



SUPREME COURT ISSUES RULING ON “ME TOO” EVIDENCE MARCH 2008

The Supreme Court announced its decision on the admissibility of so called “me too” evidence. “Me too” evidence refers to testimony by other employees describing their own experiences of discriminatory treatment by the same employer. From an employer’s perspective, this type of evidence makes discrimination trials longer, more expensive, and harder to defend.

The Supreme Court unanimously held that “me too” evidence is neither per se admissible nor per se inadmissible. Rather, whether to admit such testimony into evidence must be considered on a case-by-case basis, taking into account many factors - including how closely related the “me

too” evidence is to the plaintiff's circumstances. While not a total loss for employers, this holding does leave the door open for workers in discrimination cases to present supporting evidence from other employees at a company if they can show it is relevant and not overly burdensome to the employer or confusing to the jury. The Court emphasized that trial judges should carefully weigh all facts and give a complete explanation of their rulings.

If you would like more information regarding this opinion or ways that you can limit potential discrimination claims at your company, please contact the Elarbee Thompson attorney with whom you normally work.