

## PRESS RELEASE

Equal Employment Opportunity Commission v. E. J. Sacco, Inc

Attorneys Robert Vercruysse and Susan Hartmus Hiser of the labor and employment law firm of Vercruysse Metz & Murray and Steven Martineau of Lynch, Gallagher, Lynch, Martineau & Hackett presented Emil J. Sacco, Jr. with a check on September 27, 2001, for over \$58,000 from the United States government to cover his legal costs in defending against meritless discrimination charges brought by the EEOC.

In 1998, the EEOC sued Sacco's company, E.J. Sacco, Inc., in federal court. E.J. Sacco, Inc. operates a Burger King franchise in Mt. Pleasant, Michigan. Sacco hired Vercruysse Metz and Murray to defend the company in the litigation. The lawsuit stemmed from an incident in 1997 in which nearly \$200 was reported missing from a Burger King cash register. The EEOC charged the company with bias against two African-American women employees because the company had identified the women when asked by the police as having been assigned to the workstation where the money was ultimately found. The police questioned the women, as well as several other restaurant employees, before escorting the women voluntarily out of the restaurant and to the police station. The women were suspended from their employment at the Burger King restaurant pending the outcome of the police investigation.

When the investigation failed to result in any charges being brought against the women, one was offered her job back but declined. The other's employment was terminated for having been caught earlier that evening with her hand in another employee's cash register, which was a violation of company policy.

The EEOC pursued the costly litigation against Sacco, arguing that the company identified the women to the police as having worked in the area where the money was found because they were African-American. The company sought dismissal of the action and requested repayment of the costs and attorneys fees incurred for having to defend against such a frivolous lawsuit.

On August 31, 1999, Judge Robert Cleland of the United States District Court dismissed the lawsuit, finding that the company had done "nothing more than cooperate with the police, providing truthfully the information requested." Then, in a carefully reasoned opinion, he ordered the EEOC to repay Sacco the more than \$58,000 he spent defending against the lawsuit. Judge Cleland held that the EEOC's persistence in continuing to prosecute a case with such "gaping flaws" was "*per se* unreasonable" and entitled Sacco to repayment of all of the costs and fees incurred in defense of the action.