



Overweight, but Ready to Fight; Obese People Are Taking Their Bias Claims to Court

By STEVEN GREENHOUSE
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When Joseph Connor was offered a job as a cook at a McDonald's here, he finally seemed to have found a way to help support his five children. But along came a snag.

The McDonald's manager told Mr. Connor, who is 6-foot-1 and weighs nearly 420 pounds, that he could start work as soon as his specially ordered uniform arrived. He waited days, then weeks, then months.

The restaurant chain says his uniform never arrived and his job never started because the franchise had changed hands. But in Mr. Connor's view, there could be only one reason: the restaurant's managers had concluded he was too fat to work there.

"I felt hurt," he said, adding, "They kept saying the uniform hasn't come in yet. You can't be doing this to people."

So Mr. Connor sued last year, and his claim that McDonald's illegally discriminated against him for being obese has put him at the forefront of a growing number of overweight people who have brought lawsuits charging that employers have wrongly refused to hire them.

Twenty-seven percent of Americans are obese, and that percentage is climbing, a statistic that shows up in the news day after day, often coupled with criticism of fast-food purveyors like McDonald's. But legal experts say that despite the surge in the overweight population, the law offers few protections against discrimination based on weight.

While the nation's fair-employment laws bar discrimination based on race, religion, color, sex or age, those laws generally do not prohibit employers from discriminating based on physical appearance, whether it is the color of one's hair or the circumference of one's waist. Some advocates for the overweight say this discrimination has grown even worse as more employers focus on hiring good-looking people.

Many overweight Americans are turning for help to the Americans With Disabilities Act, but they are using it in two different, seemingly contradictory, ways. Some claim that their employers should not discriminate against them because they are disabled. Others, using an argument that has had more success in the courts, insist that they are not disabled, and that employers unfairly assumed they could not do the job.

"You're making a determination of people's capability and their health based on how they look, and that's not fair," said Jeanette DePatie, spokeswoman for the National Association to Advance Fat Acceptance. "Discrimination against fat people is bad for everybody because employers leave out some very talented and wonderful people."

In addition to the lawsuits, advocates for the obese are lobbying to enact laws -- like those in Michigan, Washington, San Francisco and Santa Cruz, Calif. -- that bar employment discrimination based on physical appearance.

Mr. Connor has invoked the Americans With Disabilities Act to assert that McDonald's illegally discriminated against him by concluding that he was so fat that he was too disabled to work.

"They didn't think he could be a cook," said Mr. Connor's lawyer, Gary Phelan, adding that his client had worked as a cook for six years. "If they thought otherwise, they wouldn't have contacted this store that they ordered his pants and his pants didn't come in. The

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