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Price Waterhouse Ordered to Admit Plaintiff to Partnership

Ken Heinen

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New Title VII Remedy

Price Waterhouse ordered to admit woman plaintiff to partnership

Money damages, reinstatement and a host of other remedies are explicitly provided in Title VII of the Civil Rights Act as a means to make victims of job discrimination whole.

But a controversial new remedy approved by the U.S. Court of Appeals for the District of Columbia is to order a plaintiff denied partnership restored to that rank.

The appeals court in December affirmed an order by U.S. District Judge Gerhard Gesell directing the accounting firm Price Waterhouse to grant a victim of sex discrimination her full partnership, retroactive to 1982, as well as \$371,000 in back pay. *Hopkins v. Price Waterhouse*, No. 90-7099 (Dec. 4).

Charm School Suggested

The plaintiff, Ann B. Hopkins, began work at Price Waterhouse in 1978 as a member of the firm's Office of Government Services in Washington, D.C. In 1982, Hopkins was proposed for partnership.

While she had enjoyed success in terms of technical skills and client relations, Hopkins seemed to engender some animosity among those who worked with her. In the evaluations prepared by the partnership committee, she was described as abrasive and overbearing, sometimes "bullying" subordinates when under pressure.

Some suggested these problems were particularly inappropriate in a woman. One partner advised she should "take a course in charm school." In March 1983, she was told she would be placed on hold—a fate that 19 of the 87 people in her class shared.

When Hopkins asked her mentor at the firm the reasons for the decision, he advised her to "walk more femininely, talk more femininely, dress more femininely, wear make-up, have her hair styled and wear jewelry."

Gesell first sided with Hopkins in 1985, determining

that the partnership decision was infused with stereotypical notions about how women should behave on the job. The U.S. Supreme Court remanded for a determination, under a lower standard of proof, whether Hopkins would have been denied partnership even in the absence of discrimination. *Hopkins v. Price Waterhouse*, 109 S.Ct. 1776 (1989).

Gesell still found liability and ordered the firm to make Hopkins a partner. Affirming the decision, the D.C. Circuit noted that *Hishon v. King & Spaulding*, 467 U.S. 69 (1984) established that denying partnership because of sex discrimination is a violation of Title VII.

The court found "untenable" Price Waterhouse's argument that "*Hishon* conferred only a cause of action for the discriminatory denial of partnership and never meant to imply a corresponding remedy."

Hopkins took a job at the World Bank after leaving Price Waterhouse, but points out, "I am by profession a management consultant, and Price Waterhouse has a pre-eminent reputation in that area." Her job now, as she describes it, is

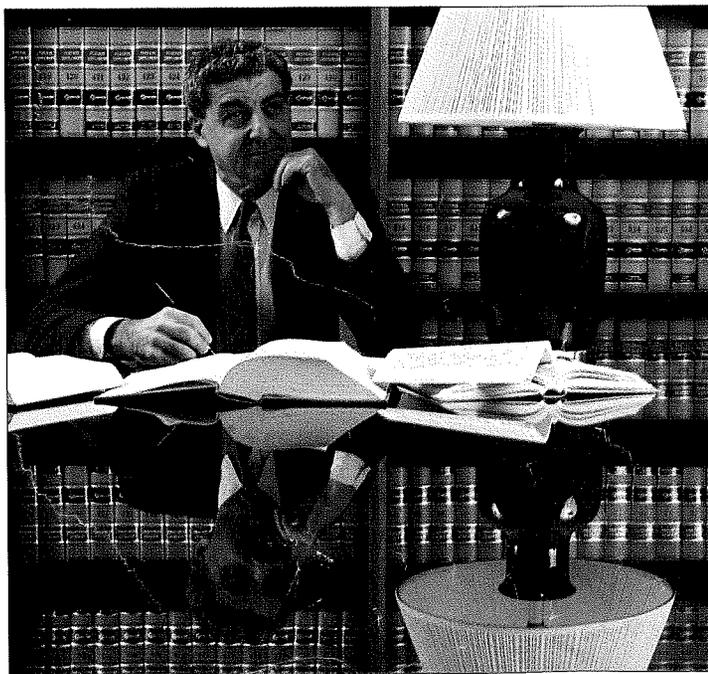
as a "bureaucrat," and while she concedes that she "will probably learn to be a good one," she would like to work at a firm she believes is best at what she wants to do.

Yet, Hopkins is reluctant to confirm she will return to Price Waterhouse. "It doesn't seem very real to me," she says. "I don't have the option to make that decision yet. After all, nobody's called to ask me what color to paint my office."

Nor is Hopkins' attorney recommending that his client empty her desk drawers at the World Bank yet. James Heller of Kator, Scott & Heller says Price Waterhouse has been "very, very stubborn," and he believes the firm will continue to fight the imposition of partnership—asking for a rehearing or review by the U.S. Supreme Court.

Theodore Olson of Gibson, Dunn & Crutcher, who represents Price Waterhouse, says the firm is not stubborn so much as steadfast in its belief that Hopkins was judged impartially in accordance with a "meticulous system" that seeks out the people best suited for partnership.

—ArLynn Leiber Presser



James Heller, the lawyer for plaintiff Ann Hopkins: Price Waterhouse has been "very, very stubborn."

ABAJ/KEN HEINEN