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U.S. Attorney May Settle Race and Gender Bias Claim Against L.A. Office

By Gabe Friedman

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LOS ANGELES - The Los Angeles U.S. attorney's office appears close to settling a lawsuit seeking major structural changes in its hiring and employment practices brought by a longtime prosecutor who alleged the department's civil division was rife with racial and gender discrimination, and described the work environment as "a type of apartheid."

Ira Daves, an openly gay - and until recently, the only African-American male - prosecutor in the civil division of the L.A. office sued the Department of Justice in November 2008, claiming his section's "all-white" management systematically discriminated against African-Americans and Hispanics, while aggressively hiring and promoting Caucasian and Asian attorneys.

Daves, who coincidentally defends the federal government against employment discrimination cases, also claimed he consistently received the highest performance ratings and numerous accolades, but was denied opportunities to handle more complex cases. When he lodged a complaint about his workplace environment, he was given so-called "freeway therapy" through assignments in Santa Ana and Riverside and faced retaliation, according to the complaint.

The dispute and the criticisms flung by both sides reveal the inner workings of the civil division of the Los Angeles U.S. Attorney's Office, which is often overshadowed by the higher-profile criminal division but boasts about 52 lawyers.

"I think we're close" to settling, Michael Cohen, of Cohen McKeon in Los Angeles, who represents Daves, told U.S. District Judge Christina Snyder during a status conference Wednesday. "It's taking a little longer than I anticipated."

He said the case could settle by the end of September.

Cindy M. Cipriani, an assistant U.S. attorney in the civil division in San Diego who is defending the Department of Justice, did not return calls seeking comment.

The litigation has been hard fought on both sides, with three complaints on file and trial scheduled for late 2011.

In court documents, Cipriani has described Daves' accusations as "self-serving" and his complaint as "confusing, vague, conclusory, argumentative, and unwieldy. It simply fails to set forth a plausible disparate treatment claim."

His suit seeks major changes at both the local and national levels of the civil division of the Department of Justice, as well as monetary damages. Former Attorney General Michael B. Mukasey is the named defendant in the case.

Daves, who has continued to work in the civil division after taking a leave of absence of unspecified length in April 2009, handles Title VII employment discrimination cases against the federal government. He joined the civil division in 1995 and has handled such cases ever since.

Prior to that, Daves worked as an associate at O'Melveny & Myers for three years. He graduated from Harvard Law School, where he served as an editor of the Law Review.

According to his complaint, he also has received multiple awards, including a Special Achievement Award for Sustained Superior Performance Award.

Daves claims he received the highest performance review rating in January 2008. Several days later, he asked for an expansion of his responsibilities beyond Title VII.

But the civil division chief Leon Weidman, according to the complaint, denied the request.

"The supervisors, Weidman in particular, simply could not see ... someone like Daves - black, openly gay, assertive on issues related to racial and gender diversity - representing the office in highly visible cases," Cohen wrote in the complaint.

Weidman declined to comment and referred questions to Thom Mrozek, a spokesman for the Los Angeles U.S. Attorneys' Office, who also declined to comment citing office policy regarding ongoing litigation.

In February 2008, Daves lodged a formal complaint with the Equal Employment Opportunity Commission. In November, he filed a complaint in federal district court in Los Angeles.

In April 2009, he took a leave of absence citing acute stress - caused in part by retaliation for filing the complaint. He returned to the office at some unknown point.

In answer to the complaint, Cipriani wrote Weidman had "a sound reason" for not assigning matters outside Title VII to Daves: Weidman personally received several unspecified complaints about Daves. She suggested Daves should have taken that "counseling session to heart."

Employment experts said it is not unusual for employees, particularly during difficult economic times and especially in government positions, to stay at their job during a lawsuit. However, employees rarely find a fair work environment after filing suits, they said.

"The reality is once you accuse your employer of improper conduct in the workplace, it can become a toxic environment," said Ben Schonbrum, of Schonbrum DeSimone Stepler Harris Hoffman in Venice, who represents plaintiffs in employment discrimination suits.

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