

# New Jersey Attorney Hanan M. Isaacs Set to Try Nationally Significant Employment Discrimination Case Against the Federal Aviation Administration: “It’s like déjà vu all over again.”

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## NEWS-For Immediate Release

**Kingston, NJ (September 23)** - New Jersey attorney Hanan M. Isaacs is set to try a nationally significant “affirmative discrimination” case before the Equal Employment Opportunity Commission, sitting in Fort Worth, Texas. The case, Dennis Pratt v. Ray H. LaHood, Secretary, U.S. Department of Transportation, charges that the Federal Aviation Administration (FAA) repeatedly passed Mr. Pratt over for promotion because he was male. “The FAA has pitted its unlawful Affirmative Discrimination program against merit selection principles,” said Isaacs. “This makes no sense in a federal safety agency regulating civilian air traffic. The FAA may not put unproven gender equality claims ahead of safety.”

In 2004, Isaacs settled a similar case with the FAA and its parent agency, the U.S. Department of Transportation. That case was Ryan v. Mineta. Isaacs resolved Mr. Ryan’s case after 22 trial days before the Chief Judge of the Federal District of New Jersey, John W. Bissell, and following 10 years of administrative hearings and litigation. In Ryan, the FAA pledged to stop using race, gender, and ethnicity as selection criteria in hiring and promotions. That change affected 50,000 FAA workers. “Sadly,” said Isaacs, “they have not kept their word. As Yogi Berra famously declared, ‘It’s like déjà vu all over again.’”

Following Mr. Ryan's settlement, the United States Department of Justice (DOJ) settled a class-action lawsuit for \$11.5 million with 500 white males who cited unlawful affirmative action plans as the reason they were not chosen for high-profile jobs within the DOJ. Isaacs is concerned that Mr. Pratt's discrimination case may reflect a renewed national trend in federal employment discrimination in which employees are selected based on race, gender, and ethnic criteria rather than merit. “Federal employment policy must emphasize merit selection over misguided social engineering,” said Isaacs. “That is what the U.S. Constitution and Title VII require.”

According to Isaacs, “The FAA committed itself in 2004 to an Agency-wide policy change that would bring it into compliance with the U.S. Supreme Court's Adarand decision. The Supreme Court prohibits federal agencies from using general civilian labor force data to allege ‘underrepresentation’ of minorities and women in jobs requiring specialized skills.” Mr. Pratt charges that the FAA has continued such “underrepresentation” claims to support affirmative discrimination policies, thereby violating his constitutional and Title VII rights.

Mr. Pratt’s civil rights case claims that FAA Managers receive career incentives to meet generalized promotion goals, and are held accountable for ignoring race, gender, and ethnicity in hiring and promotions. Mr. Pratt’s action seeks to have those policies declared void as a matter of federal statutory law.

Mr. Pratt has devoted 25 years of public service as a radar technician and manager for the U.S. Air Force, the U.S. Weather Service, and the FAA. He is an honorably discharged veteran. He has received numerous merit awards and promotions, and is seen by his colleagues and peers as an expert in his field. According to Isaacs, "Dennis was the best qualified candidate for two supervisory promotions, yet the FAA selected two women over him – for social policy reasons unrelated to merit selection." Added Isaacs, "The FAA says it wants to 'Look like America', even though it pledged in 2004 to hire and promote strictly on the basis of merit. That policy reversal is just plain wrong."

Said Mr. Pratt, "In 2012, I was non-selected for a supervisory position at the Dallas Love facility, and for a Dallas-Forth Worth supervisory position, even though I was the most qualified, knowledgeable, and experienced candidate." Mr. Pratt claims that he has been harmed by lack of promotion, lack of increase in salary and benefits, lack of service compensation, and incurring of attorney's fees and costs. Mr. Pratt is seeking compensatory damages, counsel fees, and injunctive relief against the FAA for future violations of federal law.

According to Mr. Pratt's complaint, the FAA has no history of discriminatory hiring and promotion. Thus, the FAA has no compelling interest in its remedial program, a condition established by the U.S. Supreme Court's 1995 leading decision on point, Adarand Constructors v. Peña. Adarand, also filed against the U.S. Department of Transportation, challenged mandatory minority set-asides in federal contracting. In Michael Ryan's case, trial testimony showed that the FAA relied on manipulated statistics to create a false basis for affirmative discrimination. Mr. Pratt claims that the Agency's reliance on manipulated data continues to this day.

### **About Hanan M. Isaacs**

Hanan M. Isaacs is a mediator, arbitrator, and trial lawyer with offices in Kingston, New Jersey. Mr. Isaacs is a member of the National Employment Lawyers Association and is Secretary of its New Jersey affiliate. A Past President of the NJ Association of Professional Mediators and Past Chairman of the Dispute Resolution Section of the NJ State Bar, Mr. Isaacs served on the New Jersey Supreme Court's Complementary Dispute Resolution Committee and is a Master of the Justice Marie L. Garibaldi American ADR Inn of Court. Recognized by the NJ State Bar Association as a "Legend of ADR", "ADR Practitioner of the Year" and "General Practitioner of the Year", Mr. Isaacs is a frequent journal author, multi-media contributor, and public speaker. He is a former Adjunct Professor at Seton Hall Law School and Rider University. For more information about Mr. Isaacs and his law firm, go to <http://www.hananisaacs.com>.