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EEOC v. Metro Special Police Services

Judge Robert J. Conrad

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EEOC v. Metro Special Police Services

Keywords

EEOC, Equal Employment Opportunity Commission, Metro Special Police Services, 3:13-CV-00039-RJC-DCK, Sex, Male, Hostile Work Environment, Retaliation, Sexual Harassment, Constructive Discharge

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION**

EQUAL EMPLOYMENT OPPORTUNITY)	
COMMISSION,)	
)	
Plaintiff,)	Civil Action No.:
)	3:13-CV-00039-RJC-DCK
)	
v.)	CONSENT DECREE
)	
METRO SPECIAL POLICE & SECURITY)	
SERVICES, INC.)	
)	
Defendant.)	

The Equal Employment Opportunity Commission (the “Commission”) instituted this action pursuant to Section 706(f)(1) and (3) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. Section 2000e-5(f)(1) and (3) (“Title VII”) and Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981a. The Commission’s complaint alleged that Defendant, Metro Special Police & Security Services, Inc., (hereinafter “Defendant”) subjected James Pedersen, Eric Steele, Daniel Griffis and a class of similarly situated male employees to sexual harassment because of sex, male. The Commission also alleged that Defendant suspended and discharged Steele in retaliation for complaining about the sexual harassment, and disciplined, demoted and/or discharged a class of similarly situated male employees for complaining about the sexual harassment. The Commission and the Defendant hereby stipulate to jurisdiction of the Court over the parties and agree that the subject matter of this action is properly before the Court.

The parties have advised this Court that they desire to resolve the allegations in the Complaint without the burden, expense, and delay of further litigation.

It is therefore the finding of this Court, made on the pleadings and the record as a whole, that: (1) the Court has jurisdiction over the parties and the subject matter of this action; (2) the purpose and provisions of Title VII will be promoted and effectuated by the entry of the Consent Decree; and (3) this Decree resolves all matters in controversy between the parties as provided in paragraphs 1 through 18 below.

It is therefore ORDERED, ADJUDGED AND DECREED as follows:

1. Defendant shall not discriminate against any person on the basis of sex or any other protected category within the meaning of Title VII, including subjecting them to a sexually hostile work environment.

2. Defendant shall conduct sensitivity training for its employees regarding sexual stereotypes and shall not maintain a sexually hostile work environment. Defendant shall take corrective action to prevent or stop sexual harassment against its employees.

3. Defendant shall not discriminate or retaliate against any person because of opposition to any practice made unlawful under Title VII or because of the filing of a charge, the giving of testimony or assistance, or the participation in any investigation, proceeding or hearing under that statute.

4. Defendant shall pay the total amount of One Hundred Fifty-Five Thousand Dollars (\$155,000) in settlement of the claims raised in this action. Payment shall be made in two equal installments, with the first installment of Seventy-Seven Thousand Five Hundred Dollars (\$77,500) to be paid within sixty (60) days after the Court approves this Consent Decree; and the second installment of Seventy-Seven Thousand Five Hundred Dollars (\$77,500) to be paid no later than November 30, 2014. Defendant shall make payment by issuing a separate check to each Claimant identified in Attachment A, payable to each Claimant in the amount determined

by the EEOC and communicated to Defendant via separate correspondence. Defendant shall mail each check to the respective Claimant at an address provided by the Commission. Within ten (10) days after the checks have been sent, Defendant shall send to the Commission, a copy of each check and proof of its delivery to the respective Claimant. Neither the Commission nor Defendant make any representations, or assume any responsibility for any tax liability, assessments, interest, penalties and/or costs that any Claimant may or may not incur on such payments under local, state, and/or federal law.

5. Defendant has executed a Consent Judgment against Defendant as to the Commission's claims in the amount of One Hundred Fifty-Five Thousand Dollars (\$155,000). In the event Defendant defaults or fails to timely make either of the payments required under Paragraph 4, above, the parties expressly agree: (a) to the entry of the aforementioned Consent Judgment in the full amount stated thereon; and (b) that the Commission may, at its election, immediately file a motion with the Court for entry of the Consent Judgment and proceed with collection of the Consent Judgment upon its entry. Such motion for entry of Consent Judgment can be filed by the Commission without prior notice to Defendant.

6. Within ten (10) days of the entry of this Consent Decree by the Court, Defendant shall eliminate from the employment records of each Claimant identified in Exhibit A any and all documents, entries, or references of any kind relating to the facts and circumstances which led to the filing of EEOC Charge Numbers 430-2011-02388 (Griffis), 430-2011-00918 (Steele) and 430-2011-00677 (Pedersen), including any events that occurred in connection with this lawsuit. Within fifteen (15) days of the entry of this Consent Decree by the Court, Defendant shall report compliance with this provision to the Commission.

7. Defendant shall provide each Claimant identified in Exhibit A with a neutral letter of reference using the form attached hereto as Exhibit B. Within ten (10) days of the entry of this Consent Decree by the Court, an original, signed letter of reference shall be provided to each Claimant at an address provided by the Commission. Claimants are free to disseminate the letter to potential employers. Defendant agrees that if it receives any inquiry about any Claimant from a potential employer, it will provide only the information set forth in the letter of reference in response. With respect to any inquiries that Defendant receives regarding any Claimant from a municipality, Defendant agrees that if the Claimant has signed a waiver allowing said municipality to view the Claimant's personnel records, Defendant may allow the municipality to view Claimant's personnel records, provided however that all references to the litigation (including affidavits discussing the Claimant's potential claims in this action) have been removed from the Claimant's personnel file pursuant to Paragraph 6 above.

8. Within thirty (30) days of the entry of this Consent Decree by the Court, Defendant shall revise its current harassment policy (*currently titled*: Metro Special Police & Security Services Sexual Harassment Policy) attached hereto as Exhibit C, to include, but not be limited to the following: an explanation of the requirements of the federal equal employment opportunity laws, including Title VII and its prohibition against sexual harassment, including male on male sexual harassment, and against retaliation; procedures for reporting discrimination; and a procedure for the thorough and immediate investigation of employee complaints of discrimination. Defendant shall distribute to each current employee a copy of the revised policy within the aforementioned thirty (30) day time period. Within forty-five (45) days of the entry of this Consent Decree, Defendant shall report compliance to the Commission. During the term of

this Consent Decree, Defendant shall distribute the revised policy to all new employees and review it with them at the time of hire.

9. During the term of this Consent Decree, Defendant shall post a copy of the revised policy described in paragraph 8, *supra*, in each of its facilities in North Carolina in a place where it is visible to employees. A list of Defendant's facilities in North Carolina (with addresses) where the policy will be posted is attached hereto as Exhibit D. If a policy posted at any of said facilities becomes defaced or unreadable, Defendant shall replace it by posting another copy of the policy. Within thirty-five (35) days after the Consent Decree is entered, Defendant will post the revised policy pursuant to this paragraph, and notify the Commission that it has been posted.

10. During the term of this Consent Decree, Defendant shall provide an annual training program to all of its managers, supervisors and employees in North Carolina. Each training program shall include an explanation of the requirements of Title VII of the Civil Rights Act of 1964, and its prohibitions against sexual harassment, including male on male sexual harassment, and against retaliation in the workplace. Each training program shall also include an explanation of Defendant's policy referenced in paragraph 8 above, and an explanation of the rights and responsibilities of employees and managers under the policy.

The first training program shall be completed within one hundred (100) days after entry of the Consent Decree by the Court. Each subsequent training program shall be conducted at approximately one-year intervals. At least fifteen (15) days prior to each program, Defendant shall provide the Commission with an agenda for the training program. The agenda should contain sufficient detail to show that the items mentioned immediately above (in this paragraph) will be included in the training. If the agenda meets this requirement, Defendant should presume

that the agenda is approved unless contacted by the Commission regarding the agenda within five (5) days of the Commission's receipt of the agenda. Within ten (10) days after completion of each training program, Defendant shall certify to the Commission the specific training which was undertaken and shall provide the Commission with a roster of all employees in attendance.

11. Beginning within thirty (30) days after the entry of this Consent Decree by the Court, and continuing throughout the term of this Consent Decree, Defendant shall post the attached Employee Notice, marked Exhibit D, hereby made a part of this Consent Decree, in a place where it is visible to employees at its North Carolina facility identified on Exhibit D. If any Notice becomes defaced or unreadable, Defendant shall replace it by posting another copy of the Notice. Within thirty-five (35) days after entry of this Consent Decree, Defendant shall notify the Commission that the Notice has been posted pursuant to this provision.

12. During the term of this Consent Decree, Defendant shall provide the Commission with reports at six (6) month intervals, with the first being due four (4) months after approval by the Court of this Consent Decree. The reports will include the following information:

- A. The identity of each individual who (a) complained either verbally or in writing of unwelcome conduct based on sex, whether verbal or physical, including conduct the individual believed to be sexual harassment or believed to be a violation of Defendant's sexual harassment policy (referenced in paragraph 8 above); and/or (b) made an internal complaint, filed a charge with the Commission of which Defendant has received notice or participated in any internal or Commission investigation regarding the type of unwelcome sexual conduct identified in this paragraph. The "identity" of the individual should include the individual's name, social security number, last known telephone number and address, and job title;
- B. For each individual identified in 12.A. above, a brief description of the individual's complaint or action (i.e., charge filed), and a description of all actions taken by Defendant, if any, in response to the individual's complaint or action;

- C. For each individual identified in 12.A. above, explain whether the individual's employment status has changed in any respect (for example, including but not limited to, termination, firing, demotion, promotion, or to part-time from full-time); and, if applicable, provide a detailed statement explaining why the individual's employment status has changed.

In the event there is no activity to report pursuant to this paragraph, Defendant shall send the Commission a "negative" report indicating no activity.

13. The Commission may review compliance with this Consent Decree. As part of such review, the Commission may inspect Defendant's North Carolina facilities, interview employees and examine and copy documents.

14. If anytime during the term of this Consent Decree, the Commission believes that Defendant is in violation of the Consent Decree, the Commission shall give notice of the alleged violation to Defendant. Defendant shall have ten (10) days in which to investigate and respond to the allegations. Thereafter, the parties shall then have a period of ten (10) days or such additional period as may be agreed upon by them, in which to engage in negotiation regarding such allegations before the Commission exercises any remedy provided by law. However, in the event that Defendant fails to comply with any payment provision set forth in Paragraph 4, above, the Commission may, at its discretion, immediately move for entry of the Consent Judgment without providing notice of the alleged violation.

15. The term of this Consent Decree shall be for five (5) years from its entry by the Court.

16. All reports or other documents sent to the Commission by Defendant pursuant to this Consent Decree shall be sent by electronic mail to: (1) EEOC-CTDO-decree-monitoring@eeoc.gov; or (2) if by regular mail to - Lynette A. Barnes, Regional Attorney, Equal

Employment Opportunity Commission, 129 West Trade Street, Suite 400, Charlotte, NC 28202.

17. Each party shall bear its own costs and attorney's fees.

18. This Court shall retain jurisdiction of this cause for purposes of monitoring compliance with this Consent Decree and entry of such further orders as may be necessary or appropriate.

Date

Judge, U.S. District Court
District of North Carolina

The parties jointly request that the Court approve and enter the Consent Decree:

**EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION,
Plaintiff**

P. DAVID LOPEZ
General Counsel

JAMES L. LEE
Deputy General Counsel

GWENDOLYN YOUNG REAMS
Associate General Counsel

s/ Lynette A. Barnes
LYNETTE A. BARNES (NC Bar #19732)
Regional Attorney

KARA GIBBON HADEN (NC Bar #26192)
Supervisory Trial Attorney

RANDALL HUGGINS (OK Bar #17875)
Supervisory Trial Attorney
Email: randall.huggins@eoc.gov

s/ Stephanie M. Jones
STEPHANIE M. JONES (GA Bar #403598)
Senior Trial Attorney
E-mail: Stephanie.jones@eoc.gov
Charlotte District Office
129 West Trade Street, Suite 400
Charlotte, North Carolina 28202
Telephone: 704.954.6471
Facsimile: 704.954.6412

ATTORNEYS FOR PLAINTIFF

**METRO SPECIAL POLICE &
SECURITY SERVICES, INC.
Defendant**

WILLIAM P. BRAY (NC Bar #20494)
Email: wbray@braylong.com

s/ Lee A. Peindl
LEE A. PEINDL (NC Bar # 30660)
Email: lpeindl@braylong.com
BRAY & LONG
2820 Selwyn Avenue, Suite 400
Charlotte, North Carolina 28209
Telephone: 704.523.7777
Facsimile: 704.523.7780

EXHIBIT A – CLAIMANT LIST

CLAIMANT	
1.	Michael Bolin
2.	Jeffrey Carson
3.	William Creech
4.	Daniel Griffis
5.	James Pedersen
6.	Nicholas Prudenti
7.	Adam Segee
8.	Eric Steele
9.	Derek Thom
10.	Joshua Wiley

[Defendant's letterhead]

[Date]

TO WHOM IT MAY CONCERN:

We are providing the following reference on behalf of our former employee, (NAME).

(NAME) was employed by Metro Special Police & Security Services, Inc. from [date] to [date]. During his tenure with us, [NAME] held the position of [job title]. His ending wage was [amount] per [hour, week or year], plus benefits.

We hope that this information about [NAME] is helpful to you in considering him for employment.

Sincerely,

Lynn Hoosier, CEO

EXHIBIT B

**EXHIBIT C – METRO SPECIAL POLICE & SECURITY SERVICES SEXUAL
HARASSMENT POLICY**

EXHIBIT C



Metro Special Police & Security Services

3120 Latrobe Dr., Suite 110, Charlotte, N.C. 28211
P.O. Box 221207, Charlotte, N.C. 28222
Office (704) 364-1664 Fax (704) 364-6470
www.metrospecialpolice.com



THE LEGAL DEFINITION OF SEXUAL HARASSMENT

Sexual Harassment is a form of gender discrimination, and violates Title VII of the 1964 Civil Rights Act, State Discrimination Laws.

THE PRACTICAL DEFINITION OF SEXUAL HARASSMENT

In Practical terms, there are two kinds of sexual harassment:

Quid Pro Quo: Where employment decisions or expectations (e.g., hiring decisions, promotion, salary increases, shift or work assignments, performance expectations, etc.) are based on an employee's willingness to grant or deny sexual favors.

Examples of Quid Pro Quo Harassment are:

- Demanding sexual favors in exchange for a promotion or a raise.
- Disciplining or firing a subordinate who ends a romantic relationship.
- Changing performance expectations after a subordinate refuses repeated requests for a date.

Hostile Environment: Where verbal or nonverbal behavior in the workplace:

- Focuses on the sexuality of another person, or occurs because of the person's gender;
- Is unwanted or unwelcome; and/or
- Is severe or pervasive enough to affect the person's or co-workers work environment.

The following are examples of behaviors that can create a hostile environment if they are unwanted and uninvited:

- Off-color jokes or teasing.
- Comments about body parts or sex life.
- Suggestive pictures, posters, calendars or cartoons.
- Leering, staring or gestures.

This agency will not tolerate sexual harassment in any form by any employee regardless of rank or position in this organization.

If you feel you are (or have been) the victim of sexual harassment, you should report it immediately to Human Resources Personnel, Supervisor, or Command Staff. All complaints will remain confidential. Complaints made in good faith will in no way be held against an employee. Under no circumstances will an employee be penalized for reporting what they believe to be harassment under this policy.

My signature affirms that I have read, received a copy and understand the above Metro Special Police & Security Services Sexual Harassment Policy.

Print Name *Sign Name* *Date*

(Metro Representative/Supervisor Signature) *Date*

[REDACTED]

**EXHIBIT D – LOCATION OF METRO SPECIAL POLICE & SECURITY
SERVICES FACILITY**

**3120 Latrobe Drive, Suite 110
Charlotte, NC 28211**



EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

This Notice is posted pursuant to a settlement between the U.S. Equal Employment Opportunity Commission ("EEOC") and Metro Special Police & Security Services ("Metro") in a case alleging sexual harassment and retaliation in the workplace.

Federal law requires that employers not discriminate against any employee or applicant for employment because of the individual's race, color, religion, sex, national origin, age (40 or older) or disability. Title VII specifically prohibits discrimination based on an individual's sex. Federal law also prohibits retaliation against employees because they have opposed unlawful employment discrimination, or because they gave testimony, provided assistance in, or participated in an employment discrimination investigation, proceeding, or hearing, or otherwise asserted their rights under the laws enforced by the EEOC.

Metro will comply with such federal laws in all respects. Furthermore, Metro will not take any actions against employees because they have exercised their rights, reported an alleged violation under the law, or given testimony, assistance, or participation in any investigation, proceeding, or hearing conducted by the U.S. Equal Employment Opportunity Commission.

Employees have the right and are encouraged to exercise that right, to report allegations of employment discrimination in the workplace. An employee may contact their local U.S. Equal Employment Opportunity Commission field office for the purpose of filing a charge of employment discrimination. To locate the nearest field office, contact:

Equal Employment Opportunity Commission
131 M Street, N.E.
Washington, DC 20507
TEL: 1-800-669-4000
TTY: 1-800-669-6820

This Notice will remain posted for at least five (5) years by agreement with the EEOC.
DO NOT REMOVE THIS NOTICE UNTIL: _____

EXHIBIT E