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EEOC v. Matrix LLC

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EEOC v. Matrix LLC

Keywords

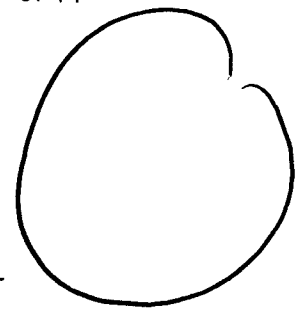
EEOC, Matrix, 2:11-cv-06:183-AB, Consent Decree, Race, black, african-american, retaliation, termination, Employment law, Title VII

AB

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

EQUAL EMPLOYMENT OPPORTUNITY)
COMMISSION,)
)
Plaintiff,)
)
)
v.)
MATRIX, L.L.C.,)
)
Defendant.)
)

CIVIL ACTION NO.
2:11-cv-06183-AB



FILED

JAN - 5 2012

MICHAEL E. KUNZ, Clerk
By JL Dep. Clerk

CONSENT DECREE

This action was instituted by Plaintiff, the U.S. Equal Employment Opportunity Commission (the "EEOC" or the "Commission"), against Defendant Matrix, LLC ("Defendant"), alleging that Defendant violated Sections 703(a) and 704(a) of Title VII of the Civil Rights Act of 1964 ("Title VII"), 42 U.S.C. Section 2000e-2(1) and 2000e-3(a), when it discharged Reginald Byrd, Clifton Packer, Earl Hudson, Derrick Jones, Calvin Church, and a class of black employees because of their race and Barbara Palermi in retaliation for her opposition to a direct instruction not to hire any additional black employees. Defendant denies these allegations in their entirety.

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

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 and being fully advised in the premises, it is ORDERED, ADJUDGED AND DECREED:

Scope of Decree

1. This Decree resolves all issues and claims which were or could have been included in the Complaint filed by the Commission in this Title VII action which emanated from the Charges of Discrimination (the "Charges") filed by Reginald Byrd, Clifton Packer, Earl Hudson, Derrick Jones, Calvin Church, and Barbara Palermi.

2. This Decree shall be in effect for a period of three years from the date it is entered by the Court. During that time, this Court shall retain jurisdiction over this matter and the parties for purposes of enforcing compliance with the Decree, including issuing such orders as may be required to effectuate the purposes of the Decree.

3. This Decree, being entered with the consent of the EEOC and Defendant, shall not constitute an adjudication or finding on the merits of the case. This Consent Decree is not and shall not be deemed an admission of fault, wrongdoing, or any improper conduct on behalf of the Defendant or any of its officers, employees or agents.

Monetary Relief

4. Defendant shall pay \$452,500 to resolve this action. The total shall be distributed as follows:

A. Charging Parties

(1) Within fifteen business days of the entry of this Decree, Defendant shall pay Charging Party Barbara Palermi monetary relief in the amount of \$25,925 in compensatory damages and \$30,000, less applicable withholdings, in back pay. The check will be sent directly to Ms. Palermi, and a photocopy of the check and related correspondence will be mailed to the EEOC, Philadelphia District Office, attention Natasha L. Abel, 801 Market Street, Suite 1300,

Philadelphia, PA 19107. Defendant will issue a United States Internal Revenue Service Form 1099 and a W-2 form for the compensatory damages amounts and back pay paid to her.

- (2) Within fifteen business days of the entry of this Decree, Defendant shall pay Charging Party Clifton Packer monetary relief in the amount of \$25,915 in compensatory damages and \$26,000, less applicable withholdings, in back pay. The check will be sent directly to Mr. Packer, and a photocopy of the check and related correspondence will be mailed to the EEOC, Philadelphia District Office, attention Natasha L. Abel, 801 Market Street, Suite 1300, Philadelphia, PA 19107. Defendant will issue a United States Internal Revenue Service Form 1099 and a W-2 form for the compensatory damages amounts and back pay paid to him.
- (3) Within fifteen business days of the entry of this Decree, Defendant shall pay Charging Party Reginald Byrd monetary relief in the amount of \$25,915 in compensatory damages and \$15,000, less applicable withholdings, in back pay. The check will be sent directly to Mr. Byrd, and a photocopy of the check and related correspondence will be mailed to the EEOC, Philadelphia District Office, attention Natasha L. Abel, 801 Market Street, Suite 1300, Philadelphia, PA 19107. Defendant will issue a United States Internal Revenue Service Form 1099 and a W-2 form for the compensatory damages amounts and back pay paid to him.
- (4) Within fifteen business days of the entry of this Decree, Defendant shall pay Charging Party Earl Hudson monetary relief in the amount of \$36,435 in

compensatory damages and \$4,480, less applicable withholdings, in back pay. The check will be sent directly to Mr. Hudson, and a photocopy of the check and related correspondence will be mailed to the EEOC, Philadelphia District Office, attention Natasha L. Abel, 801 Market Street, Suite 1300, Philadelphia, PA 19107. Defendant will issue a United States Internal Revenue Service Form 1099 and a W-2 form for the compensatory damages amounts and back pay paid to him.

(5) Within fifteen business days of the date of the entry of this Decree, Defendant shall pay Charging Party Derrick Jones monetary relief in the amount of \$33,355 in compensatory damages and \$7,560 less applicable withholdings, in back pay. The check will be sent directly to Mr. Jones, and a photocopy of the check and related correspondence will be mailed to the EEOC, Philadelphia District Office, attention Natasha L. Abel, 801 Market Street, Suite 1300, Philadelphia, PA 19107. Defendant will issue a United States Internal Revenue Service Form 1099 and a W-2 form for the compensatory damages amounts and back pay paid to him.

(6) Within fifteen business days of the date of the entry of this Decree, Defendant shall pay Charging Party Calvin Church monetary relief in the amount of \$25,915 in compensatory damages and \$15,000, less applicable withholdings, in back pay. The check will be sent directly to Mr. Church, and a photocopy of the check and related correspondence will be mailed to the EEOC, Philadelphia District Office, attention Natasha L. Abel, 801 Market Street, Suite 1300, Philadelphia, PA 19107. Defendant will issue a United

States Internal Revenue Service Form 1099 and a W-2 form for the compensatory damages amounts and back pay paid to him.

- (7) Within fifteen business days of the entry of this Decree, Defendant shall pay counsel of record for Barbara Palermi, Clifton Packer, Calvin Church, Derrick Jones, and Reginald Byrd, Timothy A. Berger, Esq., \$2,000 representing attorneys' fees. The check will be sent directly to Timothy A. Berger, Esq., Paul, Flandreau & Berger, LLP, 320 W. Front Street, Media, PA 19063, and a photocopy of the check and related correspondence will be mailed to the EEOC, Philadelphia District Office, attention Natasha L. Abel, 801 Market Street, Suite 1300, Philadelphia, PA 19107. This payment will be reported for tax purposes on United States Internal Revenue Service Forms 1099, and \$400.00 will be attributable to each of the Charging Parties listed in this Paragraph 7 for tax purposes.
- (8) Within fifteen business days of the entry of this Decree, Defendant shall pay Earl Hudson's counsel of record, Milton Savage, Esq., \$500.00 representing attorneys' fees. The check will be sent directly to Milton Savage, Esq., Law Offices, 1616 Walnut Street, Suite 814, Philadelphia, PA 19103, and a photocopy of the check and related correspondence will be mailed to the EEOC, Philadelphia District Office, attention Natasha L. Abel, 801 Market Street, Suite 1300, Philadelphia, PA 19107. This payment will be reported for tax purposes on United States Internal Revenue Service Forms 1099.

B. Eligible Claimants

(1) Within fifteen business days of the entry of this Decree, Defendant shall pay the amount of \$178,500 to "Eligible Claimants", to be distributed as follows:

(a) Eligible Claimants are defined as the following former employees of Defendant: Ethel Kalama, Artissha Sturdivant, Mattie Walker, Vernon Canty, Omari Daniels, Nathaniel Johnson, Robert Anderson, Kenneth Jones, and Stephen Swen.

(b) Concurrent with the signing of this Decree by the parties, the EEOC has provided Defendant with a document which lists of the name and address to which the Eligible Claimants' monetary relief should be delivered as well as the monetary amount to be allocated to each Eligible Claimant for back pay and compensatory damages (hereafter "Distribution List").

(c) It is understood that Defendant will make applicable withholdings from the amounts comprising back wages, and, therefore, each Eligible Claimant will receive the back wage amount set forth in the Distribution List, less applicable withholdings.

(d) Within fifteen business days of the entry of this Consent Decree Defendant will issue each Eligible Claimant the check in the designated amount along with an IRS Form 1099 and W-2 form for the payment of taxes. Concurrently, a photocopy of the check and related correspondence mailed to each Eligible Claimant will be mailed to the EEOC, Philadelphia District Office, attention Natasha L. Abel, 801 Market Street, Suite 1300, Philadelphia, PA 19107.

C. Defendants shall promptly notify the EEOC via electronic mail to Natasha.Abel@eoc.gov and Maria.Salacuse@eoc.gov if any checks issued to Charging Parties or Eligible Claimants are returned or are not cashed after a period of thirty calendar days has elapsed after being mailed.

D. In the event that any Charging Party or Eligible Claimant does not cash any check issued by Defendant as provided in this Decree within sixty days of the entry of this Consent Decree, Defendant will not be obligated to make payment to such individual and, instead, Defendant shall distribute the funds which would have gone to such Charging Party or Eligible Claimant to a mutually agreeable charity.

Injunctive Relief

5. Defendant, its officers, agents, servants, employees, successors, assigns, and all persons acting or claiming to act on their behalf are hereby enjoined from discriminating or retaliating against any employee of Defendant. The prohibited discrimination includes making adverse employment or hiring decisions based upon race. Such race-based discrimination violates Title VII, which, in part, is forth below:

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

42 U.S.C. § 2000e-2(1). Defendant and all persons acting or claiming to act on its behalf are further enjoined from retaliating against any employee of Defendant who complains of discrimination, 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).

6. Within 90 calendar days after the entry of this Decree, Defendant will provide at least two hours of training on preventing discrimination in the workplace to the following employees: James Peduto, Lynn Domboski, Christopher Smith, Mira Collins, Peter Criville, Tim Bracken, Donna Maggeo, and Luz Wachter and any other managers and/or supervisors Defendant deems fit to include. Within 90 calendar days after the entry of this Decree, Defendant will provide at least one hour of training on preventing discrimination in the workplace to employees employed by Defendant at the Concordville, PA site which is the subject of this Complaint. Training shall be conducted by Bond, Schoeneck & King, PLLC. In-person or video conference attendance is acceptable. Any employee unavoidably absent on the day of the presentation will be asked to watch a video recording of the presentation. Defendant will obtain prior approval from the EEOC of the materials to be used topics to be discussed during the training. Within ten business days of providing such training sessions, Defendant will furnish EEOC with a signed attendance list, the date and duration of the training, an outline of the training conducted, and a certification of completion of the mandatory training.

Notice Posting

7. Within ten business days after entry of this Decree, Defendant will post the Notice attached hereto as Exhibit A at the Concordville, PA site in a location within the office space used by the Defendant. The Notice shall be signed by the Defendant President, James Peduto. Within fifteen business days of entry of the Decree, Defendant shall forward to the EEOC's Philadelphia District Office, a copy of the signed Notice and written certification that the Notice referenced was posted.

Reporting

8. Every six months following the entry of this Consent Decree, and continuing throughout the life of the Decree, Defendant will report in writing to the Commission's counsel of record concerning the implementation of this Decree. The report will include the following information:

Copies of any formal or informal complaints of racial discrimination or retaliation made by any employee who works for Defendant at the Concordville, PA site, including but not limited to internal complaints, administrative charges, and lawsuits, and for every complaint, whether oral or written, the name of the complainant, and a detailed explanation of Defendant's actions taken in response to the complaint, including any investigative and corrective measures taken.

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

10. The undersigned counsel of record in the above-captioned action hereby consent, on behalf of their respective clients, to the entry of the foregoing Consent Decree.

FOR DEFENDANT:

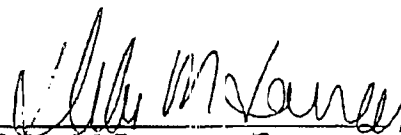
FOR PLAINTIFF:

MCNEES WALLACE & NURICK LLC

By:




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Regional Attorney

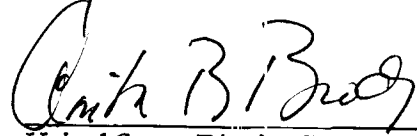
Maria Salacuse, Esq.
Supervisory Trial Attorney



 -Natasha L. Abel, Esq.
 Trial Attorney
 EQUAL EMPLOYMENT
 OPPORTUNITY COMMISSION
 Philadelphia District Office
 801 Market Street
 Penthouse, Suite 1300
 Philadelphia, PA 19107

SO ORDERED.

Signed and entered this 4th day of January, 2011. 2012 ABS



 United States District Court Judge

Attachment A



NOTICE TO MATRIX LLC APPLICANTS AND EMPLOYEES

This Notice is being posted as part of the resolution of a lawsuit filed by the Equal Employment Opportunity Commission (EEOC) against Matrix, LLC, in the United States District Court for the Eastern District of Pennsylvania (*EEOC v. Matrix, LLC*, Civil Action No. 2:11-cv-06183). The EEOC brought this action to enforce provisions of Title VII of the Civil Rights Act of 1964, as amended, which prohibit discrimination and retaliation on the basis of race.

Matrix WILL NOT engage in any acts or practices made unlawful under Title VII.

Matrix WILL NOT retaliate against any employee who opposes any practices made unlawful under Title VII.

Matrix WILL conduct its employment practices without regard to the race of an applicant or employee and ensure that all employees are treated fairly.

Employees or job applicants should feel free to report instances of discriminatory treatment to a supervisor, a manager, or Human Resources at (607) 766-0700 at any time. Matrix has established policies and procedures to promptly investigate any such reports and to protect the person making the reports from retaliation, including retaliation by the person allegedly guilty of the discrimination.

Individuals are also free to make complaints of employment discrimination directly to the Equal Employment Opportunity Commission's Philadelphia District Office at 801 Market St., 13th Floor, Philadelphia PA 19107 or by calling 866-408-8075 / TTY 800-669-6820. General information may also be obtained on the Internet at www.eeoc.gov.

James Peduto, CEO

Date Posted: