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EEOC v. Mason County Forest Products, LLC

Judge Ronald B. Leighton

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EEOC v. Mason County Forest Products, LLC

Keywords

EEOC, Mason County Forest Products, LLC., CV 09-5609, Consent Decree, Sex, Hostile Work Environment, Retaliation, Manufacturing, Employment Law, Title VII

THE HONORABLE RONALD B. LEIGHTON

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IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON AT TACOMA

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,

Plaintiff,

v.

MASON COUNTY FOREST PRODUCTS, LLC,

Defendant.

No. CV 09-5609 RBL

CONSENT DECREE

DEBORAH BERNTSEN and LORRIE
HASKINS,

Plaintiff-Intervenors,

v.

MASON COUNTY FOREST PRODUCTS, LLC,
and LONG BELL VENTURES, LLC,

Defendants.

I. INTRODUCTION

1
2 1. This action originated when Debbie Berntsen filed a charge of discrimination with
3 the Equal Employment Opportunity Commission ("EEOC" or "Commission"). Ms. Berntsen
4 alleged that Defendant Mason County Forest Products, LLC ("MCFP" or "Defendant" or "the
5 Company") discriminated against her based on her sex by subjecting her to a hostile work
6 environment based on her sex and retaliating against her for engaging in protected activity.

7 2. On April 23, 2009, the EEOC issued a letter of determination with a finding of
8 reasonable cause to believe that MCFP violated Title VII by subjecting Ms. Berntsen and a class
9 of similarly situated female employees to a hostile work environment based on sex and retaliated
10 against Ms. Berntsen for engaging in protected activity. Thereafter, EEOC attempted to
11 conciliate the charge and conciliation was unsuccessful.

12 3. The Commission filed its Complaint on September 30, 2009, in the United States
13 District Court for the Western District of Washington. The Complaint alleges that MCFP
14 violated Title VII by subjecting Ms. Berntsen and a class of similarly situated female employees
15 to a hostile work environment based on sex and retaliated against Ms. Berntsen for engaging in
16 protected activity.

17 4. The parties want to conclude fully and finally all claims arising out of the EEOC's
18 Complaint and Ms. Berntsen charge of discrimination filed with EEOC. The EEOC and MCFP
19 enter into this Consent Decree to further the objectives of equal employment opportunity as set
20 forth in the Title VII.

21 II. NON-ADMISSION OF LIABILITY AND NON-DETERMINATION BY THE COURT

22 5. This Consent Decree is not an adjudication or finding on the merits of this case
23 and shall not be construed as an admission by The Company of a violation of the Title VII. The
24 Company denies all liability in this case.
25

1 III. SETTLEMENT SCOPE

2 6. This Consent Decree is the final and complete resolution of all allegations of
3 unlawful employment practices contained in Ms. Berntsen's discrimination charge, in the
4 EEOC's administrative determination, and in the Complaint filed herein, including all claims by
5 the EEOC and MCFP for attorney fees and costs.

6 IV. MONETARY RELIEF

7 7. In settlement of this lawsuit, MCFP agrees to pay Debbie Berntsen and Lorrie
8 Haskins the amount of \$900,000.00 no later than July 27, 2011.

9 V. INJUNCTIVE AND OTHER RELIEF

10 A. General Provisions

11 8. MCFP, its officers, agents, managers, assistant managers and other supervisors
12 and all human resource professionals who provide advice and assistance to the foregoing
13 individuals are enjoined from engaging in practices which unlawfully discriminate against
14 applicants and/or employees on the basis of disability or in retaliation for engaging in protected
15 activity. In recognition of its obligations under the Title VII, MCFP shall institute the policies
16 and practices set forth below. The EEOC recognizes, however, that MCFP has sold its assets
17 and no longer operates a saw mill in Shelton, WA. Accordingly, the provisions contained within
18 paragraphs 9 through 21 below shall apply only in the event that Long Bell Ventures, LLC
19 resumes operating any saw mill in Washington state at any time within three years of filing this
20 consent decree and employs more than 15 persons. In that event, it shall ensure that such new
21 facilities shall observe the policies and practices set forth below.

22 B. Anti-Discrimination Polices and Procedures

23 9. Subject to paragraph 8, MCFP shall prevent harassment, discrimination, and
24 retaliation. MCFP shall provide training to its employees, managers, and supervisors so they
25 understand its Equal Employment Opportunity ("EEO") policies and how those policies define

CONSENT DECREE- Page 3

1 and identify what constitutes harassment, discrimination and retaliation, and shall make
2 managers and supervisors personally accountable for its EEO policies.

3 10 Subject to paragraph 8, within ninety (90) days of the date of resuming operations
4 as a saw mill, the company shall: (a) institute an EEO policy which adequately prohibits
5 harassment, discrimination, and retaliation, addresses the company's obligation to provide a
6 work environment free of harassment, discrimination, and retaliation for its employees, and
7 affirms its commitment not to retaliate against any employee for engaging in protected EEO
8 activity; and (b) distribute its EEO policy to all present and future employees, both management
9 and non-management.
10

11 C. Training

12 11. Subject to paragraph 8, within 120 days of resuming operations as a saw mill, the
13 company shall provide to all managers, assistant managers, and supervisors, no less than three
14 (3) hours of face-to-face training by a qualified trainer on harassment, employment
15 discrimination, and retaliation for engaging in protected EEO activity.
16

17 Annually thereafter for the life of this Consent Decree, the company shall require:
18 all managers, assistant managers and supervisors to complete two (2) hours of face-to-face
19 training by a qualified trainer on harassment, employment discrimination and retaliation.
20

21 D. Employee Records and Neutral Employment Reference

22 12. MCFP shall not disclose any information or make reference to any charge of
23 discrimination that is the subject of the lawsuit or this lawsuit in responding to employment
24 reference requests for information about Ms. Berntsen and Ms. Haskins.
25

1 13. MCFP hereby certifies that the personnel files of Berntsen and Haskins have no
2 reference to any charge or allegation of discrimination against MCFP and this lawsuit. MCFP
3 shall not disclose any information or make reference to any charge of discrimination or this
4 lawsuit in responding to requests for information about Ms. Berntsen and Haskins.

5 E. Policies Designed to Promote Supervisor Accountability

6 14. Subject to paragraph 8, if Long Bell Ventures, LLC opens any saw mill operation
7 in the state of Washington that employs 15 or more persons, it agrees to shall specifically advise
8 all managers and supervisors at all of its facilities of their duty to ensure compliance with its
9 EEO policies, and to report any incident or complaint of harassment, discrimination, or
10 retaliation, of which they become aware. If such a manager or supervisor violates the company's
11 EEO policies, he or she may be subject to discipline up to and including termination and
12 compensation may be affected. The company shall appropriately discipline any such manager
13 and supervisor who retaliate against any employee for reporting or relaying any incident of
14 discrimination or retaliation under the company's EEO policy, or for participating in or
15 conducting an investigation of such an incident.
16
17

18 F. Reporting

19 15. Subject to paragraph 8, the Company shall agree to report to the EEOC for a
20 period of three (3) years. The reports shall be in writing and submitted on an annual basis during
21 the three-year reporting period. The reporting period will run from the date of the entry of this
22 Consent Decree.

23 16. Subject to paragraph 8, these annual reports shall contain the following
24 information and attachments:

25 a. Certification that The Company has:

CONSENT DECREE- Page 5

EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION
909 First Avenue, Suite 400
Seattle, Washington 98104-1061
Telephone: (206) 220-6885
Facsimile: (206) 220-6911
TDD: (206) 220-6882

1 1. Not operated any saw mill employing 15 or more persons during the reporting
2 period; or

3 2. Continued to maintain its written EEO policies and procedures and annually
4 distributed copies of its EEO policy as described in Paragraph 10;

5 3. Complied with the training provisions enumerated in this Consent Decree,
6 as provided in Paragraphs 11;

7 4. Continued to promote policies and procedures to promote EEO
8 accountability by managers and supervisors, as required by Paragraph 14-15.

9 5. Complied with all other provisions of this Consent Decree.

10 b. Subject to paragraph 8, copies of the following documents shall be included with
11 each annual report submitted to the Seattle office of the EEOC:

12 1. A copy of the Company's EEO policy and procedures developed and
13 implemented in accordance with the provisions of this Consent Decree;

14 2. A summary of internal formal or informal discrimination complaints on
15 the basis of disability or retaliation, if any, filed by any employees who
16 may become employed in the state of Washington, and the resolution of
17 each such complaint;

18 3. A sign-in sheet or list of the The Company names and job titles of the
19 managers and supervisors who completed EEO training and the dates the
20 training was conducted during the previous reporting period.

21 17. Subject to paragraph 8, if applicable, The Company shall submit a statement with
22 its report to the EEOC specifying the areas of noncompliance, the reason for the noncompliance,
23 and the steps that shall be taken to bring the Company into compliance.
24
25

1 G. Posting

2 18. Subject to paragraph 8, the Company shall post a Notice to All Employees. This
3 Notice is attached as Exhibit 1 to this Consent Decree. The Notice shall be posted on a centrally
4 located bulletin board at The Company's Operations and Human Resources Departments and any
5 facilities in the state of Washington for the duration of the Consent Decree.

6 VI. ENFORCEMENT

7 19. If the EEOC determines that The Company has not complied with the terms of
8 this Consent Decree, the EEOC shall provide written notification of the alleged breach to The
9 Company. The EEOC shall not petition the Court for enforcement of this Consent Decree for at
10 least twenty (20) days after providing written notification of the alleged breach. The 20-day
11 period following the written notice shall be used by the EEOC and Defendant for good faith
12 efforts to resolve the dispute.

13 VII. RETENTION OF JURISDICTION

14 20. The United States District Court for the Western District of Washington at
15 Tacoma shall retain jurisdiction over this matter for the duration of this Consent Decree.

16 VIII. DURATION AND TERMINATION

17 21. This Consent Decree shall be in effect for three (3) years from the date of entry of
18 the Decree. If the EEOC petitions the Court for breach of this Consent Decree, and the Court
19 finds The Company to be in violation of the terms of the Consent Decree, the Court may extend
20 the duration of this Consent Decree.

Dated this 11th day of July, 2011.

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NOTICE TO EMPLOYEES

This notice has been posted pursuant to the settlement of a lawsuit: *EEOC v. Mason County Forest Products, LLC* (Case No. C09-5609-RBL). In accordance with the Consent Decree, any saw mill operated by Long Bell Ventures which employs 15 or more persons will provide anti-discrimination training, implement policies to ensure supervisor and manager accountability with regard to anti-discrimination practices; and report to the EEOC as required by the Consent Decree for the next three years.

Federal law prohibits an employer from discriminating against any individual based on the individual's disability with respect to hiring, promotion, demotion, terms and conditions of employment and/or termination. Federal law also prohibits an employer from allowing any employee to be harassed because of age, race, color, sex, religion and national origin. It is also unlawful for an employer to retaliate against any individual because he or she complains of discrimination or harassment, cooperates with the investigation of a discrimination or harassment charge, participates as a witness or potential witness in any investigation or legal proceeding or otherwise exercises his or her rights under the law.

Any employee who is found to have retaliated against any other employee because such employee participated in this lawsuit will be subject to substantial discipline, up to and including immediate discharge.

Should you have any complaints of discrimination or retaliation you should contact _____ at _____.

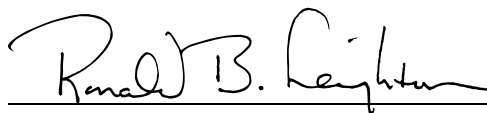
Employees also have the right to bring complaints of discrimination or harassment to the U.S. Equal Employment Opportunity Commission, Seattle Field Office at 909 1st Avenue, Suite 400, Seattle, WA 98104-1061, 206.220.6883, 1800.669.4000.

This notice shall remain prominently posted at all saw mills operated by Long Bell Ventures, LLC until 2014. This Official Notice shall not be altered, defaced, covered or obstructed by any other material.

ORDER APPROVING CONSENT DECREE

The Court, having considered the foregoing stipulated agreement of the parties, HEREBY ORDERS THAT the Consent Decree be, and the same hereby is, approved as the final decree of this Court in full settlement of this action. This lawsuit is hereby dismissed with prejudice and without costs or attorneys' fees. The Court retains jurisdiction of this matter for purposes of enforcing the Consent Decree approved herein.

DATED this 18th day of July, 2011.



RONALD B. LEIGHTON
UNITED STATES DISTRICT JUDGE

Presented by:

THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

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CONSENT DECREE- Page 10

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