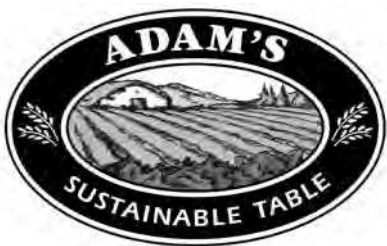


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news BY JOSEPH A. LIEBERMAN

Weather or Not?

Age discrimination gets harder to prove

You don't need a weatherman to know which way the wind blows," Bob Dylan famously wrote in his "Subterranean Homesick Blues" four decades ago. Dylan's lyrics inadvertently christened a budding late-'60s and '70s radical organization (the Weathermen, later known as the Weather Underground), but these days his musical phrasing could equally apply to our current economic downturn and its effects upon the job market.

Nowhere has this recession been felt more painfully than among more mature employees whose experience, favorable status and high salaries have turned them into prime cuts for corporate down-sizers, both nationally and locally.

Seasoned media personalities seem to be suffering this fate disproportionately to others. While the broadcast industry has always tended to cultivate a youth market and judge by appearances, the trend toward hiring ever younger (and less costly) talking heads has accelerated, driven by the weight of falling revenues and the resultant pressure to slash budgets.

Weatherman Tim Chuey, formerly chief meteorologist at KVAL News, got word in January that his TV station was "going in a different direction," a broad corporate euphemism for "you're a luxury we can no longer afford," although such an expression was obviously never uttered nor even hinted at.

In point of fact, however, Chuey says he was not given any opportunity to negotiate a pay cut, no criticism of his work was ever communicated, he wasn't consulted in any way prior to being laid off, and no grace at all was conveyed in the manner of his dismissal. When the axe fell, it came totally out of the blue, which even this veteran forecaster could not have predicted.

"Never once," says Chuey, "have I ever heard of any media outlet adding 'we're sorry' or any other expression of empathy to their sudden, frosty terminations. They will go to any length to save face, to avoid any small human consideration that might later be translated as an admission of guilt in a job discrimination suit against them."

Thanks to a 5-4 Supreme Court ruling passed down on June 18, that corporate ability to summarily dismiss their "oldies but goodies" has just gotten a lot easier. In the case of Gross v. FBL Financial Services, Inc., a majority of justices ruled that the plaintiff must now produce solid and compelling evidence that age was a motivating factor in the decision to terminate services. This act undercuts years of former protections under the federal Age Discrimination in Employment Act.



Hofstra University law professor Joanna Grossman, writing on the FindLaw website (writ.news.findlaw.com/grossman/20090625.html), opines that, "the majority made a major error, and the dissent was far more persuasive: If an employer takes a prohibited characteristic (age, race, gender) into account, then it commits illegal discrimination, for which there ought to be a legal remedy."

Chuey reacted to this flawed legislation, saying, "This makes the situation even worse than I thought. It looks like they've made it nearly impossible to prove age discrimination. But I'm not surprised. For years, the powers-that-be have found many loopholes and ways to avoid accusations of wrongdoing. This Supreme Court ruling simply legitimizes the excuse-making."

There are moves under way now to embolden Congress to override the court's decision, something that all citizens can encourage through letters and calls to their representatives.

With Chuey's 37 years experience on television and a period before that as a radio DJ, one might assume he would be greeted with open arms at other stations either here or further afield. "That's just not in the cards," he says. "No one is hiring gray hair for TV."

Instead, he is going to try flying solo as a weather consultant, catering to businesses with a strong dependency on immediate and accurate meteorological forecasts, such as roofers and construction firms. His ambition is to make this into a kind of cooperative, community-wide service, adding links on his just-built website www.TimChueyWeather4U.com to local gardening, organic agriculture and outdoor activities organizations that are influenced by weather conditions.

Whether or not he succeeds may depend upon which way the economic winds are blowing next fall, about the time when the generally dry, sunny skies of summer start rethinking their autumn options. Anyone wanting to participate in Chuey's project should contact him via his website or at Chuey@teleport.com **ew**

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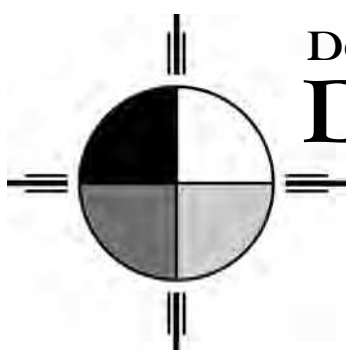


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