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## EEOC v. The Systems Group, Inc.

Judge Jane J. Boyle

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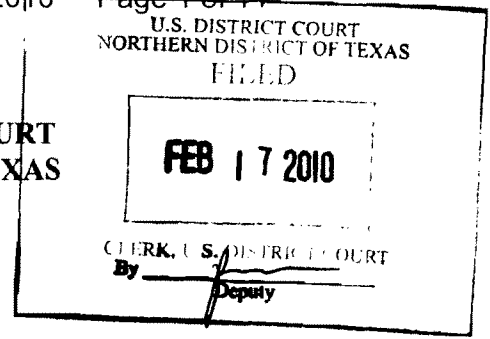
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## EEOC v. The Systems Group, Inc.

### Keywords

EEOC, The Systems Group Inc., 3:08-CV-1937-B, Consent Decree, Failure to Accommodate, Termination, Terms and Conditions, Service, Religion, Employment Law, Title VII



IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS DALLAS DIVISION

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION, )

Plaintiff, )

THE SYSTEMS GROUP, INC. )

Defendant. )

CIVIL ACTION NO.

3:08-CV-1937-B

CONSENT DECREE

The parties to this Consent Decree are Plaintiff United States Equal Employment Opportunity Commission ("EEOC"), and Defendant, the Systems Group, Inc. This Consent Decree resolves the claims of Plaintiff EEOC and Phezell Tisaby in the above-referenced Civil Action No. 3:08-CV-1937-B. Plaintiff EEOC initiated its lawsuit under Title VII of the Civil Rights Act of 1964 ("Title VII"), 42 U.S.C. §2000e et seq., to correct unlawful employment practices on the basis of religion, and to provide relief to Phezell Tisaby, who was adversely affected by those unlawful employment practices. More specifically, Plaintiff EEOC alleges that Defendant unlawfully discriminated against Ms. Tisaby based on her religion and failed to reasonably accommodate her religious beliefs when it required that she work on a Sunday, resulting in her termination.

Plaintiff and Defendant wish to settle the claims pursuant to the terms which have been agreed upon and delineated in this Decree. Should Defendant default on any of its obligations under this Decree, an Agreed Judgment will be entered immediately and the Defendant will pay

any and all costs related to actions necessary to enforce the Decree. The Defendant will also fully cooperate with and not oppose the EEOC's execution on the Agreed Judgment if such becomes necessary. It is therefore Ordered, Adjudged and Decreed as follows:

1. This Court has jurisdiction of the subject matter of this action and the parties, venue is proper, and all administrative prerequisites to the filing of this action have been met. Plaintiff EEOC's Complaint states claims which, if proved, would authorize this Court to grant relief against Defendants.
2. The effective date of this Consent Decree will be the date when the Court has signed this document and ordered entry of record by filing with the Clerk of the Court.
3. This Consent Decree resolves all issues raised in Plaintiff EEOC's Complaint. Plaintiff EEOC waives further litigation of all issues raised in its Complaint. Plaintiff EEOC expressly reserves its right, however, to process and litigate any other charges which may now be pending or which may in the future be filed against Defendant.
4. The duration of this Consent Decree shall be five (5) years from its effective date. This Court shall retain jurisdiction of this action during the period of this Consent Decree and may enter such other and further relief as it deems appropriate to ensure implementation and enforcement of the provisions of this Consent Decree. Any violation of this Consent Decree by Defendant and/or its officers, employees, servants, successors, or assigns shall toll the running of this five year period as of the date of the violation.

SPECIFIC INDIVIDUAL RELIEF

5. Defendants will pay to Phezell Tisaby the sum total of \$219,558.00 less legal withholding and deductions for wages paid, in accordance with and subject to the terms for payout of monetary relief described in detail below.
6. Immediately following entry of this Consent Decree by the Court, defendant will reinstate Phezell Tisaby to employment status in her former position of full-time Security Officer (“Reinstatement Date”). This reinstatement shall become effective no later than March 1, 2010. Immediately upon her return to the payroll, Ms. Tisaby will be restored to and credited with the full measure of seniority she would presently have if she had not been terminated from employment on October 13, 2007.
7. For the first three (3) months beginning on the Reinstatement Date, Defendant will pay Ms. Tisaby \$46.00 per hour for no less than 40 hours per week (exclusive of overtime) subject to legal withholding and deductions for payment of wages. Ms. Tisaby will be paid in the ordinary course of business, on a bi-weekly basis. Ms. Tisaby will have the option to be instated on the Defendant’s health insurance plan to begin as of the time of the Reinstatement Date. During this three-month period, she will be an employee of Defendant entitled to all rights, benefits and privileges afforded to other employees, but she will be considered to be on a paid leave of absence during the initial three-month period. Ms. Tisaby will not be required to report to work during this period except as may be necessary for administrative processing and any orientation matters related to re-employment.

8. Following the end of the initial three-month period from the date of her initial reinstatement to the payroll, it is agreed that Ms. Tisaby will physically report for duty and be assigned to work at the Defendant's Northlake facility in Coppell, Texas. This will be Ms. Tisaby's official "Report Date." Prior to her Report Date, Ms. Tisaby will be provided with company uniforms at no cost to her. For a period of 33 months after the Report Date, Ms. Tisaby will be paid \$34.50 per hour for no less than 40 hours per week (exclusive of overtime) less legal withholding and deductions for payment of wages.
9. At or before the time of her Report Date, Ms. Tisaby will be provided with a company vehicle, owned or leased by Defendant for her use, and her use only, for transportation to and from work, and otherwise, as subject to applicable restrictions for the Defendant's business and insurance purposes. Ms. Tisaby will have the use of the vehicle for two (2) years from the date of her initial use.
10. Ms. Tisaby's hours will be scheduled for times between 6:00am and 6:00 pm whenever feasible. If Ms. Tisaby works any overtime hours, such hours will be paid at a rate of 1.5 times her base rate of pay, not subject to the enhancements described in Paragraphs Nos. 7 and 8.
11. If during Ms. Tisaby's employment, a client requests a reduction of hours of protective service provided by Defendant, Ms. Tisaby's payroll hours will not be reduced to less than 35 hours per week with regard to her base pay rate of \$11.50. Ms. Tisaby would, however, continue to be paid an additional \$23.00 per hour for a 40 hour week representing the pay enhancement provided in Paragraphs Nos. 7 and 8 of this agreement.

12. The Defendant will enroll Ms. Tisaby in its first scheduled commissioning course after her Report Date so that Ms. Tisaby will be able to regain her Commissioned Officer status with the Texas Department of Public Safety. There will be no charge to Ms. Tisaby for this course, and the Defendant will pay Ms. Tisaby according to the terms of Paragraph No. 8 for the duration of this training.
13. During Ms. Tisaby's employment, the Defendant will provide Ms. Tisaby with training opportunities that will enhance her potential for promotion.
14. During Ms. Tisaby's employment with the Defendant, the parties agree that she will report directly to the Vice President of Operations. However, if there is a need for any changes to Ms. Tisaby's line of reporting at any point during the term of this Decree, such matters will be discussed and adjusted, if necessary, after consultation between the Defendant and the EEOC.
15. If, on any date after the initial three-month period, Ms. Tisaby communicates to the Defendant that she is unable or unwilling to report to work, she will be voluntarily placed on a leave of absence through the remainder of the three-year period, during which time she will retain all employment benefits, but her pay will be limited to \$23.00 per hour for no less than 40 hours per week subject to legal withholding and deductions for payment of wages, for the remainder of the agreed three-year period.

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16. Should Defendant default on any individual periodic payment described in Paragraphs Nos. 5-11 above, the parties agree that Defendant will immediately

forward the entire remaining balance of the total amount owed to Ms. Tisaby within thirty (30) days of the due date missed.

17. If the Defendant anticipates the need to take any adverse job action against Ms. Tisaby or to have her no longer report for duty at any point during the three year period, it shall first provide written notice to the EEOC of the alleged job deficiency or conduct warranting such action. This notification shall include the specific work rule or requirement involved, and a statement of the specific facts and circumstances that Defendant alleges warrants taking such action. The EEOC will then have 30 days to review these facts and circumstances, including but not limited to attempting to resolve the matter without the need to take any adverse action against Ms. Tisaby. If, for any reason, the Defendant finds it necessary to have Ms. Tisaby off premises during this process, she will be placed on paid leave status with no alteration to the payment terms described in Paragraph 8. If the EEOC determines that the adverse job action is retaliatory in nature under Title VII, warranting Court intervention to enforce the terms of this Consent Decree, it will give the Defendant 15 days notice to attempt informal resolution of the matter prior to seeking sanctions from the Court.

18. If an alleged job deficiency identified under Paragraph No. 17 above: 1) is determined by Defendant to be consistent with circumstances that would ordinarily warrant or require involuntary termination of employment, and 2) does not lead to a finding of retaliation by the EEOC requiring Court action, Ms. Tisaby and Defendant agree to submit the dispute over the adverse decision to an informal arbitration by Allen Butler of Tarpley Dispute Resolution, Inc. The cost



to Ms. Tisaby would not exceed \$150.00, with any remaining expense to be paid by Defendant. If it is determined during the informal arbitration that the Defendant's proposed adverse decision against Ms. Tisaby is for good cause, her employment will, however, not be terminated; rather, she will be placed on a voluntary paid leave of absence for the remainder of the three-year period, during which time she will retain all benefits and be paid \$23.00 per hour for no less than 40 hours per week subject to legal withholding and deductions for payment of wages .

19. Ms. Tisaby will not be selected for layoff by the Defendant for any reason during the entire three-year period, except in the event the Defendant ceases doing business altogether.
20. At the end of each quarterly period for the calendar years spanning the term of this Decree, a copy of a paycheck that would show earnings to date, and any accompanying transmittal documents issued or sent to Ms. Tisaby will be forwarded to the EEOC to the attention of Meaghan Shepard, EEOC, 207 S. Houston Street, Third Floor, Dallas, TX 75202.
21. At the end of the three-year period, Ms. Tisaby's employment with the Defendant will continue in the ordinary course of business, and she will be paid at a rate no less than the rate of pay she would have received for continued employment absent the terms of enhanced pay that apply during the three-year period as described above. Cost of living increases, pay increases (whether scheduled or merit-based), and performance or program incentives will be afforded to Ms. Tisaby in the same manner as any other employee.

22. At no time during Ms. Tisaby's employment with the Defendant will she be required to work on a Sunday, as Defendant recognizes the legal obligations to accommodate Ms. Tisaby's religious observance of her Sabbath.
23. Defendant shall, within 30 days of the effective date of this Consent Decree, expunge from Phezell Tisaby's personnel file(s) any and all documents relating to the EEOC charge which she filed, and any and all documents relating to Plaintiff EEOC's Complaint and this litigation. Any documents or records pertaining to this agreement and decree shall be separately maintained by Defendant's counsel and by the chief Human Resources officer only as necessary for the fair administration of the terms contained herein.
24. Defendant agrees that it shall review payroll records for any pay discrepancies which may have occurred in the last three months of Ms. Tisaby's prior employment with the company, and will attempt to reconcile those within 30 days from the date of her reinstatement to the payroll. The parties agree that with respect to (1) any pay discrepancies, or (2) deductions made to Ms. Tisaby's last paycheck for costs of company uniforms/equipment or other termination-related costs, such amounts shall be reconciled and immediately repaid to Ms. Tisaby.

#### GENERAL INJUNCTIVE RELIEF

25. Defendant is enjoined during the term of this Consent Decree from discriminating against any employee based upon his or her religion.
26. Defendant shall, within thirty (30) days of this Consent Decree's effective date, revise its equal employment opportunity policy so as to insure that religious discrimination

is not tolerated and that employees are aware that Defendant will accommodate employees' religious beliefs.

27. Defendant shall post a notice regarding its policy against religious discrimination and duty to accommodate. Such notice, set forth in Exhibit A, is attached to this Consent Decree. A copy of Exhibit A shall be posted on all employee bulletin boards and included in post order manuals and a company newsletter. The notice shall be posted within ten (10) days of the effective date of this Consent Decree, and shall remain posted for the duration of this Consent Decree.
28. Within thirty days of the effective date of this Consent Decree, Defendant shall send to all employees a letter affirming that Defendant will comply with all federal employment discrimination laws, including but not limited to the federal laws prohibiting religious discrimination, informing all employees of the revisions to Defendant's equal employment opportunity policy, and specifically stating that it will not subject employees to religious discrimination and will reasonably accommodate employees' religious beliefs.
29. Within one year of this Consent Decree's effective date, all of Defendant's employees shall participate in a minimum of two (2) hours of equal employment opportunity training. Within two years after this training, all of Defendant's employees shall participate in an additional minimum two (2) hours of equal employment opportunity training. Both trainings shall, at a minimum, explain the laws relating to religious discrimination in the workplace, with particular attention to the duty to accommodate. The trainings shall also teach the steps which employees should follow if they believe that they, or a co-worker, have been discriminated against, and the steps which

employees who are designated to receive complaints, pursuant to Defendant's equal employment opportunity policy, should follow if they receive such a complaint. The trainings shall be conducted by a representative of Defendant's legal department. At least 30 days prior to the date scheduled for each of these trainings, Defendant shall furnish to Plaintiff EEOC a written report describing the training to be attended by its employees, identifying the instructor(s) and describing all instructors' qualifications to conduct the training. Within thirty days of each of the trainings described above, Defendant will send the EEOC a written verification that the training was completed.

30. All persons attending each of the trainings described in Paragraph No. 29 above shall acknowledge their attendance at those trainings by signing an attendance form.

Defendant shall provide the EEOC with copies of those attendance forms within 30 days of each of the trainings.

31. Defendant will, within thirty days of the effective date of this Consent Decree, send a written report to the EEOC which: (a) describes the specific items expunged from Phezell Tisaby' personnel file(s); and, (b) confirms that Exhibit "A" was posted in compliance with this Consent Decree.

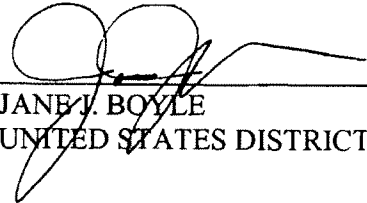
32. Plaintiff EEOC shall have the right to ensure compliance with the terms of this Consent Decree and may: (a) conduct inspections of Defendant's facilities; (b) interview Defendant's employees; and, (c) examine and copy relevant documents.

33. All reports to the EEOC required by this Consent Decree shall be sent to Meaghan Shepard, Trial Attorney, EEOC, 207 S. Houston St., Third Floor, Dallas, TX 75202.

34. The terms of this Consent Decree shall be binding upon the EEOC upon Defendant, its agents, officers, employees, servants, successors, and assigns.

35. Each party shall bear its own costs, including attorneys' fees incurred in this action.

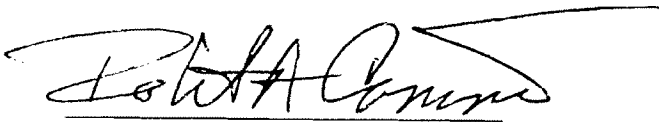
SO ORDERED, ADJUDGED AND DECREED this 17<sup>th</sup> day of FEB, 2010.

  
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JANE J. BOYLE  
UNITED STATES DISTRICT JUDGE


AGREED TO AS TO FORM AND SUBSTANCE:

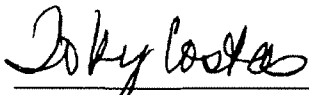
Signed this 16<sup>th</sup> day of FEBRUARY, ~~2008~~ 2010

FOR THE PLAINTIFF:

  
\_\_\_\_\_  
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Regional Attorney, US EEOC  
Okla. Bar No. 011782

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State Bar No. 24043533  
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4801 Spring Valley Rd., Ste. 118  
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Supervisory Trial Attorney  
Texas Bar No.



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MEAGHAN SHEPARD  
Trial Attorney  
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EQUAL EMPLOYMENT OPPORTUNITY  
COMMISSION  
Dallas District Office  
207 S. Houston Street, Third Floor  
Dallas, Texas 75202  
Tel No. (214)-253-2752  
Fax No. (214)-253-2749

# **EXHIBIT A**

**NOTICE TO ALL EMPLOYEES**

This Notice is posted as part of an Agreement between the U.S. Equal Employment Opportunity Commission and the Systems Group, Inc. The EEOC is an agency of the federal government responsible for enforcing the nation's laws against employment discrimination.

Federal law requires that there be no discrimination against any employee or applicant for employment because of that person's race, color, religion, sex (including pregnancy), national origin, or age with respect to hiring, compensation, promotion, discharge, or other terms, conditions or privileges of employment.

As part of the law against discrimination based on religion, an employer is required to reasonably accommodate an employee whose religious belief, practice, or observance conflicts with a work requirement.

If you believe that you are being discriminated against in your employ at The Systems Group, Inc., including but not limited to the denial of a religious accommodation, you are encouraged to use the complaint mechanism set out in The System Group Inc.'s equal employment opportunity policy, or to contact the U.S. Equal Employment Opportunity Commission. The address and telephone number of the local EEOC office is 207 South Houston Street, Third Floor, Dallas, Texas 75202. The telephone number is (214) 253-2700.

No retaliatory action may be taken against you for seeking assistance from, filing a charge with, or communicating with the EEOC.

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PRESIDENT AND CEO  
THE SYSTEMS GROUP INC.