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EEOC v. Parts Warehouse, Inc.

Judge Henry L. J.

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EEOC v. Parts Warehouse, Inc.

Keywords

EEOC, Parts Warehouse Inc., 4:02CV00530WRW, Consent Decree, Hostile Work Environemtn, Disparate Treatment, Terms and Conditions, Race, Black, Manufacturing, Title VII, Employment Law

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION

FILED
U.S. DISTRICT COURT
EASTERN DISTRICT ARKANSAS

DEC 16 2003

JAMES W. McGOVERN, CLERK
By: *[Signature]*
DEP. CLERK

EQUAL EMPLOYMENT OPPORTUNITY)
COMMISSION,)
)
)
Plaintiff,)
)
)
)
v.)
)
)
)
PARTS WAREHOUSE, INC.)
)
)
Defendant.)

CIVIL ACTION NO.
4:02CV00530 WRW

CONSENT DECREE

The Equal Employment Opportunity Commission (hereinafter referred to as the ("EEOC")) initiated the above-referenced Cause on August 22, 2002, against Parts Warehouse, Inc. (the "Defendant") to enforce the provisions of Title VII of the Civil Rights Act of 1964, (Title VII) as amended, 42 U.S.C. § 2000e et seq., and the Civil Rights Act of 1991, 42 U.S.C. §1981a. The EEOC alleged that the Defendant subjected Joe Davis, Michael Cole, Clifton Hill, Victor Howell, Ashley James, Derrick Wright, Doug Sims, Brice Herron and a class of Black employees to unlawful employment practices. The alleged unlawful employment practices included, but were not limited to, employees being subjected to a racially hostile work environment and subjected to different terms and conditions of employment based on race. In addition, employees

II. SCOPE AND DURATION OF DECREE

A. This Consent Decree resolves all issues and claims arising out of Plaintiff's Complaint in this cause, alleging inter alia unlawful employment practices maintained by Defendant and arising out of the EEOC charge filed by Joe Davis - Charge No. 251-A2-00322; the EEOC charge filed by Michael Cole - Charge No. 251-A2-00378; the EEOC charge filed by Clifton Hill - Charge No. 251-A2-00382; the EEOC charge filed by Victor Howell - Charge No. 251-A2-00371; the EEOC charge filed by Ashley James - Charge No. 251-A2-00370; the EEOC charge filed by Derrick Wright - Charge No. 251-A2-00345; the EEOC charge filed by Doug Sims - Charge No. 251-A2-00389; the EEOC charge filed by Brice Herron - Charge No. 251-A2-00398; and the EEOC charge filed by Antione Davis - Charge No. 251-A2-01458. Notwithstanding any provisions contained in this Decree, this agreement shall not be considered in any manner to be dispositive of any charge now pending before any office of the EEOC other than EEOC Charge Nos. 251-A2-00322, 251-A2-00378, 251-A2-00382, 251-A2-00371, 251-A2-00370, 251-A2-00345, 251-A2-00389, 251-A2-00398 and 251-A2-01458.

B. The provisions of this Consent Decree shall continue to be effective and binding upon the parties to this action for a period of three years from the date of the entry of this decree except, as provided herein.

III. NON-DISCRIMINATION PROVISION

A. Defendant, its officers, agents, employees, and

all persons acting in concert with the Defendant are hereby enjoined from engaging in any employment practice which has the purpose or effect of discriminating against any employee because of their race in violation of Title VII of the Civil Rights Act of 1964, as amended. Defendant is enjoined from permitting its employees to be subjected to a racially hostile work environment in violation of Title VII of the Civil Rights Act of 1964, as amended.

B. Defendant, its officers, agents, employees, and all persons acting in concert with Defendant are hereby enjoined from retaliating against any employee for opposing discriminatory employment practices made unlawful under Title VII of the Civil Rights Act of 1964, as amended.

IV. TRAINING

A. Defendant has trained its supervisors and managers in the requirements of Title VII of the Civil Rights Act of 1964, as amended, regarding the prevention of racial harassment, race discrimination, and retaliation. Certification of the training session will be provided within thirty days (30) days of the entry of this decree. A list of the supervisors and managers who attended the training session, a copy of the syllabus, and a copy of the training materials will be provided to the EEOC within thirty (30) days of the entry of this decree. Defendant agrees to conduct such training on an annual basis.

B. Defendant has provided or will provide a copy of its racial harassment policy to all of its employees at the Parts

Warehouse, Inc. facility in Little Rock within thirty (30) days of the entry of this decree.

C. Defendant has conducted a training session on the prevention of racial harassment and race discrimination for all the non-supervisory employees at its Little Rock facility. A list of the employees who attend the training session, a copy of the syllabus, and a copy of the training materials has been or will be provided to the EEOC within thirty (30) days of the training session. Defendant agrees to conduct such training on an annual basis.

V. REMEDIAL RELIEF

A. Defendant agrees to monitor its restrooms, equipment and other facilities for the existence of graffiti of a racist nature. Defendant agrees to remove or cover up any racist graffiti in the workplace, as soon as practicable after Defendant becomes aware of such graffiti.

B. Defendant agrees to provide training opportunities for qualified Black employees in an effort to promote Black employees to supervisory and managerial positions in its Little Rock facility.

VI. NON-RETALIATION PROVISION

Defendant, its officers, agents, employees, and all persons acting in concert with Defendant shall not take any retaliatory action, against any employee for opposing practices made unlawful under Title VII of the Civil Rights Act of 1964, as amended, or for

making a charge or complaint to the EEOC, testifying, assisting or participating in any manner in any investigation, proceeding or hearing under Title VII of the Civil Rights Act of 1964, as amended.

VII. NOTICE

Defendant shall continue to conspicuously post at its facility in Little Rock the notice (poster) required to be posted pursuant to Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §2000e-10. Furthermore, Defendant shall conspicuously post the notice at Appendix A of this Decree at its facility in Little Rock for a one year period commencing within twenty (20) days after entry of this Decree by the Court.

VIII. REPORTING

Defendant will provide three reports to the EEOC. The first report will be submitted within six (6) months of entry of the decree. The second report will be submitted within eighteen (18) months of entry of the decree. The third report will be submitted within thirty five (35) months of entry of the consent decree.

Each report will describe all complaints of race discrimination at the Little Rock facility, describe the investigation conducted by Defendant in response to each complaint and indicate how the complaint was resolved. Each report will also state if Defendant has discovered any racist graffiti and what action was taken to eliminate the racist graffiti. Each report will describe Defendant's training of supervisors, managers and

hourly employees in the requirements of Title VII of the Civil Rights Act of 1964, as amended, as set forth herein.

Each report will be forwarded to William A. Cash Jr., Senior Trial Attorney of the Little Rock Area office of the EEOC.

IX. INDIVIDUAL RELIEF

A. Defendant shall expunge from the personnel records of Joe Davis, Michael Cole, Victor Howell, Doug Sims, Brice Herron, and Antoine Davis any unfavorable or adverse personnel comments regarding any aspect of their employment with Defendant, except those necessary to comply with any reporting requirements mandated by the United States Department of Transportation. Defendant has agreed to modify the personnel records of Ashley James as specified in his individual release.

B. Within thirty days of entry of the decree, the EEOC will inform Defendant in writing of the monetary relief to be paid to Charging Parties and class members. The total of the monetary relief will not exceed gross payment of \$220,000. Within thirty days of receipt of the written notification of monetary relief to be paid to Charging Parties and class members and upon receipt of releases from the Charging Parties and class members, Defendant will forward to the Charging Parties and class members payroll checks payable to those class members in the gross amount indicated by the EEOC. Defendant will issue 1099 forms to the class members.

X. NEUTRAL REFERENCE

A. Defendant agrees to give a neutral reference to any potential employers of Joe Davis, Michael Cole, Clifton Hill, Victor Howell, Ashley James, Derrick Wright, Doug Sims, Brice Herron, Antoine Davis or any class members who request a job reference; provided however, Defendant must comply with any reporting requirements mandated by the United States Department of Transportation. Any such neutral reference shall be identical to the form demonstrated in Appendix B. No mention of the EEOC charges of discrimination or this action will be made as part of the neutral reference or any report made pursuant to United States Department of Transportation regulations.

XI. COSTS

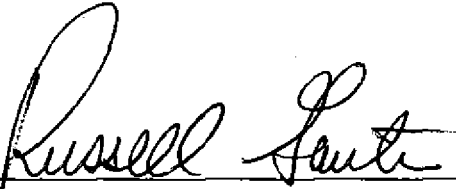
EEOC and Defendant shall bear their own costs, including attorneys' fees.

SO ORDERED THIS 16th DAY OF December, 2003.


UNITED STATES DISTRICT JUDGE

THIS DOCUMENT ENTERED ON
DOCKET SHEET IN COMPLIANCE
WITH RULE 58 AND/OR 79(a) FRCP
ON 12/17/03 BY [Signature]

FOR DEFENDANT:



RUSSELL GUNTER
Cross, Gunter, Witherspoon &
Galchus, P.C.
500 President Clinton Ave.
Suite 200
P.O. Box 3178
Little Rock, AR 72201
(501)371-9999



PARTS WAREHOUSE, INC
FLETCHER LORD
CHIEF EXECUTIVE OFFICER

FOR THE COMMISSION:

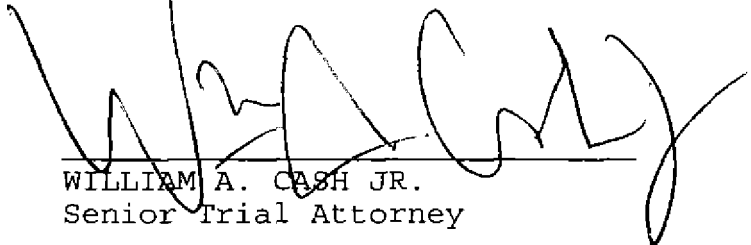
ERIC S. DRIEBAND
General Counsel

JAMES L. LEE
Deputy General Counsel

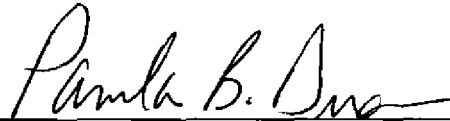
GWENDOLYN YOUNG REAMS
Associate General Counsel



TERRY BECK
Acting Regional Attorney



WILLIAM A. CASH JR.
Senior Trial Attorney



PAMELA B. DIXON
Senior Trial Attorney
EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION
820 Louisiana St., Ste. 200
Little Rock, AR 72201
(501) 324-5539
(501) 324-5065

APPENDIX A

NOTICE

NOTICE

AS PART OF A CONSENT DECREE WITH THE EEOC.

1. Parts Warehouse, Inc. (PWI) has agreed to post this notice for one year to reinforce the company's policies concerning and commitment to the prevention of racial harassment, race discrimination and retaliation against any employee.
2. Federal law and the company's policies, attached hereto, prohibit an employer from taking retaliatory action against any employee for opposing practices made unlawful under Title VII of the Civil Rights Act of 1964, as amended.
3. Federal law and the company's policies, prohibit racial harassment and race discrimination in the workplace. PWI does not tolerate racist comments, jokes or the use of racial slurs in the workplace. PWI will not tolerate racist graffiti in the restrooms or in other areas. PWI will not base its treatment of employees on the race of the employee. Federal law and PWI policies prohibit these types of discrimination.
4. PWI supports and will comply with such Federal law in all respects and will not take any action against employees because they have exercised their rights under the law by filing charges with the Equal Employment Opportunity Commission and/or testifying, assisting or participating in any manner in any investigation, proceeding or hearing under Title VII of the Civil Rights Act of 1964, as amended.
5. Any employee who witnesses any act of race discrimination or believes that he or she is a victim of such discrimination should report the conduct to a supervisor or manager, pursuant to PWI's policies.

Fletcher Lord, President
Parts Warehouse, Inc.

DATE

APPENDIX B

NEUTRAL REFERENCE

To Whom it May Concern:

This letter is in response to your inquiry regarding the employment of _____ while employed at Parts Warehouse, Inc.

_____ worked at Parts Warehouse, Inc. as a _____ from _____ through _____. Company policy does not permit us to give out any more information concerning _____'s employment.

Very truly yours,

PARTS WAREHOUSE, INC.

UNITED STATES DISTRICT COURT
Eastern District of Arkansas
U.S. Court House
600 West Capitol, Suite 402
Little Rock, Arkansas 72201-3325

December 17, 2003

* * MAILING CERTIFICATE OF CLERK * *

Re: 4:02-cv-00530.

True and correct copies of the attached were mailed by the clerk to the following:

William A. Cash Jr., Esq.
Equal Employment Opportunity Commission
820 Louisiana Street
Suite 200
Little Rock, AR 72201

Pamela B. Dixon, Esq.
Equal Employment Opportunity Commission
820 Louisiana Street
Suite 200
Little Rock, AR 72201

Terry Beck, Esq.
Equal Employment Opportunity Commission
1407 Union Avenue
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Katharine W. Kores, Esq.
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Russell A. Gunter, Esq.
Cross, Gunter, Witherspoon & Galchus, P.C.
500 President Clinton Avenue, Suite 200
Post Office Box 3178
Little Rock, AR 72203-3178

press
post

James W. McCormack, Clerk

Date:

12/17/03

BY:

