INC. (Attachments: # <a href="#">1</a> Declaration, # <a href="#">2</a> Text of Proposed Order)(Kaplan, Steven) (Entered: 03/27/2012)
04/04/2012	<a href="#">19</a>	NOTICE of Appearance by Edward O'Farrell Loughlin on behalf of EQUAL EMPLOYMENT OPPORTUNITY COMMISSION (Loughlin, Edward) (Entered: 04/04/2012)
04/04/2012	<a href="#">20</a>	MOTION for Leave to Appear Pro Hac Vice :Attorney Name- Andrew Trusevich, :Firm- Rent-A-Center, Inc., :Address- 5501 Headquarters Drive, Plano, TX 75024. Phone No. - 972.801.1465. Fax No. - 972.801.1476 by RENT-A-CENTER, INC. (Attachments: # <a href="#">1</a> Declaration Declaration of Andrew Trusevich in Support of Motion for

		Admission Pro Hac Vice, # <a href="#">2</a> Text of Proposed Order Order)(Petesch, Peter) (Entered: 04/04/2012)
04/05/2012	<a href="#">21</a>	WITHDRAWING PURSUANT TO ORDER FILED 05/02/12.....MOTION to Modify <i>Scheduling Order</i> by EQUAL EMPLOYMENT OPPORTUNITY COMMISSION (Attachments: # <a href="#">1</a> Exhibit, # <a href="#">2</a> Exhibit, # <a href="#">3</a> Text of Proposed Order)(Spicer, Tracy) Modified on 5/2/2012 (rdj). (Entered: 04/05/2012)
04/16/2012	<a href="#">22</a>	Unopposed MOTION for Extension of Time to <i>allow Plaintiff to Designate A Rebuttal Expert</i> by EQUAL EMPLOYMENT OPPORTUNITY COMMISSION (Loughlin, Edward) (Entered: 04/16/2012)
04/20/2012		MINUTE ORDER granting <a href="#">18</a> Motion for Leave to Appear Pro Hac Vice. Edward F. Berbarie is admitted pro hac vice in this matter on behalf of defendant. Signed by Chief Judge Royce C. Lamberth on April 20, 2012. (lchhk1) (Entered: 04/20/2012)
04/20/2012		MINUTE ORDER granting <a href="#">20</a> Motion for Leave to Appear Pro Hac Vice. Andrew Trusevich is admitted pro hac vice in this matter on behalf of defendant. Signed by Chief Judge Royce C. Lamberth on April 20, 2012. (lchhk1) (Entered: 04/20/2012)
04/20/2012		MINUTE ORDER denying as moot <a href="#">14</a> Motion for Extension of Time. Signed by Chief Judge Royce C. Lamberth on April 20, 2012. (lchhk1) (Entered: 04/20/2012)
05/02/2012	<a href="#">23</a>	ORDER withdrawing <a href="#">21</a> Motion to Modify; granting <a href="#">22</a> Motion for Extension of Time. Plaintiff may designate a rebuttal expert on or before May 11, 2012; The discovery deadline for the taking of the deposition of plaintiff's rebuttal expert is extended to May 25, 2012; The dispositive motion deadline is extended for 30 days from May 21, 2012 to June 20, 2012. Signed by Chief Judge Royce C. Lamberth on May 2, 2012.(lcrcl3) (Entered: 05/02/2012)
05/14/2012		Set/Reset Deadlines: Plaintiff's rebuttal expert due by 5/11/2012. Discovery due by 5/25/2012. Dispositive Motion due by 6/20/2012. (rje) (Entered: 05/14/2012)
06/20/2012	<a href="#">24</a>	MOTION for Extension of Time to File <i>Motion for Summary Judgment</i> by RENT-A-CENTER, INC. (Attachments: # <a href="#">1</a> Memorandum in Support, # <a href="#">2</a> Text of Proposed Order)(Friedman, Robert) (Entered: 06/20/2012)
06/20/2012	<a href="#">25</a>	MOTION for Attorney Fees , MOTION for Summary Judgment by RENT-A-CENTER, INC. (Attachments: # <a href="#">1</a> Statement of Facts, # <a href="#">2</a> Text of Proposed Order, # <a href="#">3</a> Exhibit Ex. A-Declaration, # <a href="#">4</a> Exhibit Ex. B-Deposition Excerpts, # <a href="#">5</a> Exhibit Ex. C-Deposition Excerpts, # <a href="#">6</a> Exhibit Ex. D-Declaration, # <a href="#">7</a> Exhibit Ex. D-1-Store Data, # <a href="#">8</a> Exhibit Ex. E-Depositoin Excerpts, # <a href="#">9</a> Exhibit Ex. F-Interview Notes, # <a href="#">10</a> Exhibit Ex. G-Declaration, # <a href="#">11</a> Exhibit Ex. G-1-Expert Report, # <a href="#">12</a> Exhibit Ex. G-2-Expert Report, # <a href="#">13</a> Exhibit Ex. H-Depositoin Excerpts, # <a href="#">14</a> Exhibit Ex. I-Interview Notes, # <a href="#">15</a> Exhibit Ex. J-Deposition Excerpts)(Friedman, Robert) (Entered: 06/20/2012)
07/09/2012	<a href="#">26</a>	MOTION To Strike Defendant's June 20, 2012 Rebuttal Expert Report by EQUAL EMPLOYMENT OPPORTUNITY COMMISSION (Attachments: # <a href="#">1</a> Memorandum in Support, # <a href="#">2</a> Exhibit, # <a href="#">3</a> Exhibit)(Spicer, Tracy) (Entered: 07/09/2012)

07/09/2012	<a href="#">27</a>	Memorandum in opposition to re <a href="#">25</a> MOTION for Attorney Fees MOTION for Summary Judgment filed by EQUAL EMPLOYMENT OPPORTUNITY COMMISSION. (Attachments: # <a href="#">1</a> Statement of Facts, # <a href="#">2</a> Exhibit, # <a href="#">3</a> Exhibit, # <a href="#">4</a> Exhibit, # <a href="#">5</a> Exhibit, # <a href="#">6</a> Exhibit, # <a href="#">7</a> Exhibit, # <a href="#">8</a> Exhibit, # <a href="#">9</a> Exhibit)(Spicer, Tracy) (Entered: 07/09/2012)
07/19/2012	<a href="#">28</a>	REPLY to opposition to motion re <a href="#">25</a> MOTION for Attorney Fees MOTION for Summary Judgment filed by RENT-A-CENTER, INC.. (Friedman, Robert) (Entered: 07/19/2012)
07/19/2012	<a href="#">29</a>	Memorandum in opposition to re <a href="#">26</a> MOTION To Strike Defendant's June 20, 2012 Rebuttal Expert Report filed by RENT-A-CENTER, INC.. (Friedman, Robert) (Entered: 07/19/2012)
07/30/2012	<a href="#">30</a>	REPLY to opposition to motion re <a href="#">26</a> MOTION To Strike Defendant's June 20, 2012 Rebuttal Expert Report filed by EQUAL EMPLOYMENT OPPORTUNITY COMMISSION. (Attachments: # <a href="#">1</a> Exhibit A, # <a href="#">2</a> Exhibit B)(Spicer, Tracy) (Entered: 07/30/2012)
01/18/2013	<a href="#">31</a>	ORDER denying <a href="#">25</a> Motion for Attorney Fees; granting <a href="#">25</a> Motion for Summary Judgment; and dismissing plaintiff's claim with prejudice. Signed by Chief Judge Royce C. Lamberth on January 18, 2013. (lcrl5) (Entered: 01/18/2013)
01/18/2013	<a href="#">32</a>	MEMORANDUM OPINION granting defendant's <a href="#">25</a> motion for summary judgment, denying defendant's <a href="#">25</a> motion for attorneys' fees, and dismissing plaintiff's claim with prejudice. Signed by Chief Judge Royce C. Lamberth on January 18, 2013. (lcrl5) (Entered: 01/18/2013)
01/18/2013	<a href="#">33</a>	ORDER denying <a href="#">26</a> Motion to Strike as moot. Signed by Chief Judge Royce C. Lamberth on January 18, 2013. (lcrl5) (Entered: 01/18/2013)
01/18/2013	<a href="#">34</a>	ORDER denying <a href="#">24</a> Motion for Extension of Time to File as moot. Signed by Chief Judge Royce C. Lamberth on January 18, 2013. (lcrl5) (Entered: 01/18/2013)

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