

# Hackensack discrimination lawyer never lacks for work

by JOAN VERDON

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STAFF WRITER

When he started handling employment-discrimination cases more than 30 years ago, attorney Bruce Atkins worried that he was developing a specialty that one day could become obsolete. Once companies learned they could be penalized for discriminating on the basis of gender, age or race, surely they would stop doing it, he thought. Now, he says, he doesn't worry about employment cases drying up. "I think it's almost impossible to eradicate totally," said Atkins, founding partner of Deutsch Atkins in [Hackensack](#). "Corporations are made up of people," he said, and "people have built-in biases."



TYSON TRISH/STAFF PHOTOGRAPHER

'Corporate stupidity keeps me in business,' says Bruce Atkins, who has been representing workers for 30 years.

Atkins, 59, of [Woodcliff Lake](#), won a record \$6.5 million judgment in 1996 for a female commercial real estate broker who was denied commissions and fired after hitting the so-called glass ceiling after years in the industry. He spoke with The Record on the day the Supreme Court began hearing oral arguments in what could become the most important employment class-action case in history - the lawsuit accusing Wal-Mart Stores Inc. of discriminating against its female employees. (Interview condensed for space.)

**Q. The Wal-Mart discrimination case went before the Supreme Court last week. Are employment litigators watching it avidly? Is it like the Super Bowl for you?**

Yes and no. We don't do a large amount of class actions, so it affects us less than firms that specialize in large class actions. We have been involved in some class actions over the years. We were recently involved with one against

Home Depot. That class got decertified on the same theory that's in front of the Supreme Court with Wal-Mart - that there were too many diversified employees doing different things.

**Q. If Supreme Court decertifies the Wal-Mart class action, will it be a death blow for class actions?**

If they decertify it, it depends on how they decertify it. If they do a very broad-brush type of opinion, yes. It depends on how they parse it. The wording in Supreme Court decisions becomes all important. They could say "in this particular case, with this particular set of facts, with this particular diverse group," and limit the effect of the opinion. Or they could just say "when you have this many people in this many locations, you can't have a class action." That would be more general in nature. The big issue in that case is the issue of individuals, who may have, as part of a larger group, been discriminated as a class, and who can't afford to bring an individual suit.

## **Q. Do you mostly handle employment cases involving executives?**

The emphasis of the practice is on executive level, but we don't only handle executive-level cases. We've represented receptionists who have had sexual-harassment actions. We've handled laborers with wage-and-hour claims.

Bruce Atkins

*Founding partner, Deutsch Atkins, P.C.*

**His business:** He specializes in employment law, with an emphasis on discrimination cases. His firm has won millions of dollars in severance packages, settlements and jury verdicts and won decisions that have affected discrimination and employment law in New Jersey. The firm also handles commercial litigation cases for individual and corporate clients, including shareholder, partnership and commission disputes, and restrictive covenant agreements.

**His background:** The Emerson native earned a Bachelor of Arts degree from the University of Connecticut and he graduated from Seton Hall School of Law in 1977. He has published many articles on employment law and has appeared on Court TV as a guest commentator. Atkins has several major reported cases in the Supreme Court of New Jersey and in the Appellate Division. He is a member of the state and national chapters of the American Association for Justice and the National Employment Lawyers Association.

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What has become popular now are the wage-and-hour actions, where you claim somebody's an exempt employee and shouldn't be paid overtime, and it turns out under the rules they should be paid overtime. Other growing areas are disability discrimination and family leave act violations, both federal and state.

## **Q. What should an employee do to document a discrimination claim?**

I always tell people e-mail works both ways. You don't need an e-mail from the supervisor who just spoke to you. You can confirm your conversation with the supervisor by e-mail. If you have a conversation with your supervisor and your supervisor says, "You lazy bitch. Get your ass back to your desk or I'm going to fire you," you can write "Thank you for calling me a lazy bitch." It's amazing to me how employees don't realize they can do that. But we don't often get the luxury of advising people while they're still employed. They come to us afterward.

## **Q. For those types of cases, do you get paid after the case is resolved? Could a receptionist afford to pay upfront?**

We have a number of different fee arrangements. It's rare we do a pure contingency. We usually do a modified form of contingency where the client has to put some money up. These are very expensive litigations to run. They're very labor-intensive. Consequently, in order to be able to function from a business model we need some seed money to pay the staff, to pay the rent, to keep the lights on.

## **Q. When was the heyday of discrimination cases?**

It's still the heyday. I say it all the time. Corporate stupidity keeps me in business.

## **Q. Have the early discrimination lawsuits changed corporate culture?**

They have changed it in a lot of companies, but not all. Let's face it - human are humans, and there are people who still carry their own personal biases, and some of those people get into positions of making decisions. You can never totally eradicate it; there's always going to be someone who does something silly somewhere.

## **Q. Are you seeing new kinds of employment suits? Cyberbullying in the workplace?**

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**Q. Who's your dream juror in an employment case?**

What you want to see are good family people, people who work, people who care about working and family, because they will understand how devastating it can be when work is taken away. There is a real human effect to losing a job. It's not just economics.

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