

Refusing to Hire Anyone Based On Gender Can Be Costly

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Kickback Jack's restaurants, will pay \$1,111,300 to a class of male applicants (and furnish other relief) to settle a sex-based hiring discrimination lawsuit brought by the U.S. Equal Opportunity Commission (EEOC). According to the EEOC's suit, Kickback Jack's restaurants systematically refused or failed to hire male applicants for non-managerial front-of-house positions, including server, bartender and host positions. Of the more than 2,100 people employed in those positions at 19 locations, approximately 3% were male, and some restaurants had no male servers at all. The suit alleged that Kickback Jack's had no legitimate business justification for failing to hire males in these positions and that the companies failed to comply with Title VII's recordkeeping regulations. "Hiring must be based on merit—not [gender]—as Title VII requires," said EEOC Chair Andrea Lucas. "The EEOC is committed to evenhanded enforcement and will hold employers accountable when they deny applicants opportunities because of their [gender], regardless of whether the aggrieved applicants are women or men." "Hiring managers should recognize the importance of merit, aptitude, hard work and determination when making employment decisions. Whether [gender]-based hiring practices are overt, such as refusing to hire, or more subtle, such as steering or encouraging employees away from or into certain positions, they violate Title VII..." said Melinda C. Dugas, regional attorney for the EEOC's Charlotte District. **Takeaway:** Employers should review hiring practices to ensure there are no gender based hiring practices, either overt or subtle. Employers should also ensure that their hiring practices do not have an unintentional disparate impact on one protected class while disadvantaging other protected classes. Lastly, Employers should review the record keeping requirements that apply to their business. If you have questions about gender discrimination in hiring or need guidance reviewing your hiring and recordkeeping practices for compliance with Title VII, call a member of the [Employment Law Team](#) at Wilentz, Goldman & Spitzer, P.A.

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