



# EEOC fax

U. S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION  
OFFICE OF COMMUNICATIONS AND LEGISLATIVE AFFAIRS  
1801 L STREET, N.W.  
WASHINGTON, D. C. 20507  
FAX: (202) 663-4912

DATE: 10/16/96 TIME: 1:30 p.m.

TO: Steve Marath

FAX NUMBER: 456 - 7028

SENDER: CLAIRE GONZALES

SENDER'S TELEPHONE NUMBER: (202) 663-4915

DOCUMENT: EEOC Update

NUMBER OF PAGES TRANSMITTED (INCLUDING COVER): 3

SPECIAL INSTRUCTIONS:

PLEASE TELEPHONE SENDER IF YOU DO NOT RECEIVE ALL DOCUMENTS.

PHOTOCOPY  
PRESERVATION



U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION  
Washington, DC 20507

October 7, 1996

Office of  
the Chairman

Ms. Carol H. Rasco  
Assistant to the President for Domestic Policy  
Domestic Policy Council  
The White House  
1600 Pennsylvania Avenue, N.W.  
Washington, D.C. 20500

Dear Carol:

I have just completed my second year as Chairman and wanted to give you an update on our success in addressing the challenges identified in the December, 1992 Transition Team Report about the EEOC. Our new approach to civil rights enforcement and efforts at reinvention have been largely successful:

- we have brought the backlog down by 30% from last year's high of over 111,000 private sector discrimination complaints;
- we implemented mediation-based alternative dispute resolution as part of our new private sector enforcement procedures;
- we have obtained monetary benefits for victims of discrimination through administrative and judicial enforcement in excess of \$250 million;
- we have facilitated voluntary compliance by issuing much needed and well-received policy guidance on the laws we enforce and by expanding our public outreach, education and technical assistance; and,
- we so transformed our internal relationships and improved employee morale that we earned a Hammer of Reinvention for labor-management partnership.

Congress recognized our progress by increasing our FY97 appropriation. These many accomplishments during this era of diminished resources are a testament to our dedicated staff, to the relationships we have forged with our many and diverse public stakeholders, and to the Administration's support.

Sincerely,

A handwritten signature in black ink, appearing to read "Gilbert F. Casellas".

Gilbert F. Casellas  
Chairman



U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION  
Washington, DC 20507

October 7, 1996

Office of  
the Chairman

The Honorable William J. Clinton  
The President of the United States  
The White House  
1600 Pennsylvania Avenue, N.W.  
Washington, D.C. 20500

Dear Mr. President:

I have just completed my second year as Chairman and wanted to give you an update on our success in addressing the challenges identified in the December, 1992 Transition Team Report about the EEOC. Our new approach to civil rights enforcement and efforts at reinvention have been largely successful:

- we have brought the backlog down by 30% from last year's high of over 111,000 private sector discrimination complaints;
- we implemented mediation-based alternative dispute resolution as part of our new private sector enforcement procedures;
- we have obtained monetary benefits for victims of discrimination through administrative and judicial enforcement in excess of \$250 million;
- we have facilitated voluntary compliance by issuing much needed and well-received policy guidance on the laws we enforce and by expanding our public outreach, education and technical assistance; and,
- we so transformed our internal relationships and improved employee morale that we earned a Hammer of Reinvention for labor-management partnership.

Congress recognized our progress by increasing our FY97 appropriation. These many accomplishments during this era of diminished resources are a testament to our dedicated staff, to the relationships we have forged with our many and diverse public stakeholders, and to the Administration's support.

Sincerely,

A handwritten signature in black ink, appearing to read "Gilbert F. Casellas".

Gilbert F. Casellas  
Chairman



OFFICE OF  
THE CHAIRMAN

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION  
WASHINGTON, D.C. 20507

Dear Colleague:

As you know, in the fall of 1994, shortly after my arrival to the U.S. Equal Employment Opportunity Commission, I appointed three Commissioner-led Task Forces to assist me in meeting the many challenges faced by the agency. The Task Force on Charge Processing conducted a comprehensive analysis of the agency's private sector charge processing system and made a number of recommendations that were adopted by the Commission on April 19, 1995. The Task Force's report recommended that "the Commission ... develop national and local enforcement plans which identify bases and issues of discrimination that are of high priority to pursue. Commission resources at the national and local level will be devoted to accomplishing the goals of the plans through investigation, conciliation, and litigation." At a Commission meeting on April 19, 1995, the Commission approved by a 5-0 vote the development of a National Enforcement Plan (NEP).

While the collaborative process to develop the National Enforcement Plan took longer than any of us originally anticipated, I am pleased that on February 8, 1996, the Commission unanimously approved the adoption of a National Enforcement Plan. This plan truly reflects the collective views of the bi-partisan Commission and its many diverse stakeholders. I believe that this plan will enable the Commission to address strategically the timely and effective processing of private sector charges, allowing us to honorably and credibly carry out our mandate of eradicating employment discrimination.

We are anxious to share the NEP with the public and, therefore, have enclosed a copy of the Commission's National Enforcement Plan for your use. Please feel free to copy the document and to share it with your colleagues. Additional copies can be requested from the agency's Office of Communications and Legislative Affairs, 1801 L Street, NW, Washington, DC, 20506, 202/663-4900 (voice), 202/663-4494 (TDD).

I look forward to our continued work in the future. As always, I welcome your comments and suggestions on Commission operations and activities.

Sincerely,

A handwritten signature in black ink that reads "Gilbert F. Casellas". The signature is written in a cursive style and is positioned above the printed name and title.

Gilbert F. Casellas  
Chairman

PHOTOCOPY  
PRESERVATION

# WASHINGTON UPDATE

Policy and Politics in Brief

## HOW THE EEOC IS TRYING TO RIGHT ITSELF

BY K.C. SWANSON

**P**aul M. Igasaki, who occupies a senior peg in the federal bureaucracy, was talking tough at a press conference last month:

"Very large amounts of money are going to be involved."

"This could become the largest sexual harassment case ever prosecuted. . . ."

The tough talk—which came as government lawyers were suing Mitsubishi Motor Manufacturing of America Inc.—was all the more striking because Igasaki is vice chairman of the U.S. Equal Employment Opportunity Commission (EEOC), one of Washington's favorite punching bags.

But these days, seemingly invigorated by Gilbert F. Casellas, a former general counsel of the Air Force who's been the EEOC's chairman since October 1994, the agency's been shedding its image as an ineffectual meddler and occasionally punching back.

Getting up off the canvas hasn't been easy. Early in its life, the EEOC accumulated a staggering backlog of cases of which it has never managed to rid itself. If there is a silver lining to the agency's historically slow-moving bureaucracy, it is that the number of cases awaiting investigation—now holding steady at just under 100,000—underscores the pressing need for an agency to review and resolve discrimination claims. But a lot of people have come to doubt the EEOC's ability to tackle that daunting job.

For nearly two years after President Clinton took office, the agency went without a chairman, and many analysts speculated it had hit rock bottom. Things have changed since Casellas took office. Only a month into his new job, Casellas had already set up a slate of task forces to tackle the commission's systemic failings.

More than overseeing policy changes, Casellas is directing a sweeping transformation of the way the agency does business. He's jettisoned the principles that have guided it for more than a decade and which, some would argue, have been largely responsible for its decline in stature.

Last spring, he announced what amounted to a historic overhaul of the way the agency processes "charges," or discrimination claims. He repealed the full investigation policy instituted by then-chairman Clarence Thomas in 1983. That approach required that every

charge receive an equal amount of attention, regardless of its merits. Casellas established a scheme to identify the worthiest claims and weed out frivolous charges.

He also oversaw the establishment of a plan that went into effect in February to establish national and local enforcement priorities. Next on the list, Casellas wants to adopt a mechanism for alternative dispute resolution that would encourage mediation and cut down on expensive, lengthy litigation. (Legislation that would reauthorize the use of volunteer mediators is pending in Congress.)

Under the changes, the EEOC concedes, it "will be required to forgo litigating some good cases in order to devote adequate resources to other cases," but advocacy groups, mindful of the agency's staggering backlog, generally approve of the shift. "When you have the backlog they inherited, the fact of the matter is that most of those cases are not getting investigated," said Helen Norton, director of equal opportunity programs at the Women's Legal Defense Fund Inc., a Washington-based advocacy group. The new triage system, she said, would speed things up.

On Capitol Hill, many Members have greeted the EEOC reforms with guarded optimism. Harris W. Fawell, R-Ill., chairman of the House Economic and Educational Opportunities Subcommittee on Employer-Employee Relations, which has jurisdiction over the agency, said he gives Casellas good marks, though "it remains to be seen if he can be the Moses who leads the EEOC out of the wilderness."

Only a year ago, a congressional proposal to merge the agency into a new federal department provoked concern that it could lose its independent status. Rep. Steve Gunderson, R-Wis., discussed folding the EEOC into a merged Education and Labor Department to more closely integrate it with other federal employment programs. That proposal, which was never brought before a committee, is said to be on the back burner.

But the agency continues to have public relations problems with one of the GOP's dearest constituencies—small business. "Small business loathes them," a House Republican aide said. Business and other critics of government regulation sometimes lump the agency with other more-active federal agencies involved with affir-



Richard A. Blumenthal

**Gilbert F. Casellas, head of the U.S. Equal Employment Opportunity Commission**  
His much-criticized agency may be shedding its reputation as an ineffectual meddler.

mative action—such as the Office of Federal Contract Compliance Programs (OFCCP), which can review the affirmative action plans of certain government contractors.

In fact, the EEOC has no such authority. Although its support for affirmative action may not win it many points in a Republican-controlled Congress, its enforcement powers are limited. The agency will investigate a workplace only after a person complains that he or she has experienced discrimination. The EEOC cannot launch an investigation just because a minority group is underrepresented in the workforce, although it requires big companies to submit data on the racial and gender composition of employees on their payrolls.

"I think people think we sit around here and read statistics all day and say, 'Hey, there's a company that doesn't have enough women,' and we then go into court," Casellas said. "They don't know anything about this process of investigating cases, the conciliation [process]."

But a commission established to root out discrimination can be only so circumspect, and the EEOC invariably finds itself caught uncomfortably between civil rights activists—or indignant employees who believe that their rights have been violated—and those conservatives who charge that the EEOC has overstepped the bounds of common sense.

One word—"Hooters"—elicits a groan from Casellas. Last fall, his agency tried to negotiate a settlement in a sexual discrimination charge lodged against the restaurant chain, known for its employment of "Hooters girls" who wait tables in revealing clothing. Several men who had been turned down for jobs at the self-described "family restaurant" had already lodged a private lawsuit against the company. But when the EEOC stepped in, Hooters lashed back with a high-priced publicity campaign, including a blitz of ads featuring a male Hooters "girl" wearing a tight skirt, falsies and a wig. It didn't help matters that a former general counsel for the EEOC, Donald Livingston, worked on the Hooters legal team.

The Hooters case points up an uncomfortable reality for the EEOC, said Larry Lorber, a lawyer at Verner, Lipfert, Bernhard, McPherson and Hand, who headed the OFCCP in the 1970s. "It can be subject to ridicule [because] its con-

stituents tend to be the people without power." Adding insult to injury, Lorber said, its financing depends on a government that "will give it lip service and may or may not have an interest in seeing it vigorous."

The EEOC has essentially been flat-funded since fiscal 1994, and that pattern seems likely to continue. At a recent hearing of the House Appropriations Subcommittee on Commerce, Justice, State, the Judiciary and Related Agencies, chairman Harold Rogers, R-Ky., cautioned Casellas, "We want you to redouble [reform] efforts, because you'll need to be thinking more and more about how to target funds."

Early indicators suggest that the agency's inventive approaches are having an effect. According to the EEOC's records, at the end of fiscal 1994 the agency was resolving only 75 out of every 100 incoming charges; a year later, it was resolving 98 out of every 100 new cases.

But the EEOC still has a lot of proving to do. And unlike most federal agencies, it will never be able to recede into the gray corners of the bureaucracy to quietly do its work. Thirty-two years after enactment of the first Civil Rights Act, enforcement remains a delicate business. What is advancing civil rights law to one person is, to another, kowtowing to political correctness or meddling unconscionably in the affairs of the market.

Thus the EEOC's failures tend to be

**The Latest From THE FOLKS WHO Brought You the \$435 HAMMER.**



Government bureaucrats come up with some pretty crazy ideas — like paying \$435 for a hammer or spending \$2.8 million restoring a bathroom. Almost everybody in America agrees it's time to put them in.

But some federal bureaucrats still don't get it. How else to explain the equal employment regulatory? demanded that Hooters restaurants begin hiring "Hooters Girls?"

For a restaurant chain whose success is the "Hooters Girl," the regulatory ideas are a recipe for disaster. Consider these just some of the things Washington bureaucrats were Hooters to do:

- Hooters Hooters employees to be more sensitive to "her needs" by providing sanitary towels?
- Establish a scholarship fund to enhance job or education opportunities for men?
- For the next few years, Hooters Hooters owners to have their business documents approved by a federally mandated "representative," who must report to the EEOC.
- The government has a 100,000 case backlog of job discrimination claims. It's hard to believe that Hooters Hooters Girls' with "Hooters Girls" is one of the EEOC's top priorities.

**COME ON, WASHINGTON — GET A GRIP**  
IT'S TIME TO PUT A LITTLE COMMON SENSE.

widely broadcast. The early verdict is that reforms will help by speeding up the process, but for all its good intentions, the agency is bound to keep stepping on toes. The EEOC is "in many respects the pawn of social and political debates of this country," said Joseph M. Sellers, a civil rights litigator with the Washington-based Lawyers' Committee for Civil Rights Under Law, which handles discrimination cases. "It's probably never been far from controversy."

# Newspoints

Deals, trends and people

NATIONAL NEWS

## Unequal justice for all

*EEOC director fighting a rising tide*

**G**ilbert F. Casellas learned the meaning of discrimination at an early age, probably before he could even spell it. As a child in Tampa, Fla., there were certain places he couldn't go because of his brown skin, like the local boys' club or the "whites only" sections of the beach. When he reached adolescence things began to change. Congress passed the Civil Rights Act of 1964, schools began to desegregate and Casellas could now go to the downtown movie theater.

More than 30 years later, however, as chairman of the Equal Employment Opportunity Commission, Casellas is finding out that the more things change, the more they stay the same.

As the chief enforcer of anti-discrimination laws, the EEOC must identify and eliminate workplace discrimination, a task easier said than done. Casellas chaired a recent EEOC meeting in Washington, where he revealed that the commission had

received 87,600 charges of discrimination in 1995, an increase of about 42% from 1990. This figure includes a backlog of cases. Almost 30,000 were based on race, 88% of which were filed by African Americans. So while Republicans on Capitol Hill fantasize about a color-blind society, the commission knows better: workplace discrimination continues to be epidemic.

"The data refutes the assumption that discrimination has been eliminat-

ed," says Casellas. The EEOC has developed a hospital approach to wiping out its growing caseload. Based in theory on emergency-room triage, cases are prioritized in order of importance. But like the average city hospital, the understaffed commission must operate under budgetary constraints. Congress appropriated \$235 million for 1996, down \$2 million from last year, meaning the EEOC has to revamp its attack strategy. "We

made a choice to go after the kind of cases where we'll have the most impact and maximize our resources by addressing the ones that have an impact beyond an individual's satisfaction," says Casellas.

This strategy may only be a band-aid on what could soon become a gouging wound now that Congress is considering legislation to eliminate affirmative action programs. A proposed bill by presidential hopeful Bob Dole and Rep. Charles Canady (R-Fla.), which would outlaw race- and sex-based remedies in hiring, is primarily directed at federal employment. However, Casellas shudders to think of the trickle-down effect that it may have on the private sector companies, which are the major source of complaints. "I think the real question is what will the workplace look like five years from now if that bill is in place. If you talk to advocacy groups, they say the federal gov-

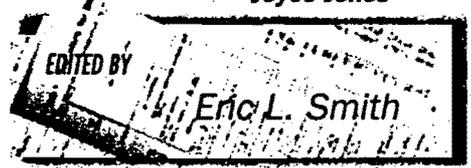
COMPLAINTS FILED WITH THE EEOC					
TOTAL Charges	1991	1992	1993	1994	1995*
Race	27,525 43.1%	29,042 40.3%	31,688 36.0%	31,656 34.8%	29,986 34.3%
Sex	17,422 27.3%	21,482 29.8%	23,905 27.2%	25,860 28.4%	26,181 29.9%
National Origin	6,418 10.1%	7,126 9.9%	7,393 8.4%	7,414 8.1%	7,035 8.0%
Religion	1,160 1.8%	1,337 1.9%	1,444 1.6%	1,546 1.7%	1,581 1.8%

\*Preliminary data  
Source: US Equal Employment Opportunity Commission, Washington, 1996

ernment isn't doing enough to recruit, hire and promote minorities in its workforce. Five years from now, if we're not allowed to measure our successes, you've got to conclude that it's going to be worse," Casellas says. And he's concerned that the cuts might validate the kinds of rollbacks that some have sought in the private sector.

Whether or not the bill passes, Casellas observes, "I think we will inevitably be unpopular because whenever you challenge a practice or pattern of discrimination, somebody's going to be unhappy. And sometimes those people who are unhappy are influential and powerful."

—Joyce Jones



Gilbert Casellas

PHOTO BY MICHAEL ROSEN

Addr/Prod: 3;NY STIL OLIN N2G J E U W FUN STIL LBV  
Topic: US NEWS JP WASH AUT JOB

**BC-HARASSMENT-HISTORY (NEWS ANALYSIS, SCHEDULED)**  
**Mitsubishi case trains spotlight on sex harassment**

By Deborah Zabarenko

WASHINGTON, May 16 (Reuter) - Mention sexual harassment and Americans used to think of Anita Hill, the ex-government lawyer who nearly torpedoed a Supreme Court appointment. Now they may think of an auto plant in the middle of the Midwest.

The federal case against Mitsubishi Motor Manufacturing of America charges the automaker with "creating a hostile and abusive work environment" at its plant in Normal, Illinois, alleging women were groped, grabbed and touched and forced out of their jobs if they complained.

Unlike the 1991 Anita Hill case, which involved sexual harassment charges by one woman against one man -- current Supreme Court Justice Clarence Thomas -- the Mitsubishi affair could include hundreds of participants on both sides.

And while the Hill-Thomas matter was confined to celebrated hearings on Capitol Hill that crystallized public debate but brought no legal action, the Mitsubishi case is headed for court.

The head of the Equal Employment Opportunity Commission, which brought the charges against Mitsubishi in response to workers' complaints, said most cases did not get this far.

Of the 100,000 complaints received by the EEOC each year about workplace disputes, including sexual harassment, no more than 200 to 300 result in lawsuits, according to commission chief Gilbert Casellas.

Before it gets to that point, EEOC personnel investigate the allegations and, in confidence, try to work out settlements with the company.

In Mitsubishi's case, this conciliation process failed. When the lawsuit was filed, 3,000 Mitsubishi workers were bused to a highly organized demonstration outside EEOC offices in Chicago to protest against the suit.

"It's not something I've ever seen before," EEOC chief Gilbert Casellas said in a telephone interview, referring to Mitsubishi's tactics. "What makes it especially troubling is that following ... our attempt to resolve it, we go to the only forum that's left to us, a federal courthouse, and then they attempt to take it out of that forum."

On Tuesday the Japanese-based automaker hired former U.S. Labor Secretary Lynn Martin to do an independent investigation of Mitsubishi's workplace policies and procedures.

"We clearly need to do more and we will only be satisfied when we have created a workplace where every one of our employees feels the respect of his or her fellow workers and the support of management," Mitsubishi Motor Manufacturing of America Chairman and Chief Executive Tsuneo Ohinoye said in a statement.

While the EEOC supported the in-house investigation, it warned that "given the history of this case" it would be watching closely to make sure there was no attempt to get

REUTERS NEWS WIRE 5-16-96

1/24



## WOMEN'S LEGAL DEFENSE FUND

September 21, 1994

Senator Robert Dole  
 United States Senate  
 141 Hart Senate Office Building  
 Washington, D.C. 20510-1601

Dear Senator Dole:

On behalf of the Women's Legal Defense Fund, I write to urge you to facilitate the Senate's speedy consideration of Gilbert Casellas, Paul Igasaki, and Paul Miller as nominees to the U.S. Equal Employment Opportunity Commission.

As you know, victims of job discrimination must turn to the EEOC in order to assert their right to a workplace free from invidious discrimination. However, the EEOC's backlog currently exceeds 80,000 unresolved discrimination charges, and concerns remain about the quality of the agency's investigations and complaint resolutions. Without question, the EEOC is in urgent and immediate need of leadership if it is to fulfill its responsibility as the agency charged with enforcing our nation's commitment to equal employment opportunity.

We urge you to act immediately to fill the need for leadership at the EEOC by facilitating the Senate's vote on the confirmation of these nominees.

Sincerely,

Judith L. Lichtman  
 President

*Senator -  
 This really makes  
 a great deal of sense -  
 we need your help.*

# NCLR

NATIONAL COUNCIL OF LA RAZA

Raul Yzaguirre, President

National Office  
 810 First Street, N.E., Suite 300  
 Washington, DC 20002-4205  
 Phone: (202) 289-1380  
 Fax: (202) 289-8173

September 15, 1994

The Honorable Orrin Hatch  
 135 Russell Senate Office Bldg.  
 United States Senate  
 Washington, D.C. 20510

Dear Senator Hatch:

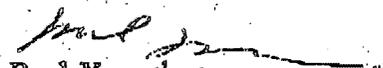
I write to you on an matter of the highest priority to the National Council of La Raza (NCLR) and the Hispanic community. In July, the Committee on Labor and Human Resources unanimously reported out the nominations of Gilbert Casellas, Paul Igasaki, and Paul Miller for the positions of Chair, Vice Chair, and Commissioner, respectively, of the Equal Employment Opportunity Commission (EEOC). As you know, NCLR fully supports this slate.

We ask that you use your good offices to facilitate immediate floor consideration of these important nominations. The EEOC has long been plagued by a number of serious problems; as you know from your own hearings in the mid-1980s, among the Commission's most serious deficiencies is its failure to equitably and effectively serve the Hispanic community. Based on our own direct conversations with Chairman-designate Casellas and Commissioner-designates Igasaki and Miller, we are convinced that they are fully aware of these problems and have the background, skills, and commitment needed to address them.

We believe that Gilbert Casellas has a chance of becoming a truly great EEOC Chair; we fear, however, that additional delays in the confirmation process may significantly harm opportunities for effective reform efforts. We urge your immediate and personal intervention in this matter to expedite Senate action on these important nominations.

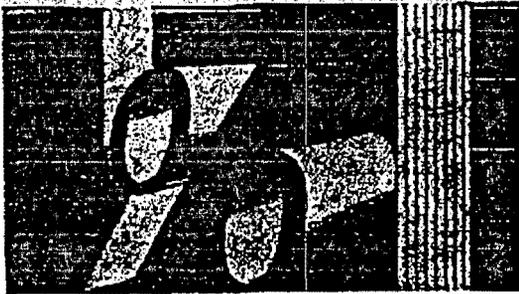
As always, I greatly appreciate your responsiveness to NCLR and the Hispanic community.

Sincerely,



Raul Yzaguirre  
 President





### rates

Thirty-year, fixed-rate mortgages are inching lower.

14



### profile

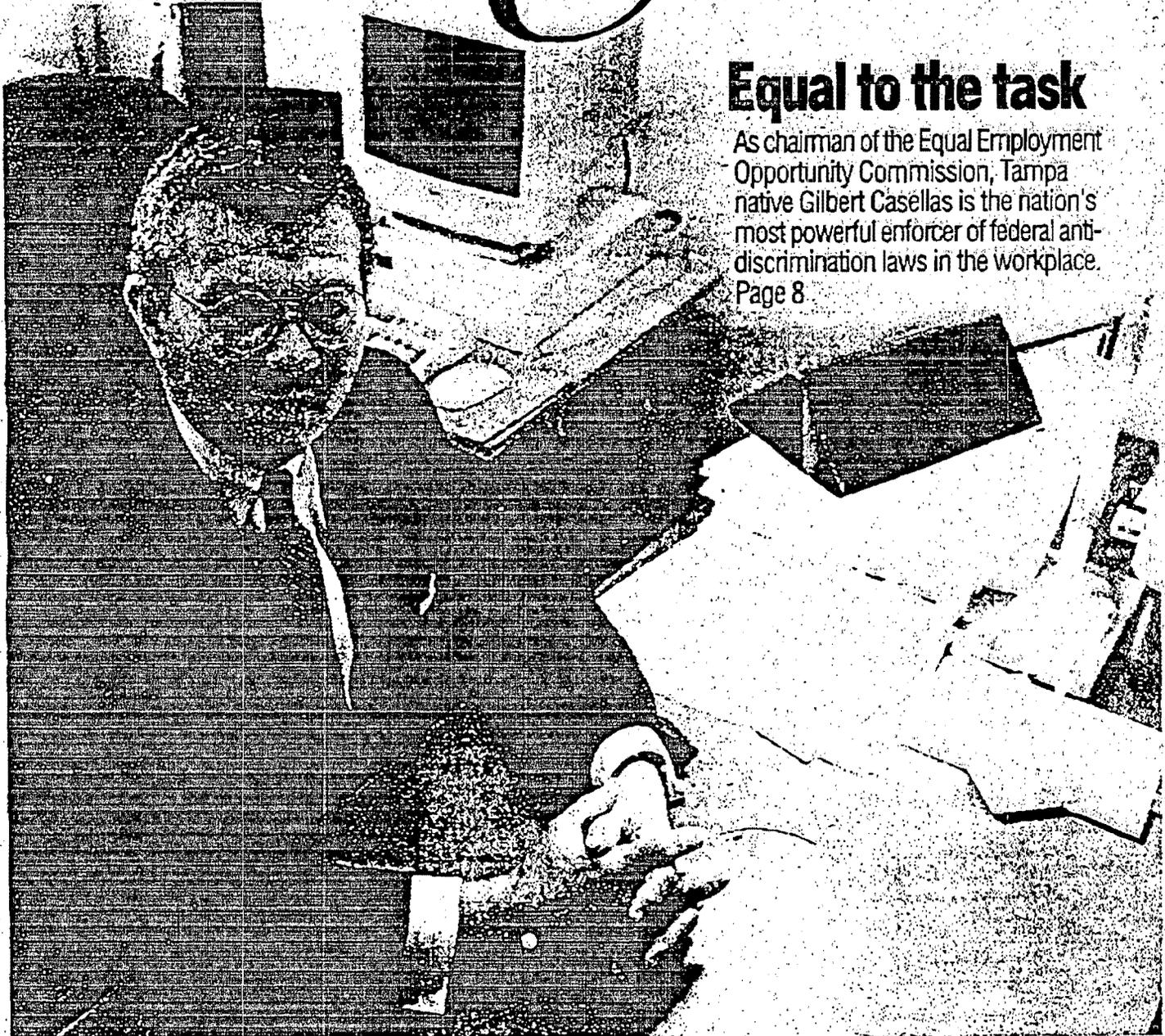
Palms of Largo Director Terry Russell has friends of all ages.

4

# business & finance

THE TAMPA TRIBUNE

DECEMBER 18, 1995



## Equal to the task

As chairman of the Equal Employment Opportunity Commission, Tampa native Gilbert Casellas is the nation's most powerful enforcer of federal anti-discrimination laws in the workplace. Page 8

## Big cases



Above, the mustachioed "Hooters girl" on the door of this restaurant is part of the chain's ad campaign ridiculing the EEOC. Below, the agency has joined Janet McClung, left; Melodee Shores and 10 other women in their suit against Publix.



Tribune file photo

Major EEOC actions and judgments in the past year:

■ **HOOTERS:** The agency this fall determined Hooters Restaurants, a 170-restaurant chain that originated in Clearwater, has discriminated against men by hiring only female waitresses. As of yet, no action has been taken, but the EEOC is recommending Hooters scrap the "Hooter girls," famous for their uniform of skimpy orange shorts and tight T-shirts, and pay damages to men who were discriminated against.

■ **PUBLIX:** The agency in November joined a sex discrimination lawsuit filed against Publix Super Markets Inc. Twelve women are suing the supermarket chain in Tampa federal court for allegedly failing to promote women into management positions and limiting their employment opportunities. The EEOC is seeking back pay and punitive damages.

■ **EXXON:** The agency sued Exxon Corp. in June for applying a new nationwide, blanket policy of excluding all employees with a record of past substance abuse from certain jobs. Two aircraft flight engineers were demoted as a result, even though both employees had been out of treatment from more than 10 years. The EEOC alleges Exxon's policy violates the Americans with Disabilities Act.

■ **DEL LABS:** Del Laboratories of Farmingdale, N.Y., in August agreed to pay \$1.2 million in damages to 15 women who were sexually harassed by the CEO of the company, Dan K. Wassong. The EEOC filed suit against the cosmetics and pharmaceutical manufacturer, whose products include Hard as Nails and Sally Hansen Cosmetics, after complaints Wassong verbally and physically abused the women, and sought sexual favors in return for job benefits.

■ **MCDONNELL DOUGLAS:** The aircraft manufacturer in January agreed to pay nearly \$1 million to 82 black former employees, and hire back 20 of them, after the EEOC filed a race discrimination lawsuit against the corporation. McDonnell Douglas laid off the employees from the company's St. Louis facilities during cutbacks in 1990 and 1991. The EEOC alleged that the company used race as a basis for deciding who to lay off or cause to retire.

# Equal to the task

As chairman of the Equal Employment Opportunity Commission, Tampa native Gilbert Casellas is the nation's most powerful enforcer of federal anti-discrimination laws in the workplace.

By PHIL WILSON  
Tribune Staff Writer

**F**our decades have passed, but Gilbert Casellas still remembers the sting of being barred from the Ybor City Boys Club because of his brown skin.

He still can recite directions to the only two movie theaters in Tampa that were open to "colored people," or to the tiny spit of sand on the Courtney Campbell Parkway where he and his family were permitted to lay their beach towels.

Casellas also remembers seeing that "embarrassing period" begin to change in 1964, the year Congress passed the Civil Rights Act, the same year he was allowed to go to school with white children and to join the Boys Club.

Now, as chairman of the Equal Employment Opportunity Commission, Casellas is the nation's most powerful enforcer of federal anti-discrimination laws in the workplace, and is pushing to see the changes continue.

But he's pushing up a steep incline.

Casellas, who is of Puerto Rican heritage, took the post a year ago, and inherited an agency with an anemic budget and overwhelming caseload.

He faces a Republican-led Congress screaming about "quotas" and "hiring preferences," and threatening to roll back the affirmative action programs responsible for creating them.

America has also been mired in a decade filled with anger and confusion over volatile issues such as sexual harassment in the workplace, new protections for the disabled and elderly and a backlash by white men who feel squeezed on all sides.

And now Casellas has another headache: Hooters. Casellas, 43, sat in his office last week stewing over Hooters' \$1 million advertising campaign ridiculing the EEOC. The onslaught came this fall after the agency took action against the chicken-wine restaurant chain, famous for its scantily clad waitresses, for discriminating against men.

"I FEEL WHAT this agency does is important, that there's nothing more patriotic or fundamentally American than opportunity and justice," Casellas said in an interview last week. "I thought, although I didn't know, that this would be a thankless job. And it is a thankless job."

Overall, civil rights groups and the private sector praised Casellas for beginning to turn around an agency criticized in the past as being ineffective and slow.

Casellas has managed to pare down the agency's backlog of complaints from 120,000 to almost 90,000, still an enormous amount. He's putting more resources into prevention and outreach, to educate corporations and small businesses about the intricacies of the new Americans with Disabilities Act and other complex anti-discrimination and harassment laws.

Under Casellas, the agency is adopting a new case-assessment system to weed out frivolous discrimination complaints quickly and to focus scarce resources on those likely to have the greatest impact.

That replaces the agency's old enforcement strategy, which was to handle every complaint on a first-come, first-served basis, and investigate every case even if it was shaky.

Also, investigators no longer are judged by the number of cases they close, because some were quickly dismissing complaints as having "no cause" for action to pad their numbers, even if the cases had merit.

WASHINGTON

The full details of the EEOC's new enforcement plan are expected to be announced in January.

Because of limited resources, the EEOC will continue to intervene in discrimination lawsuits filed by employees, like the agency did Nov. 27 with a Tampa case involving Publix Super Markets Inc., Casellas said.

**IN THAT CASE,** the EEOC joined 12 women who are suing the supermarket chain in Tampa federal court for systematically excluding female employees from management positions and limiting their employment opportunities.

"They've really gotten back to their core competency, which is to say cases involving racial discrimination, sexual harassment and bread-and-butter cases like that," said Susan Meisinger of the Society for Human Resource Management in Alexandria, Va., which represents more than 60,000 human resource professionals.

"We haven't seen any indication they're out to test the outer limits of the law... which has been a concern in the past," she said.

Last year alone, the EEOC received a record 96,000 complaints from employees who claimed they were harassed or discriminated against because of race, gender, age, national origin or disability. In 1990, EEOC investigators handled 50 to 55 cases apiece. Today, each one handles 140.

The increase in complaints is just more evidence discrimination in America's corporate world is growing, not shrinking as some Republicans in Congress would like people to believe, said Democratic U.S. Rep. Kweisi Mfume of Maryland, who last week was named chief executive of the NAACP, the historic black civil rights organization.

Despite this, the EEOC's budget and staff levels have remained stagnant for years, Mfume said.

"They've been overburdened and overtaxed, and one has to wonder whether that was part of some larger conspiracy to slow down the agency," Mfume said. "It's clear that the agency ought to not only be empowered by the law, but it ought to have the resources to deal with what we expect them to deal with."

**CASELLAS SAID HE'S** especially frustrated by members of Congress attacking his agency as regulators run amok, inhibiting free enterprise. Meanwhile, Republican leaders are trying to strip affirmative action programs that combat discrimination, saying they're no longer necessary now that the country has evolved into a true "colorblind society."

Cases of alleged racial discrimination account for 34 percent, the vast majority, of the complaints the EEOC investigates, followed by discrimination because of gender and age, Casellas said.

Sexual harassment cases also have shot up 150 percent over the past four years.

"It's amazing to me that members of Congress don't understand what this agency does," Casellas said. "They think I sit here all day doing profiles for companies, saying, 'Oh, here's a company that doesn't have enough blacks! Let's go sue them.'"

Most EEOC investigations are initiated when an employee files a complaint, he said.

The latest congressional burrue against the EEOC has come courtesy of Hooters, Casellas said.

The restaurant chain, and franchise owners, have enlisted their congressmen to blast the agency for over-regulation.

The agency has also been overwhelmed by thousands of complaints, some of them frivolous, that have

“  
I feel what this agency does is important, that there's nothing more patriotic or fundamentally American than opportunity and justice.”

GILBERT CASELLAS

**U.S. Equal Employment Opportunity Commission  
Office of Communications and Legislative Affairs  
1801 L Street, NW, Room 9024  
Washington, DC 20507  
FAX # (202) 663-4912**

**FAX TRANSMITTAL FORM**

DATE: 3-13-95 TIME: \_\_\_\_\_

TO : Steve Warnath

FAX TELEPHONE NUMBER: 202 456-7028

SENDER: Melody Barnes

**CHECK ONE:**

OCLA  
(202) 663-4900

SURVEYS  
(202) 663 - \_\_\_\_\_

OPO  
(202) 663- \_\_\_\_\_

OM  
(202) 663- \_\_\_\_\_

OGC  
(202) 663 - \_\_\_\_\_

OLC  
(202) 663- \_\_\_\_\_

OSEO  
(202) 663- \_\_\_\_\_

DOCUMENT: Press Release

NUMBER OF PAGES TRANSMITTED (INCLUDING COVER): 3

SPECIAL INSTRUCTIONS: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Please telephone the appropriate office above if you do not receive all documents.

**U.S. Equal Employment Opportunity Commission****NEWS**

FOR IMMEDIATE RELEASE  
Friday, March 10, 1995

CONTACT: Claire Gonzalés  
Reginald Welch  
(202) 663-4900  
TDD: (202) 663-4494

**COMMISSION TO FOCUS ON NATIONAL ORIGIN  
DISCRIMINATION AT NEXT MEETING**

WASHINGTON -- In the first of a series of Commission meetings that will focus on specific types of unlawful employment discrimination, the U.S. Equal Employment Opportunity Commission (EEOC) will consider the issue of national origin discrimination, including immigration-related unfair employment practices.

Topics to be discussed include the national origin anti-discrimination provisions of both Title VII of Civil Rights Act of 1964, as amended, and the Immigration Reform and Control Act of 1986 (IRCA); language and accent discrimination, including speak-English-only rules in the workplace; and issues related to the improvement of the EEOC's service to national origin communities. The meeting will also include presentations from representatives of invited affected communities.

The public is invited to attend the open session of the meeting to be held on Tuesday, March 14, at 2 p.m. in the Clarence M. Mitchell, Jr. Conference Room (9th Floor), 1801 L Street N.W., to hear the following presentations on the topic of national origin discrimination and EEOC's enforcement responsibilities in that area:

- Opening statements by EEOC Chairman Gilbert F. Casellas and Vice Chairman Paul Igasaki.
- Edward Chen, Staff Counsel for the San Francisco Office of the American Civil Liberties Union (ACLU), a legal expert in the area of language and accent discrimination, including speak-English-only rules in the workplace. Mr. Chen was lead counsel in the case *Garcia et al v. Spun Steak Co.*

-- more --

**EEOC NATIONAL ORIGIN RELEASE -- PAGE 2**

- Kenneth Kirmerling, Associate Counsel for the Puerto Rican Legal Defense and Education Fund (PRLDEF), a leading authority on national origin discrimination in employment.
- Also expected is a presentation on the interplay between national origin and immigration related discrimination in the employment context (speaker to be announced).

Chairman Gilbert F. Casellas intends to hold a series of Commission meetings that will focus on each of the specific bases of discrimination for which EEOC has enforcement responsibility, including race, gender, religion, age, and discrimination against persons with disabilities.

"I believe it is time to review the many issues surrounding each type of discrimination for which the EEOC has enforcement responsibility," Casellas said in announcing his plan. "Given the raging debate over affirmative action and civil rights generally, it is the Commission's duty to provide a forum for the discussion of the current needs of and continuing discrimination faced by the various affected communities."

A closed session is scheduled to immediately follow the open session of the Commission meeting. During this session, the Commission will deliberate on recommendations by the agency's Office of General Counsel on whether Commissioners should authorize litigation against alleged violators of Commission-enforced statutes.

**NOTE TO MEDIA:** The Commission agenda is subject to revision. You may call (202) 663-7100 (voice) or (202) 663-4494 (TDD) on March 14 to confirm the above schedule.

In addition to enforcing Title VII, which prohibits employment discrimination based on race, color, religion, sex, or national origin, EEOC enforces the Age Discrimination in Employment Act; the Equal Pay Act; the Americans with Disabilities Act, which prohibits discrimination against people with disabilities in the private sector and state and local governments; prohibitions against discrimination affecting individuals with disabilities in the federal government; and sections of the Civil Rights Act of 1991.

###

**Special Meeting of the EEOC to Consider  
Recommendations of the  
Charge Processing Task Force**

**Task Force Recommendations to be  
Implemented by  
Chairman Gilbert F. Casellas**

**Wednesday, April 19, 1995**

Based on the Commission's votes, I am prepared to begin implementation immediately, requesting the help and cooperation of all of our employees. I therefore request and direct as follows:

1. I am requesting the General Counsel and the Director of the Office of Program Operations ("OPO"), with broad consultation with internal staff and external stakeholders, to prepare a draft national enforcement plan for presentation to the Chairman by June 30, 1995.
2. I am requesting district directors and regional attorneys to prepare local enforcement plans to be submitted to the General Counsel and Director of OPO by August 1, 1995. Such plans shall include categories of cases to be prioritized and plans for resolving older charges.
3. Field offices shall immediately begin implementation of priority charge processing procedures. The Office of Program Operations shall prepare and submit to the Chairman by May 15, 1995, flexible guidance for use by field offices.
4. Under the new charge processing procedures, potential charging parties will not be discouraged from filing a charge, after being advised of EEOC's jurisdictional requirements. Charging parties will be advised that some charges may be dismissed at intake, with a notice of right to sue.
5. Charging parties and respondents shall normally be provided with access upon request to the positions of the other during the investigation. Charging parties and respondents shall be advised of this policy.

6. Directors shall begin use of non-substantive "no cause" determinations by May 15, 1995. The language of such determinations shall be prepared by the Director of OPO, in consultation with Legal Counsel, and submitted to the Chairman by May 1, 1995.

7. I am requesting that the General Counsel authorize regional attorneys to cease the process of submitting presentation memoranda in cases involving recommendations against litigation. If a district director disagrees with a recommendation against litigation by the regional attorney, the matter may be submitted to the General Counsel, who will make the final decision. I also request that regional attorneys be authorized to cease submitting presentation memoranda in cases referred to the Department of Justice. I will work with the General Counsel to advise regional attorneys by May 1, 1995 of reporting requirements respecting these cases.

8. Presentation memoranda to the Commission will no longer be required in Title VII and ADEA enforcement actions involving individual claims of disparate treatment not rising to a pattern of discrimination. I will work with the General Counsel to advise regional attorneys by May 1, 1995 of reporting requirements respecting such cases.

9. In cases in which District Offices will still be required to submit Presentation Memoranda to the General Counsel (i.e. "non-certified cases"), I am requesting that the General Counsel forward each such Presentation Memorandum to the Commission within fourteen days.

10. I am requesting the General Counsel to develop further standards for delegation of litigation authority to regional attorneys as part of the national enforcement plan.

11. I am requesting the General Counsel to delegate to regional attorneys the authority to seek temporary relief pursuant to § 706(f)(2) of Title VII, without prior approval from the General Counsel or the Commission, in cases involving individual claims of disparate treatment not rising to a pattern of discrimination, when the District Director has concluded on the basis of a preliminary investigation that prompt judicial action is necessary to carry out the purposes of the Act.

12. I recognize that in order to enhance legal unit productivity, regional attorneys must have input into basic administrative decisions such as legal unit staffing levels, computer and software needs and litigation travel budget. We will work aggressively to address these issues in order to facilitate more effective administrative processes.

13. In preparing new standards for evaluating field offices and individual employees, the labor-management partnership shall establish standards for evaluation of regional attorneys and district directors which should include measures for evaluating their collaboration and cooperation.

14. New systemic cases developed in the field offices based on individual or Commissioner charges shall not require prior approval or oversight of the investigation by OPO.

15. Directors are encouraged to increase the use of directed investigations in ADEA and EPA cases. Requests for directed Commissioner charges in Title VII and ADA cases may be submitted directly to the Commission, and if signed by a Commissioner, shall be investigated like other charges, without OPO oversight of the investigation. The Director of OPO, in consultation with Legal Counsel, shall submit to the Chairman by May 15, 1995, recommendations for implementation of a directed Commissioner charge procedure.

16. I am requesting the General Counsel and the Director of OPO to consider establishing pilot enforcement units, which will include attorneys and investigators.

17. I am requesting the General Counsel and the Director of OPO, with input from Legal Counsel and field staff, to prepare and submit to the Chairman by August 15, 1995, plans for training of the Commission's legal and enforcement staff, including training for effective implementation of the national and local enforcement plans.

18. OPO is encouraged to share information pertaining to EEOC and FEPA charge processing maintained in Headquarters with field offices as requested. The Director of OPO shall submit to the Chairman by May 15, 1995 proposals for implementing this policy.

19. The Office of Communications and Legislative Affairs shall submit to the Chairman a proposal for responding to inquiries concerning the new procedures announced today and for responding to complaints about prioritization of charges in particular cases.

# Appointments Dithering

WF 6/14/94

**P**RESIDENT Clinton's term is one-third over, and only now is he said to have settled on a nominee to head the Equal Employment Opportunity Commission. It's ridiculous and worse—itself a major loss of opportunity—for such an important civil rights post to go so long unfilled. It's also a caricature of equal employment opportunity policy as practiced by this administration that the vacancy has been allowed to occur.

For chairman of an agency that regularly—and rightly—counsels U.S. employers not to base employment decisions on such factors as ethnicity, the White House has reportedly been seeking not just a competent figure of reasonable stature and philosophy but one who was Hispanic, and not just Hispanic, either: the objective was a nominee of Puerto Rican descent. Every administration tries to achieve a certain balance in appointments while rewarding its friends. The Clinton people have taken this old-fashioned practice out to the third decimal point. Worse yet, they agonize about it in public. In the process, they come perilously close to institutionalizing some of the very distinctions as to ethnicity, race, gender and all the rest that their appointments are meant to overcome.

The choice, finally, for EEOC chairman is said to be Gilbert F. Casellas, who already holds an appointment from Mr. Clinton as general counsel of the Air Force. We have no quarrel with Mr. Casellas, who for all we know will turn out to be an outstanding chairman of the EEOC. Nor do we object to a president's trying to accommodate supportive interest groups in the parceling out of

jobs. What else are jobs for, you might ask? But why, in this administration, does it have to be such a protracted and exquisite process? Why can't this president just *do* it, like the rest, instead of making such a production of it?

The EEOC has a hard job. Employment is a principal civil rights battleground. The law with regard to equal employment opportunity is unsettled in several important respects, and much fought over: witness the fight in the Bush administration to pass the civil rights act of 1990, which had entirely to do with equal employment opportunity law. You would think this would be an area over which the Clinton administration would want to assert clear and early control, and the more so because of its failure early on to fill the other important enforcement job of assistant attorney general for civil rights. The White House has dithered instead. Yes, there was a tug-of-war within the civil rights community as to who should get the job. Struggles like that go on all the time, and not just in civil rights. Presidents are meant to resolve them.

If Mr. Casellas indeed is nominated, about the best the administration can hope for is to have him confirmed by fall, when Congress will adjourn. By then the president's term will be about half over. It will be more than half over by the time a new nominee, Mr. Casellas or not, learns the ropes and begins to function in the job. That's an awfully high price to pay for incompetence in the appointments process, and incompetence is what this one is all about.