

Court of First Instance Dismisses Complaint for Discrimination Based on Retailer's Online Shipping Policy

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PRACTICE AREAS

- Retail

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On February 2, 2016, the Court of First Instance, San Juan Part, issued a judgment dismissing with prejudice a complaint for discrimination based on race and national origin filed against one of our retail clients based on its policy not to offer shipping of online purchases to postal addresses in Puerto Rico or for pickup at its Puerto Rico stores.

A complaint was filed against Best Buy Stores Puerto Rico alleging that the plaintiff suffered damages arising from Best Buy's policy not to provide shipping to or in-store pickup in Puerto Rico for items purchased on the www.bestbuy.com website. Following a fully briefed motion to dismiss on the pleadings filed by Best Buy PR and a motion for summary judgment filed by the plaintiff, the Court of First Instance issued its judgment determining that:

- Best Buy PR is not the legal entity that operates the website www.bestbuy.com and, accordingly, is not liable for the alleged damages. The Court declined to pierce the corporate veil and apply the alter ego or single employer theories, which plaintiff argued should impose liability on Best Buy PR for the operation of www.bestbuy.com by a parent company. The Court determined that the facts alleged by plaintiff, to wit, that both Best Buy PR and its parent company operate under the "Best Buy" trademark, that they have the same legal department, and that all of Best Buy PR's stock are owned by the parent company, are not sufficient to make Best Buy PR liable for the actions of its parent company.
- The constitutional protection (under both U.S. and P.R. Constitutions) against discrimination based on race, color, gender, nationality, and political or religious ideas is not applicable to Best Buy PR as a private entity.
- The Civil Rights Act and the P.R. anti-discrimination laws require the plaintiff to allege that the service was denied based on his race, color, gender, nationality, or political or religious ideas, and that other persons situated in similar conditions, but who do not belong to the same protected group as plaintiff, received the service. In this case, the plaintiff failed to allege that he belonged to a recognized protected group. Moreover, he failed to rebut Best Buy PR's argument that its policy applies equally to all clients who reside in

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Puerto Rico, regardless of the person's race or national origin.

- There is no cause of action under the Puerto Rico torts statute because Best Buy PR did not act unlawfully. Even if Best Buy PR operated the www.bestbuy.com website, which the Court concluded is not the case, merely refusing to offer shipping or in-store pickup in Puerto Rico is not an unlawful act because there is no legal requirement that a retailer offer the same services and products in every market in which it operates.

McV Attorneys Dora M. Peñagaricano, Alejandro J. Cepeda, and Isabel Torres-Sastre represented Best Buy PR in this important case.

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