

Refusal To Exempt Employee From “Mark Of The Beast” Hand Scanner Proves Damning For Company

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This week the Equal Employment Opportunity Commission (EEOC) scored a victory on behalf of a man who claimed that his former employer failed to accommodate his religious beliefs. Beverly Butcher, an Evangelical Christian who had worked at a mine operated by Consolidation Coal Co. for 35 years, feared that a biometric hand scanner used to clock employees in and out of work was really a mechanism that affixed upon its users the “Mark of the Beast,” as described in the Biblical Revelations. Butcher, who genuinely believed in the prophecy, requested that he be allowed to clock in and out through other means. Butcher’s employer, however, denied the request, resulting in Butcher retiring and filing a constructive discharge lawsuit. At trial, the jury agreed that Title VII required Butcher’s employer to exempt Butcher from the hand scanner, and the company’s failure to do so amounted to a constructive discharge. The jury awarded Butcher \$150,000 in compensatory damages and \$436,860.74 in front and back pay. The company moved for judgment as a matter of law, arguing that no reasonable jury could have found in Butcher’s favor. The federal district court, sitting in the Northern District of West Virginia, denied the company’s motion. The court pointed to Butcher’s testimony in which he stated his belief that by scanning his hand he was pledging allegiance to the Antichrist, and thus eternally damning his soul. This, the court said, more than sufficed to trigger Title VII’s protections. The court also found that the company could have accommodated Butcher by providing him alternative means to clock in and out. As the court noted, the company had previously accommodated disabled employees who could not use the scanner. Finally, in response to the company’s argument that Butcher’s decision to voluntarily retire was fatal to his claim, the court noted that the wholesale denial of a reasonable accommodation could meet the requirements for constructive discharge in some circumstances. As a result, the court affirmed the jury’s verdict. The case is *U.S. EEOC v. Consol Energy, Inc.*, Case No. 1:13-cv-00215. You can see prior commentary on this matter [here](#).

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