

EEOC Sues Sheetz, Inc. Alleging Racially Discriminatory Hiring Practices

April 25, 2024

Complaint summary. On April 17, 2024, the U.S. Equal Employment Opportunity Commission ("EEOC") sued Sheetz, Inc. and its related entities ("Sheetz" or "Defendants") in a Maryland federal court, alleging that since at least August 10, 2015, Sheetz had subjected Black, American Indian/Alaska Native, and multiracial job applicants to discriminatory hiring practices based on their criminal histories including, but not limited to, convictions, in violation of Title VII. The lawsuit followed the parties' failed attempts to resolve the dispute following the EEOC's administrative determination that it had a reasonable basis to believe that Sheetz violated Title VII. Defendants, collectively, employ more than 20,000 employees, operating at least 700 Sheetz-brand store locations in multiple states and distribution and other facilities.

At the heart of the EEOC's lawsuit against Sheetz are allegations that Sheetz relied on criminal background check information about applicants that were obtained through a third-party vendor, refusing to hire any job applicant deemed to have failed their screening criteria. The EEOC alleges Sheetz company-wide hiring practices have had a significant disparate impact on job applicants based on race in violation of Title VII. For example, Black job applicants have failed Defendants' screening, and consequently are denied employment, at a rate exceeding approximately 14.5% while White job applicants have failed Defendants' screening, and consequently are denied employment, at a rate of under approximately 8%. The Complaint alleges that American Indian/Alaska Native job applicants have failed Defendants' screening, and consequently are denied employment, at a rate exceeding approximately 13% while White job applicants have failed Defendants' screening, and consequently are denied employment, at a rate of under approximately 8%. The Complaint alleges that multiracial job applicants have failed Defendants' screening, and consequently are denied employment, at a rate exceeding approximately 13.5% while White job applicants have failed Defendants' screening, and consequently are denied employment, at a rate of under approximately 8%. The Complaint notes that for Black and American Indian/Alaska Native persons, the criminal justice screening results correspond with published criminal justice statistics reflecting that throughout the US, including the jurisdictions in which Sheetz employs workers, that such persons are subject to arrest, conviction, and incarceration at significantly higher rates relative to White persons.

Remedies sought. The EEOC is seeking, among other remedies, injunctive relief to stop the allegedly discriminatory hiring practices including, but not limited to, criminal justice history screening, which cause a disparate impact against Black, American Indian/Alaska Native, and/or multiracial job applicants; establish and implement policies and programs to ensure equal employment opportunities for the affected categories of persons; and award back pay plus prejudgment interest.

Defendants' burden. Should the EEOC establish that an employer's seemingly neutral policies have a disparate impact on Title VII protected classes (typically by statistical comparison), the employer must demonstrate both of the following:

- i. The policy or practice is "job related for the position in question and consistent with business necessity;" and
- ii. No other alternative employment requirement would suffice.

Policies and practices. The EEOC's allegations reflect, among other things, seeming flaws or deficiencies in Sheetz's hiring policies and practices. Specifically, the Complaint provides, in pertinent part:

- At all relevant times, Defendants' personnel who decide whether job applicants pass or fail the criminal justice history screening have not been, and are not, required by Defendants to contact the job applicants to request additional information not reflected in the consumer reports before deeming them to have failed the criminal justice history screening.
- At all relevant times, Defendants have not and do not require, as a matter of uniform or standard practice, that decisions to deny employment to job applicants due to criminal justice history be subject to review by a managerial official or other company official beyond the personnel assigned to conduct the initial screening.
- At all relevant times, Defendants have not and do not require, as a matter of uniform or standard practice, that decisions to deny employment to job applicants due to criminal justice history, including identification of the specific conviction or other information that is the basis for the decision, be communicated to job applicants.
- At all relevant times, Defendants have not and do not maintain, as a matter of uniform or standard practice, a procedure for job applicants to appeal or otherwise seek reconsideration of decisions to deny them employment due to criminal justice history information, including a procedure to invite job applicants to provide Defendants with any additional information that either Defendants or the applicants deem relevant to Defendants' decision to deny employment before Defendants make final decisions to disqualify the applicants.

Based on the foregoing allegations, the EEOC is relying on the lack of policies and procedures, allowing job applicants with criminal justice histories to explain, appeal, or seek reconsideration and a higher level of review of any denied application to support its case against Sheetz.

This is an important case to watch, particularly for employers with retail operations, and may shape the way employers approach criminal background checks and internal policies and practices related to criminal background checks in the hiring process.

Your Key Contacts



Jennifer Sun Park
Shareholder, Pittsburgh
D +1 412 297 4749
jennifer.park@dentons.com



Abigail L. Britton (Abbie)
Associate, Pittsburgh
D +1 412 297 4796
abbie.britton@dentons.com