



Justices Rebuke the EEOC

By Robin Salisian

On Tuesday, the Equal Employment Opportunity Commission received a rebuke from Supreme Court justices for how it handles its cases.



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The EEOC collects complaints, alerts concerned employers of problems, tries to mend disputes, and, if all else fails, helps make

way for lawsuits. However, when FedEx employee Patricia Kennedy, who filed a lawsuit with the EEOC, failed to complete a form in a timely manner, the anti-discrimination law enforcing agency threw it out. The worker was never notified, and FedEx was never told of the complaint.

"My main concern in this case, however the decision comes out, is to do something that will require the EEOC to get its act in order, because this is nonsense," said Justice Antonin Scalia to an EEOC Justice Department lawyer.

Assistant U.S. Solicitor General Toby Heytens said, however, that the EEOC "is aware of some problems and that its policy is clearer today than when Kennedy and 13 other current and former FedEx couriers sued for age bias in 2002," according to an [article](#) on [USATODAY.com](#).

But according to Scalia, "this whole situation can be traceable back to the agency, and, whoever ends up bearing the burden of it, it's the agency's fault, and this scheme has to be revised."

Justice Ruth Bader Ginsburg also told FedEx lawyer Connie Lensing that, had the EEOC notified Kennedy of the filing issue and thereby placed responsibility on Kennedy to tell FedEx, "you would have a much stronger argument, but [federal law] places that burden on the EEOC."

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