



Cornell University
ILR School

Cornell University ILR School
DigitalCommons@ILR

Consent Decrees

Labor and Employment Law Program

4-13-2004

Equal Employment Opportunity Commission,
Plaintiff, Phyllis Powell, Plaintiff-Intervenor, v.
United Air Lines, Inc. d/b/a United Air Lines,
Defendant

Judge Harry D. Leinenweber

Follow this and additional works at: <https://digitalcommons.ilr.cornell.edu/condec>

Thank you for downloading this resource, provided by the ILR School's Labor and Employment Law Program. Please help support our student research fellowship program with a gift to the Legal Repositories!

This Article is brought to you for free and open access by the Labor and Employment Law Program at DigitalCommons@ILR. It has been accepted for inclusion in Consent Decrees by an authorized administrator of DigitalCommons@ILR. For more information, please contact catherwood-dig@cornell.edu.

Equal Employment Opportunity Commission, Plaintiff, Phyllis Powell,
Plaintiff-Intervenor, v. United Air Lines, Inc. d/b/a United Air Lines,
Defendant

Keywords

EEOC, Phyllis Powell, United Air Lines Inc., d/b/a United Air Lines, 02 C 4594, Consent Decree, Disparate Treatment, Hostile Work Environment, Sex, Female, Race, African American, Aerospace, Transportation, Employment Law, Title VII

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

**EQUAL EMPLOYMENT OPPORTUNITY)
COMMISSION,)
)
Plaintiff,)
)
PHYLLIS POWELL,)
)
Plaintiff-Intervenor,)
v.)
)
UNITED AIR LINES, INC., d/b/a UNITED)
AIR LINES,)
)
Defendant)**

Case No. 02 C 4594

Judge Leinenweber

APR 13 2004

CONSENT DECREE

THE LITIGATION

Plaintiff Equal Employment Opportunity Commission (“EEOC”) filed this action alleging that Defendant United Airlines, Inc. (“United Airlines” or “Defendant”) violated Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e *et seq.* (“Title VII”) and Title of the Civil Rights Act of 1991, 42 U.S.C. § 1981a. The EEOC seeks relief for Phyllis Powell (“Ms. Powell” or the “Charging Party”), who filed a charge of discrimination.

In the interest of resolving this matter, and as a result of comprehensive settlement negotiations, the parties have agreed that this action should be finally resolved by entry of this Consent Decree. This Consent Decree fully and finally resolves any and all issues and claims arising out of the Charge of Discrimination filed by Ms. Powell (EEOC Charge No. 210A02067) and the Complaint filed by the EEOC and by Powell in this action.

On December 9, 2002, United Airlines and several affiliated companies (UAL CORPORATION, et al.) (the “Debtors”), filed petitions for relief pursuant to Chapter 11 of Title

II of the United States Code (the "Bankruptcy Code"). These cases are being jointly administered under Case No. 02-48191 through 02-48218 before the Honorable Judge Eugene R. Wedoff in the Bankruptcy Court in the Northern District of Illinois (the "Bankruptcy Case").

FINDINGS

Having carefully examined the terms and provisions of this Decree, and based on the pleadings, records and stipulations of the parties, the Court finds the following:

- A. This Court has jurisdiction of the subject matter of this action and of the parties.
- B. The terms of this Decree are adequate, fair and reasonable. The rights of the parties and the public interest are adequately protected by this Decree.
- C. This Decree conforms with the Federal Rules of Civil Procedure and Title VII and is not in derogation of the rights or privileges of any person. The entry of this Decree will further the objectives of Title VII and will be in the best interests of the parties, the Charging Party, and the public.

NOW, THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED THAT:

DURATION OF DECREE AND RETENTION OF JURISDICTION

1. Unless otherwise noted, all provisions of this Decree shall be in effect (and the Court shall retain jurisdiction of this matter to enforce this Decree) for a period of two (2) years from the date the Court enters the Decree (hereinafter the "effective date"), provided, however, that if, at the end of the two (2) year period, any disputes under Paragraph 12 below remain unresolved, the term of the Decree shall be automatically extended (and the Court will retain jurisdiction of this matter) solely for the purpose of resolving all such disputes and the term shall terminate after all disputes have been resolved.

INJUNCTION AGAINST RACE AND SEX DISCRIMINATION

2. For a period of two (2) years following the entry of this Decree, United Airlines and its officers, agents, management (including supervisory employees), successors, assigns, and all persons acting in concert with them shall not discriminate against United Airlines African-American female employees in O'Hare Ramp Services on the basis of their race and sex.

United Airlines' obligations under this injunction are no greater than those required under Title VII or any other comparable state or local law, or ordinance prohibiting discrimination.

The EEOC's ability to seek a contempt order for violation of this paragraph shall be no greater than its statutory rights conferred by Title VII, nor shall it relieve the EEOC of its statutory obligations under the enforcement provisions of Title VII.

EFFECT OF DECREE

3. This Consent Decree shall not constitute an admission by any party as to the claims or defenses of another party.

SETTLEMENT OF CLAIMS

4. Ms. Powell will be allowed a noncontingent, general, unsecured prepetition claim in the gross amount of \$225,000.000 on account of any damages arising out of this action (less applicable withholding for the employee's share of federal, state, and local taxes and other applicable deductions required by law). United Airlines will direct its official Notice of Claims Agent to docket a noncontingent, liquidated, undisputed, general unsecured prepetition claim in the amount of \$225,000.00 in favor of Ms. Powell and to expunge the EEOC's Proof of Claim filed on Ms. Powell's behalf (identified in the Bankruptcy Case as Claim No. 37500), or any other Proof of Claim filed by Ms. Powell or on Ms. Powell's behalf. Ms. Powell and the EEOC acknowledge that any distribution on account of such claim will be made only pursuant to a confirmed plan of reorganization in the Bankruptcy Case. Such claim shall not enjoy any type of

statutory or administrative priority over any other general, unsecured, prepetition claim in the Bankruptcy Case.

5. The Debtors shall duly file a motion (the "9019 Motion") with the Bankruptcy Court pursuant to Federal Rule of Bankruptcy Procedure 9019 for approval of this Consent Decree. In the absence of any objection filed and served within twenty (20) days after the filing of the 9019 Motion, the Debtors will submit a Certificate of No Objection so that the Bankruptcy Court may enter the order (the "9019 Order") approving the 9019 Motion. After the Bankruptcy Court enters the 9019 Order, the Debtors may execute and consummate the Consent Decree, and said Consent Decree will be binding on them and their estate without further action by the Bankruptcy Court. If an objection is raised within the 20-day notice period and ultimately is resolved in the Debtors' favor, the Consent Decree will become effective upon entry of a court order denying the objection. If an objection is raised within the 20-day notice period and ultimately is resolved in favor of the objector, the Consent Decree shall be deemed to have been void *ab initio*.

6. Additionally, Ms. Powell will be awarded 200,000 frequent flyer miles which shall be administered in accordance with the rules and provisions of United's Mileage Plus Program.

MS. POWELL'S EMPLOYMENT RECORD

7. Ms. Powell shall direct requests for future employment references to "The Work Number," at www.theworknumber.com or at 1-800-367-5690. The employer seeking to verify Ms. Powell's employment will need to provide the following information: (1) Ms. Powell's social security number; (2) United Airlines as the "company name"; and (3) employer code: 10209. If the future employer wishes to also verify Ms. Powell's wage rates, it must also provide her date of birth in the following format: MMDDYY. Provided that all future requests for

employment references are directed to "The Work Number," United Airlines shall provide future employment references consistent with its normal practices, which will not include any reference to termination for cause, absenteeism, or this action.

POSTING OF NOTICE

8. Within ten (10) business days after entry of this Decree, United Airlines shall post copies of the Notice attached as Exhibit B to this Decree on the bulletin boards at its Chicago, O'Hare facility, which are usually used by United Airlines for communicating with United Airlines' O'Hare Ramp Service employees. The Notice shall remain posted for two (2) years from the effective date of this Decree. United Airlines shall take all reasonable steps to ensure that the posting is not altered, defaced or covered by any other material. United Airlines shall certify to the EEOC in writing within ten (10) business days after the effective date of the Decree that the Notice has been properly posted, United Airlines shall permit a representative of the EEOC to enter United Airlines' premises for purpose of verifying compliance with this Paragraph at any time during normal business hours without prior notice.

RECORD KEEPING

9. For a period of two (2) years from the effective date of this Decree, United Airlines shall maintain all records concerning its implementation of this Decree. United Airlines shall also maintain records of complaints of harassment by African-American, female employees in the O'Hare Ramp Service on the basis of race and sex, made to the Human Resources Department responsible for O'Hare Ramp Service, the Legal Department, United Airlines' toll-free Business Conduct Line and to Corporate Diversity. United shall also maintain records of written complaints of harassment by African-American female employees in O'Hare Ramp Service on the basis of both race and sex given to their supervisors. The records shall include

United Airlines' investigation of such complaints and any response or action taken as a result of the complaints.

REPORTING

10. United Airlines shall furnish to the EEOC the following written reports every six (6) months for a period of two (2) years following the entry of this Decree. The first report shall be due six (6) months after the effective date of the Decree. Each such report shall contain:

- a. A summary of the information recorded by United Airlines pursuant to Paragraph 9;
- b. A certification by United Airlines that the Notice required to be posted pursuant to Paragraph 8 remained posted during the entire six (6) month period preceding the report;
- c. A certification that United Airlines' Chicago O'Hare Ramp Service employees have received the training required pursuant to Paragraph 11, a list of the employee job classifications that have received such training, and the dates on which they received such training.

ANTI-DISCRIMINATION TRAINING

11. All United Airlines O'Hare Ramp Service supervisors and managers shall participate in an annual training session by a United Airlines in-house or outside attorney, or a trainer paid for by United Airlines regarding the requirements of Title VII. United Airlines shall submit to the EEOC the materials to be used in, relied upon, or distributed in the training session, forty-five (45) days prior to such training. The EEOC will respond to United, in writing, within ten (10) days of receipt of the training materials. The training may begin within sixty (60) days of effective date of this Decree and the initial session shall be completed within twelve (12) months of the effective date of this Decree.

DISPUTE RESOLUTION

12. In the event that either party to this Decree believes that the other party has failed to comply with any provision(s) of the Decree, the complaining party shall notify the other party of the alleged non-compliance and shall afford the alleged non-complying party ten (10) business days to remedy the non-compliance or to satisfy the complaining party that the alleged non-complying party has complied. If the alleged non-complying party has not remedied the alleged non-compliance or satisfied the complaining party that it has complied within ten (10) business days, the complaining party may apply to the Court for appropriate relief.

MISCELLANEOUS PROVISIONS

13. Each party to this Decree shall bear its own expenses and costs. The EEOC, Ms. Powell and United Airlines shall bear their own attorney's fees.

14. The terms of this Decree are and shall be binding upon the present and future representatives, agents, directors, officers, assigns, and successors of all parties.

15. When this Consent Decree requires the submission by United Airlines of reports, certifications, notices, or other materials to the EEOC, they shall be mailed to: United Airlines Powell Settlement, Equal Employment Opportunity Commission, 500 West Madison Street, Suite 2800, Chicago, Illinois 60661. When this Decree requires, submission by the EEOC of materials to United Airlines, they shall be mailed to Vania M. Wit, United Airlines, WHQLD, 1200 East Algonquin Road, Elk Grove Village, Illinois 60007.

16. In the event of a catastrophic event, United Airlines may petition the Court for relief from or suspension of the Consent Decree.

ENTERED AND APPROVED FOR:

**Equal Employment Opportunity
Commission**

United Airlines, Inc.



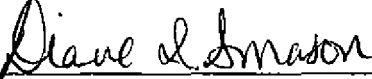
ERIC S. DREIBAND
General Counsel

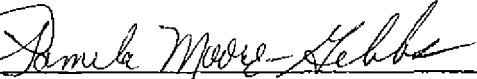
JAMES LEE
Deputy General Counsel

EQUAL EMPLOYMENT
OPPORTUNITY
COMMISSION

1801 L. Street, N.W.
Washington, D.C. 20507


John C. Hendrickson
Regional Attorney


Diane Smason
Supervisory Trial Attorney


Pamela S. Moore-Gibbs
Trial Attorney

Equal Employment Opportunity
Commission
Chicago District Office
500 West Madison Street
Suite 2800
Chicago, Illinois 60661
(312) 886-9120

Date: 4/13/04

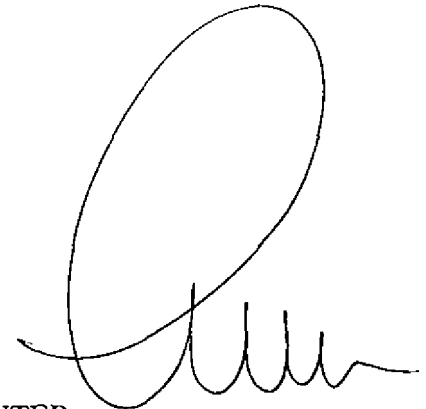

ENTER: Honorable Harry D. Leinenweber
United States District Judge

EXHIBIT B

NOTICE TO ALL UNITED AIRLINES EMPLOYEES

This Notice is being posted pursuant to a Consent Decree entered by the federal court in EEOC v. United Airlines, Inc., Case No. 02 C 4594, resolving a lawsuit filed by the Equal Employment Opportunity Commission (“EEOC”) against United Airlines. In its suit, the EEOC alleged that United Airlines discriminated against an employee a former female employee on the basis of sex and race.

To resolve the case, United Airlines and the EEOC have entered into a Consent Decree which provides, among other things, that: 1) United Airlines will provide a claim for monetary damages to the United Airlines employee; 2) United Airlines will not discriminate against any African American female employee in O’Hare Airport Ramp Services on the basis of race and sex in violation of Title VII; and 3) United Airlines will comply with various reporting and record keeping requirements for two (2) years.

The EEOC enforces the federal laws against discrimination in employment on the basis of race, color, religion, national origin, sex, age or disability. If you believe you have been discriminated against, you may follow the complaint procedure in United Airlines’ non-discrimination and anti-harassment policy and you may contact the EEOC at (312) 353-2713. The EEOC charges no fees and has a TTD number.

THIS IS AN OFFICIAL NOTICE AND MUST NOT BE DEFACED BY ANYONE

This Notice must remain posted for two years from the date below and must not be altered, defaced or covered by any other material. Any questions about this Notice or compliance with its terms may be directed to: United Airlines Settlement, EEOC, 500 West Madison Street, Suite 2800, Chicago, IL 60661.

Date

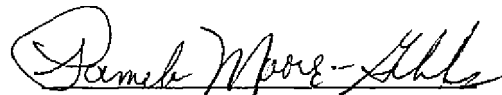
4/13/04

Judge Harry D. Leinenweber

CERTIFICATE OF SERVICE

I, Pamela Moore-Gibbs, an attorney, certify that on March 31, 2004, I caused a copy of the foregoing **Joint Motion for Entry of Consent Decree**, to be served via facsimile and first class mail, postage pre-paid to the following counsel of record:

To: Beth Golub
Stephanie J. Pulcanio
Seyfarth Shaw
55 East Monroe Street
Suite 4200
Chicago, Illinois 60603


Pamela Moore-Gibbs