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## EEOC v. National Railroad Passenger Corporation, a/k/a Amtrak

Judge Anita B. Brody

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## EEOC v. National Railroad Passenger Corporation, a/k/a Amtrak

### Keywords

Equal Employment Opportunity Commission, National Railroad Passenger Corporation, a/k/a Amtrak, 2:11-cv-00692-AB, Consent Decree, Disparate Treatment, Retaliation, Assignment, Compensation, Subjective Decision Making, Sex, Female, Transportation, Employment Law, Title VII

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

EQUAL EMPLOYMENT OPPORTUNITY	)	
COMMISSION,	)	
	)	Civil Action No. 11-00692
Plaintiff,	)	
	)	Judge Anita B. Brody
v.	)	
	)	
NATIONAL RAILROAD PASSENGER	)	
CORPORATION, a/k/a Amtrak,	)	
	)	
Defendant.	)	

**CONSENT DECREE**

This action was instituted by Plaintiff, the U.S. Equal Employment Opportunity Commission (the "EEOC" or the "Commission"), against Defendant, National Railroad Passenger Corporation, a/k/a Amtrak ("Defendant" or "Amtrak"). The Commission alleges violations of Sections 703(a)(1) and 704(a) of Title VII of the Civil Rights Act of 1964 ("Title VII"), as amended, 42 U.S.C. §§ 2000e-2(a)(1) and 2000e-3(a), and Section 15(a)(3) of the Equal Pay Act (the "EPA"), as incorporated into the Fair Labor Standards Act, 29 U.S.C. § 215(a)(3). The complaint alleges that while Sheila Davidson was a Human Resources Regional Director, Defendant engaged in a longstanding pattern of discrimination against her in violation of Title VII by suppressing her pay while giving her a greater workload than it gave to her two male counterparts, also Human Resources Regional Directors. The complaint further alleges that Amtrak subjected Sheila Davidson to adverse employment actions because she filed a charge of discrimination with the Commission. Amtrak denies all allegations against it.

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 and the EPA.

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

1. This Decree resolves all issues and claims alleged in the Complaint filed by the Commission in this action, which emanated from the Charge of Discrimination filed by Sheila Davidson.

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, agents, servants, employees, successors, assigns, and all persons acting or claiming to act on its behalf, shall not violate Title VII with regard to the terms and conditions of employment of its female employees, including with regard to workload and pay. Discrimination with regard to pay and other terms and conditions of employment violates Title VII, which sets forth that:

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

42 U.S.C. § 2000e-2(a)(1). Retaliation violates both Title VII and the EPA, which set forth, respectively that:

It shall be an unlawful employment practice for an employer to discriminate against any of his employees . . . because [the employee] has opposed any practice made an unlawful employment practice by [Title VII] . . . .

42 U.S.C. § 2000e-3(a).

[I]t shall be unlawful for any person . . . to discharge or in any other manner discriminate against any employee because such employee has filed any complaint or instituted or caused to be instituted any proceeding . . . related to [the EPA] . . . .

29 U.S.C. § 215(a)(3).

4. Effective September 1, 2011, Sheila Davidson's annual salary will be increased prospectively from \$99,934.00 to \$116,439.00.

5. Within thirty (30) days after the entry of this Decree, Defendant will:

(a) pay to Sheila Davidson \$114,096.57, minus appropriate withholdings and deductions, which represents back pay and interest. Defendant will issue an IRS Form W-2 for this amount for the 2011 tax year.

(b) pay to Sheila Davidson retroactive contributions to her 401(k) in the amount of \$7,386.62;

(c) pay to Sheila Davidson \$50,000 in compensatory damages. Defendant will issue an IRS Form 1099 for this amount for the 2011 tax year;

(d) pay to Sheila Davidson \$1,000 for private counsel fees. Defendant will issue an IRS Form 1099 for this amount for the 2011 tax year; and

(e) Defendant agrees to notify both the Amtrak Retirement Income Plan and the Railroad Retirement Board of the back pay award. Because neither the Amtrak Retirement Income Plan nor the Railroad Retirement Board are parties to this Consent Decree, Defendant makes no representations or promises as to how either the Amtrak Retirement

Income Plan or the Railroad Retirement Board will consider this information; rather, Defendant represents only that it will provide the information to those entities.

6. Within sixty (60) days after the entry of this Decree, Defendant will provide at least four (4) hours of training, led by an outside attorney or consultant, for its Senior Director of Human Resources Compensation & Benefits, Senior Director of Human Resources, Manager, Compensation, and Assistant Vice President of Human Resources. The training will focus on complying with federal anti-discrimination laws, including but not limited to Title VII and the EPA, and their provisions prohibiting discrimination on the basis of pay and terms and conditions of employment and prohibiting retaliation. Within seven (7) business days of the training's completion, Defendant will provide certification to Commission's counsel of record that such training has been provided, including the date[s] and location[s] of the training, and the identities of the trainees and trainers.

7. Within ten (10) days after the entry of this Decree, Defendant will post immediately, in all places where notices to employees customarily are posted within Defendant's six Regional Human Resources (in Boston Massachusetts, Chicago, Illinois, Los Angeles, California, Philadelphia, Pennsylvania, Washington DC, and Amtrak's corporate headquarters) the Notice attached hereto and made a part hereof. Said Notices 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 Notices become defaced, marred, or otherwise made unreadable, Defendant will ensure that new, readable copies of the Notices 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 dates of posting.

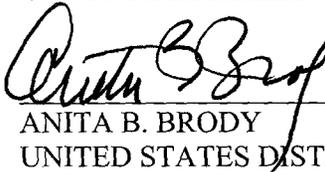
This Decree shall fully and finally resolve all claims and allegations which are raised by the EEOC in its Complaint in Civil Action No. 11-0692 (E.D. Pa.).

Subject to these provisions and this Court's jurisdiction to enforce the provisions of this Consent Decree, it is further

**ORDERED** that this case shall be and hereby is dismissed with prejudice, with the Commission and Defendant each bearing their own costs, expenses, and fees.

**SO ORDERED**

Signed and entered this 7<sup>th</sup> day of November, 2011.

By:   
ANITA B. BRODY  
UNITED STATES DISTRICT COURT JUDGE

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:

\_\_\_\_\_/s/  
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FOR PLAINTIFF:

\_\_\_\_\_/s/  
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# U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

## POSTED PURSUANT TO FEDERAL COURT ORDER

This Notice is posted pursuant to a federal court order voluntarily resolving a sex discrimination lawsuit brought by the U.S. Equal Employment Opportunity Commission (EEOC), an agency of the federal government, against National Railroad Passenger Corporation, a/k/a Amtrak. In that lawsuit, called EEOC v. Nat'l Railroad Passenger Corp., Case No. 11-CV-0692 (U.S. District Court for the Eastern District of Pennsylvania), EEOC alleged that Amtrak violated Title VII of the Civil Rights Act of 1964 (Title VII) and the Equal Pay Act of 1963 (EPA). The lawsuit charged that Amtrak violated Title VII by suppressing the wages of a female employee, despite her greater workload, and that when a male counterpart assumed her duties, he received a salary increase. Under Section 703(a) of Title VII, it is unlawful for an employer "to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's ... sex."

**Date Posted:**

**By:** \_\_\_\_\_  
**National Railroad Passenger Corp.**

The lawsuit also charged that Amtrak violated Title VII by taking adverse employment actions against the aforementioned female employee after she filed a charge of discrimination. Under Section 704(a) of Title VII, it is 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 [Title VII], or because he has made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this [Title VII]."

For the same reason, the lawsuit charged that Amtrak violated the EPA, which makes it "unlawful for any person . . . to discharge or in any other manner discriminate against any employee because such employee has filed any complaint or instituted or caused to be instituted any proceeding . . . related to [the EPA]."

Amtrak denied the allegations in the Complaint.

Amtrak WILL NOT engage in any acts or practices made unlawful by the above sections.

A copy of this Notice will be posted in a conspicuous place within Amtrak's regional human resources office where employee notices are ordinarily placed for a period of two years from the date below and will be replaced if it becomes defaced, marred, or otherwise made unreadable.