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United States of America v. Mecklenburg County, North Carolina

Keywords

U.S., Mecklenburg County, 3:99CV353-V, Consent Decree, Sexual Harassment, Sex, Female, Employment Law, Title VII

FOR THE WESTERN DISTRICT OF NORTH CAROLINA

CHARLOTTE DIVISION CHARLOTTE, N. C.

Civil Action No. 3:99CV353-V

UNITED STATES OF AMERICA,

Plaintiff,

and

RUTH A. HARRIS,

Plaintiff-Intervenor

CONSENT SETTLEMENT AGREEMENT

v.

BETWEEN THE UNITED STATES AND

MECKLENBURG COUNTY, MECKLENBURG COUNTY,

NORTH CAROLINA

NORTH CAROLINA. Defendant and. Third Party Plaintiff

v.

RANDSTAD US, L.P. D/B/A

Third Party Defendant.

This action was brought on behalf of the United States against Mecklenburg County, North Carolina ("Mecklenburg County" or "the County") to enforce the provisions of Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e, et seq., as amended ("Title VII"), following receipt by the Department of Justice from the Equal Employment Opportunity Commission ("EEOC") of a charge of discrimination filed by Ruth A. Harris (Charge No. 140-97-0977). This Court has jurisdiction over this action under 42 U.S.C. § 2000e-5(f) and 28 U.S.C. §§ 1331, 1345.

In its complaint, the United States alleges that Mecklenburg County discriminated against Ruth A. Harris, a female formerly assigned to work as a temporary social worker assistant in the Division of Youth and Family Services of the County's Department of Social Services, and other women employed and/or formerly employed in the Division of Youth and Family Services, because of their sex in violation of Section 703(a) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. Section 2000e-2(a), among other ways, by:

- a. subjecting Ms. Harris and other women employed and/or formerly employed in the Division of Youth and Family Services to sexual harassment; and
- b. failing or refusing to take appropriate action to remedy the effects of the discriminatory treatment.

Her motion for intervention having been granted by the Court, in her complaint in intervention, Plaintiff-Intervenor Ruth A. Harris alleges claims of discrimination in violation of Title VII similar to those alleged by the United States. In addition, Ms. Harris' complaint in intervention alleges claims under North Carolina law.

On October 12, 1999, Mecklenburg County filed an answer to the United States' complaint and a third party complaint against Randstad US, L.P. d/b/a AccuStaff ("AccuStaff") in this matter. AccuStaff filed its answer to Mecklenburg County's third party complaint on November 2, 1999. On November 29, 1999, Mecklenburg County filed an answer to the intervenor complaint. Neither the United States nor Plaintiff-Intervenor Ruth A. Harris has alleged any claim against Third Party Defendant AccuStaff. Ruth A. Harris and AccuStaff are not parties to this Settlement Agreement.

Mecklenburg County denies that it has discriminated against Ms. Harris in violation of Title VII. Nevertheless, the United States and Mecklenburg County, desiring that this action be settled by an appropriate Settlement Agreement, and without the burden of protracted litigation, agree to the jurisdiction of this Court over the parties, and the subject matter of this action, and hereby waive, for purposes of this Settlement Agreement only, hearings and findings of fact and conclusions of law on all issues, and further agree to the entry of this Settlement Agreement as final and binding between them with regard to the issues raised in the complaint filed by the United States in this case.

This Settlement Agreement, being entered with the consent of the United States and Defendant Mecklenburg County, shall in no way constitute an adjudication or finding on the merits of the case, nor be construed as an admission by Mecklenburg County or a finding of any wrongdoing or violation of any applicable federal or state law or regulation.

It is therefore ORDERED, ADJUDGED AND DECREED as follows:

For purposes of this Settlement Agreement, "date of entry of the Settlement Agreement" shall refer to the date on which the Court approves and signs this Settlement Agreement as an order of the Court.

GENERAL RELIEF

1. Defendant Mecklenburg County, by and through its officials, agents, employees and all persons in active concert or participation with Defendant Mecklenburg County in the performance of employment or

personnel functions, will continue Mecklenburg County's current policy of not engaging, and will not engage, in any act or practice that has the purpose or effect of unlawfully discriminating against any employee because of that employee's sex.

2. Defendant Mecklenburg County shall continue its policy of not retaliating against or in any way adversely affecting any person because that person has opposed any practice made unlawful by Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e, et seq., filed a charge with the EEOC, or testified, assisted or participated in any manner in an investigation, proceeding or hearing under Title VII.

3. The County will continue to maintain and keep in effect an anti-sexual harassment policy that, in addition to prohibiting sexual harassment, specifies that:

a. Mecklenburg County's anti-sexual harassment policy covers individuals hired through a

temporary employment agency to work for Mecklenburg County;

b. employees hired through a temporary employment agency to work for Mecklenburg County

may file a complaint with the Mecklenburg County human resource department if they

believe they have been subjected to sexual harassment; and

c. Mecklenburg County will not dismiss, terminate the employment of, or otherwise retaliate

against any permanent or temporary employee, including persons assigned through an

agency for temporary employees, because that employee has reported what he or she

reasonably believes to be sexual harassment.

4. No later than thirty (30) days after the entry of this Settlement Agreement, Defendant Mecklenburg County shall ensure that a copy of its anti-sexual harassment policy, including the provisions described in Paragraph 3, above, is distributed to all of its permanent and temporary employees, including persons assigned through an agency for temporary employees.

5. Defendant Mecklenburg County will continue to make available to its employees its anti-sexual harassment policy, including the provisions described in Paragraph 3, above, by posting it in centrally-located places commonly used for posting notices (e.g, bulletin boards) in all Mecklenburg County buildings and facilities and in the administrative offices of Mecklenburg County.

6. Mecklenburg County shall take reasonable steps to ensure that each of the employees it hires, including persons assigned through an agency for temporary employees, receives a copy of the County's anti-sexual harassment policy, including the provisions described in Paragraph 3, above, within ten (10) days of the date of that employee's hire or assignment.

7. Mecklenburg County shall retain or have access to the following records during the life of this Settlement Agreement or as otherwise required by applicable state or federal record retention requirements:

a. the provisions of any anti-sexual harassment policy then in effect, and a record of the effective

date or dates of those provisions:

b. any poster(s) or notice(s) displayed in Mecklenburg County work areas that are intended to convey information regarding the prohibition of sexual harassment in the workplace;

c. documents signed by temporary employees hired through an employment agency acknowledging

proof of receipt of the County's anti-sexual harassment policy;

d. all documents that come into the County's possession relating to allegations that the County

or any of its employees have retaliated against or adversely affected any person because

he or she testified, assisted or participated in any manner in this case or this Settlement

Agreement.

8. For purposes of this Settlement Agreement, reporting periods shall run from January 1, through June 30, and July 1 through December 31 of each year, the first of which ends on June 30, 2000. Within 30 days after the close of each reporting period, Mecklenburg County shall provide to the United States copies of the materials described in Subparagraphs 7(a),(b) and (d), above.

9. The United States Department of Justice shall have the right to inspect and copy any and all of the documents described in Paragraph 7, above, upon thirty (30) days notice to the County, without further order of this Court.

SPECIFIC RELIEF

Without admitting the contentions of the United States as set forth in its complaint, and in settlement of the claims of the United States for

relief on behalf of Ms. Ruth A. Harris, and, if she accepts the relief to be offered to her pursuant to this Settlement Agreement, in settlement of Ms. Harris' individual claims, Mecklenburg County agrees to do the following:

10. Mecklenburg County shall offer Ruth A. Harris a monetary payment of \$45,000.00. This amount shall be considered to include both compensatory damages and reasonable attorney's fees. No amounts will be withheld from the monetary award, although Mecklenburg County shall issue an Internal Revenue service ("IRS") 1099-Misc Form to Ms. Harris and report this award to the IRS and any other applicable taxing authority.

11. No later than ten (10) days after the date of entry of this Settlement Agreement, Mecklenburg County shall notify Ms. Harris of the terms of this Settlement Agreement by mailing to her, by certified mail in care of her attorney, return receipt requested, a notice letter substantially in the form of Appendix A hereto and enclosing a copy of this Settlement Agreement and a copy of the release form agreed upon by the United States and Mecklenburg County. The notice letter will advise Ruth A. Harris that in order to accept the relief offered to her or any part of it, she must return the executed release form to Mecklenburg County within fourteen (14) days of her receipt of the notice letter unless she shows good cause for failing to do so.

12. The County shall also forward a copy of the notice letter to the United States no later than ten (10) days after the date of entry of this Settlement Agreement.

13. To accept any of the relief to be offered her by Mecklenburg County under this consent Settlement Agreement, Harris must execute the release form provided with the notice letter, and return it to Mecklenburg County within fourteen (14) days after the date she receives the notice letter.

14. Mecklenburg County shall provide the United States with a copy of Ms. Harris' executed release form within ten (10) days after receipt of it. Within fourteen (14) days from the date of its receipt of Ms. Harris' executed release form Mecklenburg County shall mail to Ms. Harris, in care of her attorney, a certified or bank check made payable to Ruth A. Harris in the amount of \$45,000.00.

DISPUTES

15. The parties to this Settlement Agreement shall attempt to resolve informally any disputes that may occur under this Settlement Agreement. If the United States and Mecklenburg County are unable to reach agreement after informally seeking to resolve a dispute, the issue may be submitted by either party to the Court for resolution.

16. All documents required to be delivered under this Settlement Agreement to the United States shall be sent to the attention of:

Charlotte Burrows, Esq. Stephen J. Curran, Esq. U.S. Department of

Justice Civil Rights Division Employment Litigation Section 601 D
Street, N. W., Room 4500 Washington, D.C. 20004

17. All documents required to be delivered under this Settlement
Agreement to Plaintiff-Intervenor Ruth A. Harris

shall be sent to the attention of:

Thomas D. Roberts, Esq.

20 Battery Park Avenue #305

Asheville, North Carolina 28801-2734,

or to another person whom Ms. Harris shall designate in writing to
receive such documents on

her behalf.

18. All documents required to be delivered under this Settlement
Agreement to Mecklenburg

County, North Carolina, shall be sent to the attention of:

James O. Cobb, Esq.

Ruff, Bond, Cobb, Wade & Bethune

2100 Two First Union Center

301 South Tryon Street

Charlotte, North Carolina 28282-8283

RETENTION OF JURISDICTION

19. The Court shall retain jurisdiction over this Settlement Agreement
and the claims alleged in the United States' complaint for the purpose
of resolving disputes or entering any orders or judgments that may be
necessary to implement the relief provided herein. Eighteen (18) months
after the date of entry of this Settlement Agreement by the Court, the
United States' complaint against Mecklenburg County shall be dismissed
unless the United States moves, for good cause shown, to extend this
Consent Settlement Agreement. If such a motion is filed by the United
States before the Settlement Agreement expires, the Settlement Agreement
shall remain in effect while the motion is pending before the Court.

SO ORDERED, this _____ day of _____, 2000.

United States District Judge

Western District of North Carolina

AGREED AND CONSENTED TO:

For the United States, For Mecklenburg County,

Plaintiff North Carolina, Defendant

Bill Lann Lee Ruff, Bond, Cobb, Wade &

Acting Assistant Attorney Bethune, L.L.P.

General

BY: BY:

Charlotte Burrows James O. Cobb

Member, NY Bar Ruff; Bond, Cobb, Wade

Stephen J. Curran Bethune, L.L.P.

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