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## EEOC v. U-Haul International Inc.

Judge S. Thomas Anderson

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## EEOC v. U-Haul International Inc.

### **Keywords**

EEOC, Equal Employment Opportunity Commission, U-Haul, Transportation, Race, African American, Black, Hostile Work Environment, Retaliation, Constructive Discharge

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TENNESSEE  
WESTERN DIVISION**

EQUAL EMPLOYMENT OPPORTUNITY	)	
COMMISSION,	)	
	)	
Plaintiff,	)	
	)	
v.	)	
	)	11-2844-STA-dkv
U-HAUL INTERNATIONAL, INC.,	)	
d/b/a U-HAUL COMPANY OF	)	
TENNESSEE, and U-HAUL COMPANY OF	)	
TENNESSEE	)	
	)	
Defendants.	)	
	)	
	)	
	)	

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**CONSENT DECREE**

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**INTRODUCTION**

Plaintiff, Equal Employment Opportunity Commission (EEOC or Commission) and Defendants, U-Haul International, Inc. (UHI), and U-Haul Co. of Tennessee (UHTN) enter into this Consent Decree (Decree) to resolve this case.

The Commission filed a lawsuit on September 28, 2011 (the Complaint) to remedy unlawful employment practices on the bases of race, retaliation, and constructive discharge in violation of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, et seq., (Title VII) and Title I of the Civil Rights Act of 1991. The Commission alleged that Defendants allowed its managers and employees to subject Nathaniel Baldwin and a class of African-American employees to unwelcome racial harassment, including racial slurs and other offensive

comments. The Commission further alleged that Defendants UHI and UHTN retaliated against and constructively discharged certain individuals.

This Decree does not constitute a finding on the merits of the case and does not constitute an admission by either Defendant of the allegations in the Complaint. U-Haul International, Inc. specifically denies that it employed any of the identified aggrieved parties, including Nathaniel Baldwin. The Commission maintains that U-Haul International, Inc. and U-Haul Company of Tennessee employed each of the aggrieved individuals. The Commission and the Defendants have consented to entry of this Decree to avoid the additional expense and other burdens that continued litigation of this case would involve.

This Decree constitutes the complete and exclusive agreement between the Commission and the Defendants with respect to the matters referred to herein. No waiver, modification, or amendment of any provision of this Decree shall be effective unless made in writing. The parties have made no representations or inducements to compromise this action, other than those recited or referenced in this Decree. In the event the Court does not approve this Decree, the parties agree not to admit it in evidence in any subsequent proceeding in this lawsuit.

### **FINDINGS**

After examining the terms of this Decree, and based on the pleadings, record, and stipulations of the parties, the Court finds:

- (a) This Court has jurisdiction of the subject matter of this action and the parties.
- (b) The terms of this Decree are adequate, fair, reasonable, equitable, and just. The Decree adequately protects the rights of the Commission, the Defendants, and the public interest.

(c) This Decree conforms to the Federal Rules of Civil Procedure and Title VII, and does not derogate the rights or privileges of any person. The entry of this Decree furthers the objectives of Title VII and appears in the best interests of the parties and the public.

It is hereby **ORDERED, ADJUDGED AND DECREED:**

### **I. JURISDICTION**

1. The United States District Court for the Western District of Tennessee, Western Division, has jurisdiction over the parties and the subject matter of this litigation and will retain jurisdiction over this Decree for the purposes of enforcement.

2. No party shall contest jurisdiction of this Court to enforce this Decree and its terms or the right of the Commission to seek enforcement in the event Defendants breach any of the terms of this Decree.

### **II. SCOPE AND DURATION OF THIS DECREE**

3. This Decree resolves all issues and claims arising out of the Commission's Complaint in Civil Action No. 2:11-cv-02844-STA-dkv, alleging unlawful employment practices by Defendants based on Charge No. 490-2009-00331 filed by Nathaniel Baldwin. This Decree resolves only Charge No. 490-2009-00331.

4. Upon the date the Court enters the Decree, the provisions of this Decree become immediately effective and binding upon the parties to this lawsuit for twenty-four (24) months after the effective date of this Decree.

### **III. INJUNCTIVE RELIEF**

5. The items set forth in this section apply only to only to Defendant UHTN.

6. UHTN, its supervisors, managers, officers and directors, are enjoined from discriminating against African-Americans based on their race or from subjecting any employee to a racially hostile work environment.

7. UHTN, its supervisors, managers, officers and directors, are enjoined from retaliating against any applicant or employee because the individual has opposed discriminatory acts under Title VII.

#### **IV. POLICIES AND PROCEDURES**

8. Defendant UHTN will maintain and communicate to its employees a written policy that prohibits discrimination (Policy).

(a) The Policy shall detail UHTN's prohibition of discrimination in the workplace, specifically prohibiting race discrimination and racial harassment.

(b) The Policy shall also specifically state that Defendant UHTN does not tolerate retaliation, and employees who complain about discrimination in the workplace are protected against retaliation.

(c) The Policy shall specifically state that all complaints of discrimination shall be thoroughly documented and investigated.

(d) The Policy shall broadly disseminate the names, job titles, work hours and locations, telephone numbers, and e-mail addresses of those to whom reports may be made.

(e) The Policy shall require that any UHTN supervisory, managerial, or human resources employee who observes or otherwise obtains information regarding harassment report such information to the Vice President of Human Resources of UHI.

(f) Defendant UHTN shall conduct exit interviews of all employees working at the 3020 Lamar Avenue, Memphis, TN shop facility (“Shop”) and who leave the company to determine whether they were subjected to racial harassment or retaliation.

(g) Defendant UHTN shall distribute a copy of the Policy to all current and new Shop employees.

## **V. TRAINING**

9. Defendant UHTN will provide an annual training program on race discrimination, racial harassment and retaliation under Title VII to all Shop employees and to all management officials of UHTN marketing company division known as U-Haul Co. of Memphis. Defendant UHTN will schedule the initial annual training and conduct it within 90 days after the date of entry of this Decree. Defendant UHTN agrees to conduct training each year for the duration of this Consent Decree.

10. Defendant UHTN will conduct the training in-person, and a member of UHTN’s Board of Directors will appear via video conference or in person to indicate that Defendant UHTN does not tolerate race discrimination, racial harassment, or retaliation.

11. Defendant UHTN will advise staff in writing that the training is mandatory for all employees as set forth above in Paragraph 9. The training will last at least two hours and will include, but not necessarily be limited to, the following:

(a) The definition of Title VII of the Civil Rights Act of 1964 and the Civil Rights Act of 1991;

(b) A discussion of race discrimination, including what treatment constitutes race discrimination;

(c) A discussion of racial harassment, including what constitutes racial harassment;

(d) A discussion of how to prevent, identify and remedy racial harassment;

(e) A discussion of Defendant's policy against race discrimination and retaliation, including procedures and responsibilities for reporting, investigating and remedying racial harassment and retaliation; and

(f) A discussion of what constitutes retaliation under Title VII.

12. Defendant UHTN will provide additional individual race discrimination training to Marketing Company President Carol George.

(a) The additional individual training for Carol George will also encompass reporting obligations and mechanisms for reporting allegations of race discrimination, racial harassment, and retaliation.

(b) Defendant UHTN will issue a memorandum to Carol George explaining that it does not discriminate on the basis of race or retaliation, and that it will not tolerate race discrimination, racial harassment, or retaliation in the workplace by any employee, including members of management. Defendant UHTN will place a copy of the memorandum in Carol George's personnel file.

13. At least two weeks before the training session(s), Defendant UHTN shall notify the Commission of the date(s) and locations(s) of the training and provide a description of the training materials that it intends to use.

## VI. INDIVIDUAL RELIEF

14. In full and final settlement of the claims brought in the Commission's Complaint, Defendant UHTN shall pay a total of \$750,000.00, all of which represents compensatory damages and not back pay, to resolve the claims. The Commission is not pursuing back pay on behalf of any claimant. The Commission will send Defendant UHTN a letter identifying the claimant, his current address and the amount each claimant will receive from the total amount within ten (10) days after entry of the Consent Decree.

15. Claimants will receive a 1099 form and each will be solely responsible for all taxes on amounts received pursuant to this Consent Decree.

16. Within thirty (30) business days of the entry of this Decree by the Court, Defendant UHTN shall separately mail checks, via certified or overnight mail (signature required), to each claimant at the address provided by the Commission. Concurrently, copies of the checks and related correspondence will be mailed to the Commission at the following address: Attn: Kelley Thomas; 1407 Union Avenue, Suite 901; Memphis, Tennessee; 38104.

17. Late payment of checks shall be subject to the accrual of interest pursuant to 28 U.S.C. § 1961.

18. Defendants shall supply to each claimant identified pursuant to Paragraph 14 a neutral letter of reference in the form attached hereto as Exhibit A. Such letters of reference will be sent via certified or overnight mail (signature required) with the checks as referred to in Paragraph 16.

(a) Any future request for verification of the authenticity of the letter of reference supplied above will be directed to James H. ("Butch") Greer, Vice President of Human Resources for U-Haul International, Inc., or his successor, (602) 263-6625.

Defendants will not be responsible for any verification requests directed to any other person or location

(b) Neither Nathaniel Baldwin's charge of discrimination nor this lawsuit shall be disclosed when an inquiry is made about Nathaniel Baldwin or any of the claimants' employment.

19. All claimants will be required to execute the release attached as Exhibit B.

#### **VII. RECORDKEEPING AND REPORTING PROVISIONS**

20. Defendant UHTN shall maintain records of any complaints of race discrimination, racial harassment, or retaliation involving any of its employees or managers at its shop located at 3020 Lamar Avenue, Memphis, Tennessee, 38114. These records must include:

(a) The names, addresses, telephone numbers of the applicant or employee making the complaint;

(b) The date of the report or complaint;

(c) A detailed description of the allegations made;

(d) The names of any witnesses;

(e) The name and position of the alleged bad actor(s); and

(f) What actions, if any, Defendant UHTN took to resolve the complaint.

21. Defendant UHTN will provide two reports to the Commission.

(a) Each report must contain a summary of the information recorded by it pursuant to Paragraph 20, above;

(b) A record of attendance at the training program required by Paragraph 9 above; and

(c) A certification by Defendant UHTN that the Notice required to be posted by Paragraph 23 below remained posted during the time period preceding the report.

22. Defendant UHTN will submit the first report within 12 months of the entry of this Decree and the second report within 22 months of the entry of this Decree.

#### **VIII. NOTICE**

23. Defendant UHTN shall post a copy of the Notice attached as Exhibit C at the Shop facility within ten business days of entry of this Decree. It will post Exhibit C in a conspicuous place upon its premises, and keep a copy of the Notice posted until October 1, 2015.

24. Defendant UHTN must also keep posted in conspicuous places the notice poster required by Title VII, 42 U.S.C. § 2000e-10.

#### **IX. NOTIFICATION OF SUCCESSORS**

25. During the term of this Consent Decree, Defendants shall provide notice and a copy of this Decree to any successors, assigns, subsidiaries, affiliates, any other corporation or other entity that acquires Defendants, and any other corporation or other entity into which Defendants may merge, or with which Defendants may consolidate. The successors, assigns, acquiring entities, and any surviving entities upon merger or consolidation shall be fully liable for complying with the terms of the Decree. Defendants shall provide notice to the Commission within 30 days of any assignment, succession, acquisition, merger, or consolidation affecting Defendants.

#### **X. ENFORCEMENT**

26. Should the EEOC have any question concerning the reports called for by the Consent Decree or compliance with any provision of the Consent Decree, the EEOC will provide Defendants' counsel, David Jaqua, with written notice describing the deficiency. After service

of the notice, the EEOC and Defendants will schedule a telephone or in-person meeting to attempt to resolve the dispute. Absent a showing by either party that the delay will cause irreparable harm, Defendants shall have thirty (30) days to attempt to resolve or cure the alleged breach. The Parties agree to cooperate with each other and use their best efforts to resolve any dispute that may arise. After this period has passed without resolution or an agreement to extend the time further, the EEOC may petition this Court to enforce this Consent Decree.

## **XII. MISCELLANEOUS PROVISIONS**

27. Each party to this Decree shall bear its own costs, attorney fees, and expenses in this lawsuit.

28. If the Court finds any provision of this Decree unlawful, the Court will sever only such provision, and the remainder of the Decree will remain in full force and effect.

29. When this Decree requires a certification by Defendants of any facts, such certification will be made under oath or penalty of perjury by an officer or management employee.

30. When this Decree requires the submission by Defendants of reports, certifications, notices, or other materials to the Commission, they will be mailed to: U-Haul Title VII Settlement, Equal Employment Opportunity Commission, c/o Kelley Thomas, 1407 Union Avenue, Suite 901, Memphis, TN 38104.

**IT IS SO ORDERED**

**s/ S. Thomas Anderson**  
S. THOMAS ANDERSON  
UNITED STATES DISTRICT JUDGE  
Date: September 23, 2013

EXHIBIT A

LETTER OF REFERENCE

To Whom It May Concern:

This letter is in response to any inquiry regarding the employment of [insert name] while employed at U-Haul Co. of Tennessee ("U-Haul"). Company policy provides that only dates of employment and position held can be provided in response to any employment inquiry.

[Insert name] held the position of [insert position] at U-Haul from [insert date] until [insert date]. I am confident that [insert name] can provide you with additional details concerning his tenure at U-Haul. I hope this information is helpful and that it satisfactorily answers your inquiry.

Sincerely,

U-Haul Co. of Tennessee

EXHIBIT B

In consideration for \$\_\_\_\_\_ paid to me by Defendant U-Haul Co. of Tennessee, in connection with the resolution of Equal Employment Opportunity Commission v. U-Haul International, Inc., d/b/a U-Haul Company of Tennessee, and U-Haul Company of Tennessee, Civil Action No. 2:11-cv-02844 (W.D. Tenn.), I waive my right to recover for any claims of race discrimination and retaliation arising under Title VII of the Civil Rights Act of 1964, as amended, that I had against Defendants prior to the date of this release and that were included in the claims alleged in the Equal Employment Opportunity Commission's complaint in Equal Employment Opportunity Commission v. U-Haul International, Inc., d/b/a U-Haul Company of Tennessee, and U-Haul Company of Tennessee, Civil Action No. 2:11-cv-02844 (W.D. Tenn.). I acknowledge that the parties have consented to this resolution to avoid the burdens of further litigation and that the payment above does not constitute an admission of fault or wrongdoing by any party.

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

EXHIBIT C

**NOTICE TO ALL EMPLOYEES**

This Notice is posted to all employees pursuant to a Consent Decree entered into between U-Haul Co. of Tennessee and U-Haul International, Inc. and the Equal Employment Opportunity Commission as part of the settlement of a lawsuit, Civil Action No. 2:11-cv-02844-STA-dkv, filed in the United States District Court of the Western District of Tennessee, Western Division. The Consent Decree provides for the payment of money damages to employees whom the Commission claimed Defendants subjected to race discrimination, racial harassment, and retaliation in 2007 and 2008. Additionally, U-Haul Co. of Tennessee must conduct training on the prevention of race discrimination, racial harassment, and retaliation in the workplace.

Discrimination based on race, including harassment, is a violation of Title VII of the Civil Rights Act, 42 U.S.C. § 2000e, et seq. Federal law requires an employer to maintain a workplace free from discrimination based on race, sex (gender), religion, color, national origin, age (40 or older), or disability with respect to terms and conditions of employment. It is also unlawful under Title VII to retaliate against any employee who opposes a practice made unlawful under federal law or files, assists or participates in the filing of a charge of discrimination or participates in any investigation under Title VII.

U-Haul will not tolerate or condone race discrimination against any employee or applicant for employment. Race discrimination, including racial harassment, is a violation of company policy as well as federal law. Violation of these company policies will result in disciplinary action up to and including termination.

If you believe you have been discriminated against in violation of federal law, you have the right to seek assistance from:

Equal Employment Opportunity Commission  
1407 Union Avenue, Suite 901  
Memphis, Tennessee 38104  
Telephone: 1-800-669-4000  
Website: [www.eeoc.gov](http://www.eeoc.gov)

This Notice will remain posted until October 1, 2015 and must not be altered, defaced, removed, or covered by any other materials.

\_\_\_\_\_  
Date

\_\_\_\_\_  
U-Haul Co. of Tennessee

**THIS IS AN OFFICIAL NOTICE.  
POST UNTIL OCTOBER 1, 2015 AND THEN REMOVE**