

CERTIORARI

Journal of Consumer Advocacy

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● **CASE FILE**

Unlawful Discrimination Claim Settled

Mohammed Alhusseiny had worked many years as a customer service representative at phone centers. In 2015, he was hired by Capital One to work in its Capital One Auto Finance center in Tulsa.

Alhusseiny was male, Muslim, of Middle East origin, and over the age of 50. As one of more than 500 employees, Alhusseiny did a good job, according to co-workers. But his managers – female, Christian and in their 20s and 30s – made his life miserable with a barrage of discriminatory comments and behavior.

Managers called him “terrorist”, derogatory comments were made about Islam, and when he complained to the Human Resources Department, his managers retaliated against him. A year after his hiring, Alhusseiny was discharged for alleged performance issues.

But he knew this was pure discrimination based on multiple factors – his age, gender, religion and national origin – so he contacted Frasier, Frasier & Hickman, LLP for help.

Alhusseiny filed a complaint with the Equal Employment Opportunity Commission – or EEOC – alleging his termination was discriminatory. Capital One responded that he had not scored well on his performance evaluation. An investigation by the Firm revealed Alhusseiny was terminated although received good performance evaluations while non-

Muslim coworkers were not disciplined at all. EEOC granted Alhusseiny the right to sue and a case was brought. A pre-trial settlement conference was ordered and Capitol One settled Alhusseiny’s claim.

“Mohammed Alhusseiny did his job as required but was treated shamefully – and illegally,” said Steve Hickman.

“Employers should be aware that they can be held responsible for the illegal behavior of their managers and employees.

“Equal protection under the law is a real thing in the United States, and companies can get stuck paying the price for the bad acts of supervisors.”



Equal protection under the law is a real thing in the United States, and companies can get stuck paying the price for the bad acts of supervisors.

Terminated Whistleblower Finally Finds Justice

A 15-year veteran Tulsa fire-fighter had a part-time job as a fire sprinkler inspector for Marmic Fire & Safety Co. The company was in the business of conducting safety inspections of the fire suppression equipment at businesses so they could limit their fire risk and prevent sanctions or closure from the Fire Marshal.

The sprinkler inspector was directed by Marmic to report any issues found during client inspections to client management and Marmic officials. He had received counseling from superiors at his part-time job not to report problems he found directly to the Fire Marshal, but to let Marmic's clients handle this themselves.

In April 2015, the inspector was dispatched by Marmic to conduct an inspection at the former Romano's Macaroni Grill on South Memorial Drive in Tulsa. During his inspection of the building's sprinkler system, the inspector found bowed and broken roof trusses and determined that the building had significant structural problems. The inspector made his supervisors at Marmic aware of the structural issues and they encouraged him to move on with the sprinkler system inspection.



But as a sworn professional fire-fighter, the part-time inspector felt a duty to report a dangerous situation, as the restaurant was to open to customers within a few hours. The inspector notified the restaurant manager of the serious problem and then reported it to an assistant Tulsa Fire Marshal who visited the building later that day and concluded it was unsafe and should close until repairs could be made.

The following day, the Fire Marshal, restaurant management and an engineer inspected the building and discovered even more extensive problems with the roof trusses. The engineer reported that "in its current condition the building is dangerous and sudden collapse of the dining room roof structure is a possibility."

Two days later, Marmic fired the part-time inspector, claiming that his action of notifying the

Fire Marshal "eroded" the trust of Marmic's client.

The part-time inspector felt he had done nothing wrong and contacted Frasier, Frasier & Hickman LLP and a lawsuit was filed in Tulsa County District Court claiming wrongful discharge as the inspector was protected as a "whistle-blower".

Marmic's attorneys alleged this protection did not extend to the inspector because he did not "blow the whistle" on his employer – Marmic – but against a third party, in this case the restaurant.

Finally, three years after the incident, the parties met in a settlement conference ahead of trial and a settlement was reached.

"The defendants in this case required a trained professional firefighter to make the inspections their business clients paid for. But they wanted the professional firefighter to ignore their sworn obligation to public safety. This building was in danger of collapsing and never opened again. He probably saved lives, even though he could not save his part-time job," said Frank Frasier.

"Our client did the right thing. And our firm did right by defending him."

Women Settle After Struck by Car Inside Beauty Salon

Carolyn and Valerie Timmons were inside the BeBop Beauty Salon in Pryor, along U.S. 69, when a car crashed into the busy shop and wrecked their day. But it could have been much, much worse. The women narrowly escaped the incident with their lives. Although seriously injured, the women received a just settlement that covered their extensive medical expenses and loss of wages, thanks to the work of Frasier, Frasier & Hickman LLP.

Valerie was at work in the salon in September 2017, and her mother was a customer, when the incident

occurred. Valerie was between appointments and sitting in her assigned chair in the salon. Carolyn, her 78-year-old mother, was being attended by another beautician in an adjacent chair.

Meanwhile, Lou Etta Robinson swerved from an inside lane of U.S. 69, attempting an abrupt right turn, and clipped another vehicle traveling in the outside lane causing it to slide into the salon's parking lot along the highway. Robinson's vehicle appeared to accelerate, according to witnesses, and hurtled over a porch and straight into the salon.



“The test of our progress is not whether we add more to the abundance of those who have much; it is whether we provide enough for those who have too little.”

**–Franklin D. Roosevelt
January 20, 1937**

This issue of Certiorari features three cases that took several years to resolve. But in each one, the recovery for the client was quite fair and, in some cases, more than originally anticipated. The reason: thorough investigation and preparation for each case, and the willingness to let the justice system work. Some lawyers take the opposite approach, looking for clients that do not realize of case that a quick cash-in is the result of sacrificing recovery for speed.

This reminds me of a “Tomy Dee’s Corner” that Tomy penned for Certiorari in 1991. Tomy could say it better than I can, so here it is:

There is a commercial on television that reminds me of the story of the turtle and the rabbit.

The ad, as I recall it, goes in something like this: a red-faced man in an expensive suit tells how his law firm – Torts & Torts – protects the rights of injured working people everywhere. Then he describes how a woman represented by the firm received \$100,000 as compensation only 90 days after she was injured. Call for free consultation ...

Telelawyers, I call them – in mixed company. But they also remind me of the rabbit. Always in a hurry, self-



important and unfocused.

The telelawyer has a cousin to its breed – the postal parasite You most likely have been swamped by his self-serving letters and solicitations if you have been involved in an automobile accident any time lately.

But what do these telelawyers and postal parasites stand for? Nothing but greed in the face of misfortune and tragedy?

I am not always perfect, but I believe in doing a job right the first time.

Frasier, Frasier & Hickman regularly sees these quick-fix

telelawyers and postal parasites selling their clients out for a quick easy buck. They don't have to do any work. They don't have to take the time to work up a case.

The truth of the matter is to get an adequate recovery takes time.

If we stand for anything at Frasier, Frasier & Hickman, I hope it is loyalty and honesty.

If you or a family member know a lawyer or a law firm anywhere that you trust, contact them for advice if you need legal counsel. If they can't handle your case, they will let you know and refer you to someone that's reputable.

Don't cheapen your rights by chasing rabbits through hats. Trust a turtle.

– Jim Frasier

According to the investigating Highway Patrol trooper, Robinson’s car struck Carolyn as she sat in the salon chair, throwing her against a wall. Then the vehicle struck Valerie and a wall before coming to a stop. Carolyn wound up under the front bumper of the vehicle between the wall and a front tire.

She was pulled from under the car by other salon employees and patrons. Valerie was trapped between the vehicle’s front bumper and the wall but was able to pull herself free.

Both women had extensive injuries. After being treated at the scene, Carolyn was taken by helicopter to a Tulsa hospital. Valerie was taken to a Pryor hospital. Both women were treated for months after the incident,

incurring extensive medical bills.

Frasier, Frasier & Hickman, LLP filed lawsuits against Robinson on behalf of Carolyn and Valerie Timmons to recover their medical expenses and financial losses. The firm’s investigation of the incident revealed that both Robinson and the salon building’s owner had insurance coverage that could be applied.

Eventually an out-of-court settlement was reached that fairly compensated the Timmons.

“This was a bizarre case, for sure,” said Jim Frasier. “But it points out the need for a thorough investigation of all facts. In this case, we discovered insurance policies that could be used to cover our clients’ medical expenses and other losses.”



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● JUSTICE

Take Justice Back

certiorari, (ser-she-eh-ra-re) noun [Latin, to be informed]; to be informed as a means of gaining appellate review; a common writ.

When at least four of the nine U.S. Supreme Court justices vote to hear a case, the court issues a writ of certiorari.

For too long, access to justice and accountability though our courts has been under attack by powerful corporate interests. Their goal is to evade accountability when they injure and kill Americans. The consequences for us can be deadly because when no one is accountable, no one is safe.

Take Justice Back is a grassroots campaign launched by the American Association for Justice to restore accountability, promote safety and ensure Americans have access to justice.

The fact is, our environment is cleaner, our medicine is better and our cars are safer today, thanks to Americans who stood up to big corporations and held them accountable in court.

Take Justice Back uses straightforward facts to directly take on the myths and propaganda pushed by corporate front groups like the U.S. Chamber of Commerce. The campaign encourages Americans to join the fight to take back their rights.

When Americans' access to justice is denied, insurance companies, Wall Street banks, reckless drivers, dangerous hospitals and other wrongdoers can get away with the worst. We must act to make sure they play by the rules.

Please join our effort to Take Justice Back. Go online and click on www.takejusticeback and sign up.

