

Letter to the Editor

MOTOROLA COUNSEL COMMENTS

Dear Sir:

In your *Journal* February 1973 issue, you printed therein an article "Synthetic Validity: A Means of Meeting EEOC Test Validation Requirements?" by Lee R. Hess. Therein Mr. Hess cited two court decisions, namely, *Myart v. Motorola* and *Griggs v. Duke Power*. He stated that these court decisions have uncovered two practices which the EEOC is determined to stop. He stated that the *Myart v. Motorola* case indicated that black employees were required to pass tests in order to advance to positions that their Caucasian counterparts had achieved without testing.

Since the inception of the *Myart* case, I appeared as counsel for Motorola, Inc., from the initial stage to the ultimate decision by the Illinois State Supreme Court. The statement that Mr. Hess made in regard to the *Myart* case is completely erroneous, and deceptively misleading. I should like to call his, and your attention, to the decision of the Illinois State Supreme Court in *Motorola, Inc. vs. Illinois Fair Employment Practices Commission*, 34 Ill. 2d. 266, 215 N.E. 2d. 286 and suggest that you both read it in its entirety. The Court held in this case that *Myart* applied for employment at Motorola, Inc. in 1963 and took a pre-employment test and was not hired. *Myart* subsequently filed a charge with the Fair Employment Practices Commission, alleging that he did pass the test, and the reason he was not

hired was because he was black, and that Motorola discriminated against blacks. The Court further held that the preponderance of the evidence rested with Motorola; that *Myart* had not come forth with any evidence that he had passed the test, and the Court decided the case in favor of Motorola, Inc. No where in the Court's decision does it allude to the validity or invalidity of pre-employment tests used by Motorola, Inc., nor does it state that the black employees were required to pass tests in order to advance to positions that their Caucasian counterparts had achieved without testing.

I suggest strongly that Mr. Hess and yourself contact Dr. Phil Shurrager, Head of the Psychology Department, Illinois Institute of Technology, to learn about Motorola, Inc.'s pre-employment testing, which Dr. Shurrager developed, and has been in charge of since 1960. Motorola, Inc.'s pre-employment testing has been held valid by the Equal Employment Opportunity Commission, and by the Office of Federal Contract Compliance, United States Department of Labor.

I wish you would print this letter so that anyone who read Mr. Hess' article and had been misled by the same, may now know the (sic) true facts of the case.

Very truly yours,

R. V. NYSTROM
Attorney
Chicago