

## *Roberts v. Texaco, Inc. (Texaco Discrimination Litigation)*

**COURT:** United States District Court for the Southern District of New York

In 1994, six highly qualified African-American employees filed a class action complaint against Texaco Inc. alleging that the Company failed to promote African-American employees to upper level jobs and failed to compensate them fairly in relation to caucasian employees in similar positions. Each of the six employees hit the Texaco "glass ceiling" when they tried to obtain advanced managerial, supervisory or professional positions. The complaint alleged that the experiences of these six employees were part Texaco's employment pattern and practice and that approximately 1,500 African-American employees experienced similar situations. Furthermore, in an industry generally considered to be seriously behind in minority employment, Texaco's overall minority representation was significantly below the levels of other companies in the oil industry.

Two years of intensive investigation on the part of the lawyers of Bernstein Litowitz Berger & Grossmann LLP, including retaining the services of high level expert statistical analysts, revealed that African-Americans were significantly under-represented in high level management jobs and caucasian employees were promoted more frequently and at far higher rates for comparable positions within the Company. The investigation also revealed the existence of a "secret" high potential list that was used for making promotion decisions. Not surprisingly, no African-Americans were included on that list. Finally, the affirmative action plan in place at Texaco was poorly implemented. There was little or no effort to attract and increase minority representation in higher level jobs. There were no procedures for validating subjective promotion criteria and assessing any disparate impact these procedures might have on African-Americans.

Throughout the investigation, the lawyers at Bernstein Litowitz Berger & Grossmann LLP spearheading the legal efforts on behalf of the plaintiffs sensed that documents potentially damaging to Texaco's litigation efforts were being withheld from valid document discovery demands. Their suspicions were confirmed when secret tape recordings of Texaco executives revealed not only grossly insensitive racial attitudes but also a willingness on the part of these executives to destroy and withhold sensitive internal human resources documents pertinent to the discrimination litigation. Those tapes were eventually revealed to the general public in November 1996.

Public response to the content of the tapes was immediate. Public denunciation of the behavior of these executives followed by a national boycott of Texaco's products, produced a swift response from Texaco's Chairman, Peter Bijur, who publicly apologized to African-American employees for the comments and behavior of the company's executives and ordered a settlement of the discrimination litigation.

The Settlement Agreement achieved by the parties represented the single largest settlement in the history of employment race discrimination litigation. Texaco paid \$115 million cash into the class fund, which was designated for distribution among the approximately 1,500 current and former employees. Furthermore, all current African-American Texaco employees in the class action received a one-time 10% salary increase totaling approximately \$26.1 million. In addition, Texaco agreed to the creation of an independent Equality and Tolerance Task Force which was given broad powers over the company's anti-discrimination, affirmative action and diversity efforts. Finally, Texaco agreed to broad, company-wide diversity and sensitivity training for all employees.