



Rehan Hasan, Chair • Mark Silverstein, Legal Director

November 10, 2009

[REDACTED]
General Manager
[REDACTED]
[REDACTED]

SENT VIA FACSIMILE: 303 [REDACTED]

Re: [REDACTED]

Dear [REDACTED]:

I am writing on behalf of [REDACTED], an employee at the [REDACTED], regarding Ms. [REDACTED]'s neat and well-groomed natural "afro" hairstyle. I request that you ensure that any criticism of Ms. [REDACTED]'s hairstyle by employees of the [REDACTED] and [REDACTED] ceases immediately.

As you know, Ms. [REDACTED] has worked as a server at the [REDACTED] for over four years. During this time, Ms. [REDACTED] has worn her hair in a natural afro style without complaint, and performed exceptionally as a server. I understand there is no dispute that Ms. [REDACTED]'s afro hairstyle is neat and well-groomed. Since you have become General Manager of the [REDACTED], however, I understand that Ms. [REDACTED]'s hair has come under increasing scrutiny and that you have criticized her hairstyle on numerous occasions.

Courts have long held that a grooming standard which requires individuals of a protected class to alter their natural hairstyle, and/or the discriminatory enforcement of grooming standards against members of a protected class, violates Federal anti-discrimination laws. Specifically, imposing adverse employment consequences on an African-American employee because of her natural afro hairstyle states a claim for racial discrimination under Title VII of the Civil Rights Act. *See Jenkins v. Blue Cross Mut. Hosp. Ins., Inc.*, 583 F.2d 164 (7th Cir. 1976). In addition, an employer who takes adverse action against an African-American employee based upon a hairstyle which is "neat and well-groomed," but which the employer nevertheless thinks is too "eye catching" and "call[s] attention to the employee," may also violate federal anti-discrimination laws. *See Hollins v. Atlantic Co.*, 188 F.3d 652, 661 (6th Cir. Ohio 1999).

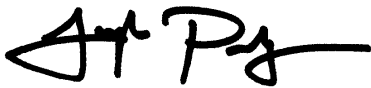
The Equal Opportunity Employment Commission ("EEOC"), the federal agency which reviews complaints of discrimination, has also addressed the fact that African-

Americans' hair is different in texture than Caucasian hair, and that employers' grooming standards must take this immutable characteristic into account. The EEOC has held that an employer could violate anti-discrimination laws by requiring an African-American employee to comply with a grooming standard that assumes employees have hair with Caucasian characteristics. See EEOC Decisions No. 71-1985 (CCH) ¶ 6241 (1971); see also EEOC Decisions No. 72-0979 (CCH) ¶ 6343 (1972) (Noting that an African-American's natural afro hairstyle is "an appropriate expression of their heritage, culture, and racial pride").

In addition to federal law, Colorado law also protects against discrimination in the workplace. See C.R.S. § 24-34-402 et seq. Denver's laws also prohibit employment discrimination. See D.R.M.C. § 28-91 et seq.

I request that the [REDACTED] immediately cease any criticism of Ms. [REDACTED]'s natural afro hairstyle. If the [REDACTED]'s grooming standards impose requirements that assume that all the [REDACTED]'s employees have hair characteristics common to Caucasians, I ask that those grooming standards be appropriately modified. If you would like to discuss this matter further, please do not hesitate to give me a call.

Sincerely,



Taylor Pendergrass
Staff Attorney

cc. [REDACTED], Vice President, Human Resources