

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF RAMSEY

SECOND JUDICIAL DISTRICT

FILE NO.C4-04-012239

Clifford L. Whitaker, and Michael V. Mucci on behalf
Of themselves and all others similarly situated,

Plaintiffs

v.

ORDER

3M Company,

Defendant.

This matter came on for hearing before the undersigned, a Judge of District Court, on November 7, 2007, on Defendant's Motion for Summary Judgment on Plaintiffs' Disparate Impact Claims. Michael Lieder, Esq. appeared on behalf of the Plaintiffs. Paul B. Klaas, Esq. appeared on behalf of the Defendant.

Based upon the arguments of counsel, and upon all of the files, records, and proceedings herein, and pursuant to Minn. R. Civ. P 56.04, **IT IS ORDERED:**

That the Defendant's motion for summary judgment on Plaintiffs' disparate impact claims is **DENIED**.

Dated:

12/10/07

By the Court:



Gregg E. Johnson
District Court Judge

A. SUMMARY JUDGMENT STANDARD

Summary judgment is proper when no genuine issue as to any material fact exists and either party is entitled to judgment as a matter of law. Minn. R. Civ. P. 56.03; *O'Malley v. Ulland Bros.*, 549 N.W.2d 889, 892 (Minn. 1996); *Fabio v. Bellomo*, 504 N.W.2d 758, 761 (Minn. 1993). "A fact is material if its resolution will affect the outcome of the case." *O'Malley*, 549 N.W.2d at 892. "When a motion for summary judgment is made and supported, the nonmoving party must 'present specific facts showing that there is a genuine issue for trial.'" *DLH, Inc. v. Russ*, 566 N.W.2d 60, 69 (Minn. 1997) (quoting Minn. R. Civ. P/ 56.05). On summary judgment motion, the court must view the evidence in the light most favorable to the non-moving party. *Henderson v. Ford Motor Co.*, 403 F.3d 1026, 1032 (8th Cir. 2005); *Grondahl v. Bullock*, 318 N.W.2d 240, 242 (Minn. 1982).

1. Genuine issues of material fact exist as to the following issues:
 - a) Whether 3M's "high potential" ratings had a disparate impact on Plaintiffs and members of the proposed class.
 - b) Whether the restriction of leadership training to persons rated "high potential" had a disparate

impact on Plaintiffs and members of the proposed class.

c) Whether the selection process for Black Belt and Master Black Belt employees had a disparate impact on Plaintiffs and members of the proposed class.

d) Whether the preference for Black Belt and Master Black Belt experience for job promotions had a disparate impact on Plaintiffs and members of the proposed class.

e) Whether the restriction of the Pre-Managerial Assessment Program to employees with fewer than five years of experience had a disparate impact on Plaintiffs and members of the proposed class.

f) Whether 3M engaged in each of the above practices during at least part of the time period from May 10, 2003 to present.