

Portland Press Herald Maine Sunday Telegram

Suit against Starbucks going to trial

A Portland woman says Starbucks wouldn't hire her because of her age.

By *TREVOR MAXWELL, Staff Writer*

November 28, 2008

A federal judge has denied a request by Starbucks to dismiss an age discrimination lawsuit filed last year by a Portland woman against the coffee giant.

The order by Chief U.S. District Judge George Singal clears the way for a civil trial in February unless a settlement is reached in the next few months.

Deborah Boyajian, 56, claims the Seattle-based company denied her a job because of her age. Between November 2005 and April 2006, Boyajian submitted multiple applications to stores in the Portland area, but was never hired as a barista.

Boyajian seeks punitive damages of up to \$300,000. She also seeks more than \$20,000 in wages she claims she would have earned if she had been hired by Starbucks, plus \$30,000 in lawyer's fees and \$10,000 in other costs related to the case.

"There cannot be any reason but age, for me to not have been hired," Boyajian wrote in her initial complaint to the Maine Human Rights Commission, which investigated the claim and found grounds for a lawsuit.

On Sept. 8, a lawyer for Starbucks filed a motion for summary judgment in the case, saying Boyajian had failed to produce sufficient evidence. Scott Merrill of Foley Hoag LLP in Boston argued that Boyajian was not hired because of her personality, behavior toward Starbucks employees and errors made on her applications.

"Plaintiffs' claims are based on nothing more than her own speculation that she was a victim of discrimination, fueled in part by her high assessment of herself as an applicant," Merrill wrote. "Her complaint should be dismissed."

Boyajian's lawyer, Anne Carney of the Portland firm Norman, Hanson & DeTroy, argued that the case deserves to go to a jury. Carney said a manager who declined to hire Boyajian at the Starbucks Hay Building location on Congress Street ignored the company's hiring practices and lied to Boyajian about the reasons she was not hired. Of the 19 employees hired by that manager, none were over the age of 30, Carney argued.

Carney also received an independent analysis of Starbucks hiring practices from Dr. Edward Collom, a sociology professor at the University of Southern Maine in Portland.

Collom analyzed the age of Starbucks employees in Maine between 2004 and 2008 and the applications managers considered when hiring baristas during the time period when Boyajian applied for the jobs. According to several court documents, Collom found evidence of general age discrimination.

"Going into the applications, we see that those who are applying for jobs as baristas, that there are indeed a greater percentage of those who are age 35 or older who are applying for the job than are receiving the job, which would lead us to suspect that there are some discriminatory hiring practices," Collom wrote.

Tara Darrow, a Starbucks spokeswoman, rejected those arguments.

"Starbucks prides itself on embracing diversity. It's an essential component in the way we do business," Darrow said Wednesday. "We have a diverse work force and customer base at Starbucks, and we respect the many

differences that they bring to our stores each day.

"Starbucks does not tolerate discrimination of any kind," Darrow said. "We consider all qualified applicants for employment and value partners who bring unique ideas, opinions and communication styles into our workplace."

In the lawsuit, Boyajian alleged discrimination at the Hay Building store, the Exchange Street store and a store on Running Hill Road in South Portland. Judge Singal said the case is worthy of a trial based on the interaction between Boyajian and the manager at the Hay Building, but not the other locations.

Neither Carney nor Merrill could be reached for comment Wednesday.

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