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EEOC v. MCCREA Equipment Company, Inc.

Judge Roger W. Titus

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EEOC v. MCCREA Equipment Company, Inc.

Keywords

EEOC, MCCREA Equipment Company, Inc., 06-cv-02565-RWT, Consent Decree, Disparate Treatment, Hostile Work Environment, Retaliation, Constructive Discharge, Sexual Harassment, Sex, Female, Race, Construction, Employment Law, Title VII

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
SOUTHERN DIVISION

FILED _____ ENTERED _____
LODGED _____ RECEIVED _____

JUL 30 2007

AT GREENBELT
CLERK U.S. DISTRICT COURT
DISTRICT OF MARYLAND DEPUTY

UNITED STATES)
EQUAL EMPLOYMENT OPPORTUNITY)
COMMISSION,)
)
Plaintiff,)
)
v.)
)
MCCREA EQUIPMENT COMPANY,)
INC.)
Defendant.)
_____)

Civil Action No. 8:06-cv-02565-RWT

CONSENT DECREE

This action was instituted by Plaintiff, the U.S. Equal Employment Opportunity Commission (the "EEOC" or the "Commission"), against Defendant McCrea Equipment Company, Inc., ("Defendant" or "McCrea") alleging violations of Sections 703(a) and 704(a) of Title VII of the Civil Rights Act of 1964 ("Title VII"), as amended, 42 U.S.C. §§ 2000e-2(a), 2000e-3(a). The Complaint alleges that Defendant subjected Anna Hernandez, Shana Austin, and other similarly situated females to a sexually hostile work environment, and that it also subjected Ms. Austin to a racially hostile work environment. The Complaint further alleges that Defendant retaliated against Ms. Hernandez and Ms. Austin by creating intolerable working conditions that resulted in their constructive discharge. Defendant denies these allegations.

The Commission and Defendant desire to resolve this action without the time and expense of continued litigation, and they desire to formulate a plan to be embodied in a Decree which will promote and effectuate the purposes of Title VII.

This Decree shall not constitute an adjudication on the merits of the Commission's case

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7-27-07

and shall not be construed as an admission by Defendant of any discriminatory practice or of liability with respect to Ms. Hernandez, Ms. Austin, or any similarly situated individual. Nor shall it constitute a waiver by the Commission of any contentions of discrimination.

The Court has examined this Decree and finds that it is reasonable and just and in accordance with the Federal Rules of Civil Procedure and Title VII. Therefore, upon due consideration of the record herein, it is ORDERED, ADJUDGED AND DECREED:

1. This Decree resolves all issues and claims alleged in the Complaint filed by the Commission in this Title VII action which emanated from the Charges of Discrimination filed by Anna Hernandez and Shana Austin.

2. This Decree shall be in effect for a period of two years from the date it is entered by the Court.

3. Defendant, its officers, servants, employees, successors, and assigns, are hereby enjoined from engaging in the sex-based or race-based harassment of any employee, and from condoning the sex-based or race-based harassment of any employee. The prohibited harassment includes the use of offensive or derogatory comments, or other verbal or physical conduct based on an individual's sex or race, which creates an intimidating, hostile, or offensive working environment, or interferes with the individual's work performance. Such harassment violates Title VII, which, in part, is set forth below:

It shall be an unlawful employment practice for an employer --
(1) ... to discriminate against any individual with respect to [his or her] ... terms, conditions, or privileges of employment, because of such individual's race [or] sex

42 U.S.C. § 2000e-2(a)(1). Defendant, its officers, servants, employees, successors, and assigns, are further enjoined from retaliating against any employee who complains of sexual or racial

harassment, as set forth in the following provision:

It shall be an unlawful employment practice for an employer to discriminate against any of his employees ... because he has opposed any practice made an unlawful employment practice by this subchapter, or because he has made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this subchapter.

42 U.S.C. § 2000e-3(a).

4. Within thirty days after entry of this Decree, Defendant or a third party on its behalf will pay Shana Austin a total of \$70,000 in alleged compensatory damages. Form 1099s may be issued to Ms. Austin for the 2007 tax year.

5. Within thirty days after entry of this Decree, Defendant or a third party on its behalf will pay Anna Hernandez a total of \$40,000 in alleged compensatory damages. Form 1099s may be issued to Ms. Hernandez for the 2007 tax year.

6. Within sixty days after the entry of this Decree, Defendant will begin mandatory training of all of its employees on preventing sexual harassment and racial harassment in the workplace. The training program will be two hours for managerial employees and one hour for all other employees, and will be conducted by an external consultant or attorney. The training sessions will be completed within 180 days after the entry of this Decree. Within 10 business days after the training has been completed, Defendant will provide certification to Commission counsel of record that such training has been provided, including the date[s] and location[s] of the training, and the identities of the trainers and trainees, as well as provide certification to Commission counsel of record that the revised harassment policy described below in Paragraph 7 of this Decree has been distributed at such training.

7. Defendant shall revise its harassment policy in the following manner: by adding

harassment based on race, color, and national origin as prohibited conduct, and by providing the name, address, and telephone number of a human resources official who can serve as the recipient of harassment complaints, and who will investigate these complaints, and recommend appropriate remedial action, if appropriate. This policy, once revised and approved as discussed below, will be distributed to all employees, both managerial and non-managerial, and shall be included in any relevant policies or employee manuals maintained by Defendant. The policy will also be posted in a conspicuous and accessible place in all of Defendant's work sites.

a. Within 30 days after entry of the Consent Decree, Defendant shall submit the revised policy to the Commission's counsel of record for approval by the EEOC. The EEOC will then notify Defendants within 14 days as to whether the policy is acceptable. In the event the proposed policy is not acceptable to the EEOC, the parties will confer in good faith and attempt to reach an agreement no later than 10 days after receiving the EEOC's objection. In the event the parties are unable to reach an agreement, they shall submit their dispute to the Court with a request for a referral to a United States Magistrate for mediation.

b. Within fifteen days after the revised policy has been approved by the EEOC, Defendant will provide certification to the Commission's counsel of record that the revised policy has been posted in the manner described above.

8. Within ten business days after entry of the Consent Decree, Defendant will post immediately, in all places where notices to employees customarily are posted, the Notice attached hereto and made a part hereof. Said Notice shall be posted and maintained for the life of the Consent Decree and shall be signed by a responsible management official with the date of actual posting shown thereon. Should the Notice become defaced, marred, or otherwise made

unreadable, Defendant will ensure that new, readable copies of the Notice are posted in the same manner as heretofore specified. Within 30 days of approval of this Decree, Defendant shall forward to the EEOC's attorney of record a copy of the signed Notice attached hereto and written certification that the Notice referenced herein has been posted and a statement of the locations and date(s) of posting.

9. The Commission and Defendant shall bear their own costs and attorneys' fees.

10. The case shall be and hereby is dismissed with prejudice, subject to this Court's jurisdiction to enforce provisions of this Consent Decree.

The undersigned counsel of record hereby consent to the entry of the foregoing Consent Decree.

FOR DEFENDANT:

_____/s/_____
David Alan Rosenberg
Ford & Harrison, LLP
1300 19th Street, N.W.
Suite 700
Washington, DC 20036
(202) 719-2012

FOR PLAINTIFF:

_____/s/_____
Jacqueline McNair
Regional Attorney
(signed by Maria Morocco with permission
of Jacqueline McNair)

_____/s/_____
Debra M. Lawrence
Supervisory Trial Attorney
(signed by Maria Morocco with
permission of Debra Lawrence)

_____/s/_____
Maria Luisa Morocco
Senior Trial Attorney
EEOC Baltimore Field Office
10 S. Howard St., 3rd Floor
Baltimore, MD 21201
(410) 209-2730

SO ORDERED.

Signed and entered this 30th day of July, 2007.

A handwritten signature in black ink, appearing to read "Roger W. Titus", is written over a large, hand-drawn oval scribble.

Roger W. Titus
United States District Court Judge