

## TOP DEFENSE WINS OF 2005

### Pretrial rulings pared case against Boeing

By: June D. Bell

**CASE TYPE:** Racial discrimination

**CASE:** *Williams v. The Boeing Co.*, No. C98-761 (W.D. Wash.)

**DEFENSE ATTORNEYS:** Michael Reiss, partner, Davis Wright Tremaine, Seattle; Jeffrey A. Hollingsworth and Nancy Williams, partners, Perkins Coie, Seattle; and Rebecca Shapiro-Cohen, formerly a partner at Perkins Coie, Seattle (now with the U.S. attorney's office in Seattle)

**PLAINTIFFS' ATTORNEYS:** Craig R. Spiegel, partner, and Ivy D. Arai, associate, Hagens Berman Sobol Shapiro, Seattle

Black employees of The Boeing Co. who claimed that promotions were based on racial discrimination left a federal courtroom empty-handed in December after a Seattle jury found the aerospace company committed no acts of bias.

Some of the same allegations aired in trial had first surfaced in a lawsuit filed in 1998. The Reverend Jesse Jackson helped hammer out a settlement valued at \$15 million one year later. As part of that settlement, Boeing admitted no wrongdoing but agreed to alter its

hiring and promotion practices.

The agreement, which had been approved by a federal judge, was tossed out in 2003 by the 9th U.S. Circuit Court of Appeals after a minority of the 15,000 class members objected to the way it allocated the settlement funds.

The class action headed back to district court. Mediation efforts failed, and the case went to trial last year.

A year earlier, Boeing had agreed to pay \$72.5 million to female employees in the company's Puget Sound facilities who claimed they were discriminated against in pay and promotions.

This racial discrimination case could have ended with a similarly large verdict for the plaintiffs, but pretrial reductions in class size and claims helped ease the defense burden at trial. Hourly workers were excluded from the class, as were "nonheritage" Boeing workers—those who had worked for companies Boeing later acquired.

By the time the case was ready for a jury, the plaintiffs' class had been whittled to about 4,000 black former and current Boeing salaried employees.

Boeing's lead defense attorney, Michael Reiss, also succeeded in having compensation-related claims thrown out, leaving only allegations that black workers had been denied promotions because of their race.

Plaintiffs' attorney Craig R. Spiegel said that the elimination of the compensation claims made the case far more difficult for him to win, because showing discrimination in



REISS: *Respect, but no award, paid to black plaintiffs.*

pay rates is easier than proving bias in awarding promotions.

Spiegel, a partner in Hagens Berman Sobol Shapiro of Seattle, is preparing to appeal U.S. District Judge Marsha Pechman's rulings that removed the compensation claims from trial.

Reiss, Boeing's attorney, said that his winning technique at trial was to treat the plaintiffs with dignity and to use statistics to prove that they as a group fared as well as, if not better than, whites in

securing promotions. Boeing's internal documents bolstered his claim that the company was committed to fair labor practices.

"It was with total respect, and it led the jury to conclude these are good people...but the evidence did not show discrimination against them," said Reiss, a partner at Davis Wright Tremaine of Seattle.

Jurors deliberated for a day and a half after hearing about three weeks of evidence, reaching a verdict on Dec. 21, 2005.

Black workers who were excluded from last year's class are continuing their litigation. Approximately 11,000 salaried and hourly "nonheritage" Boeing employees have filed a discrimination suit this year in Chicago.

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### CHOOSING THE TOP 10 DEFENSE WINS

IN CHOOSING THE BEST DEFENSE WINS of 2005, *The National Law Journal* considered the obstacles that defense attorneys encountered, including plaintiff-friendly venues, the amount of damages at stake and the potential effect on similar cases.

We looked for a mix of bench and jury verdicts—class actions, criminal and significant civil cases—from a variety of jurisdictions. We interviewed dozens of trial counsel in distilling scores of nominations from across the country into the list you find here.

Davis Wright Tremaine LLP



[www.dwt.com](http://www.dwt.com)  
(877) 398-8415

Mike Reiss, Partner • (206) 628-7750 • [mikereiss@dwt.com](mailto:mikereiss@dwt.com)