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EEOC v. Cintas Corp

Judge Petrese B. Tucker

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EEOC v. Cintas Corp

Keywords

Consent Decree, Employment Law, Title VII, EEOC, Cintas Corp, 1:09-CV-04449, Retail, African-American, Black, Race, Male, Sex, Hostile Work Environment

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

EQUAL EMPLOYMENT OPPORTUNITY)	
COMMISSION,)	
Plaintiff,)	CIVIL ACTION: 1 :09-CV-04449
v.)	
CINTAS CORPORATION, et al.)	
Defendants.)	

CONSENT DECREE

This action was instituted by Plaintiff, the U.S. Equal Employment Opportunity Commission (the "EEOC" or the "Commission"), against Defendants Cintas Corporation and Cintas Corporation No.2, both d/b/a Cintas Fire Protection and formerly located at Warminster, Pa., but now located at Conshohocken, Pa., ("Defendants") alleging that Defendants violated Section 703(a)(1) and 704(a)(1) of Title VII, 42 U.S.C. § 2000e-2(a)(1) and § 2000e-3(a)(1), by subjecting Claude Ashe, Armand Upchurch, and other African-American employees and male employees (collectively, the "Claimants") to a racially and sexually hostile work environment. The Commission and Defendants desire to resolve this action without the time and expense of continued litigation, and have formulated a plan to be embodied in a Decree that will promote and effectuate the purposes of Title VII. The Court has examined this Decree and finds that it is reasonable and just and in accordance with the Federal Rules of Civil Procedure and Title VII. Therefore, upon due consideration of the record herein and being fully advised in the premises, it is ORDERED, ADJUDGED AND DECREED:

Scope of Decree

1. This Decree resolves all issues and claims in the Amended Complaint filed by the Commission in this Title VII action, which emanated from the EEOC Charges of Discrimination filed by Armand Upchurch and Claude Ashe. This Decree in no way effects the Commission's right to process any other pending or future charges that may be filed against any of the Defendants to this action and to commence civil actions on any such charges as the Commission sees fit.

2. This Decree applies to Defendants' Fire Protection facility located at Conshohocken, Pa. "(Covered Facility").

3. The Decree shall be in effect for one (1) year from the date it is entered by the Court. During that time, this Court shall retain jurisdiction over this matter and the parties for purposes of enforcing compliance with the Decree, including issuing such orders as may be required to effectuate the purposes of the Decree.

4. This Decree, being entered with the consent of the EEOC and Defendants, shall not constitute an adjudication or finding on the merits of the case.

Monetary Relief

5. Within ten days after the entry of this Decree Defendants shall pay \$152,500, deemed compensatory damages, to the following Claimants in the amounts set forth below and as also set forth in separate settlement agreements with each Claimant:

a. Armand Upchurch (\$37,500.00)

b. Claude Ashe (\$50,000.00)

- c. Joshua Stahl (\$25,000)
- d. Jeremy Onori (\$10,000)
- e. William H. Tomer, Jr. (\$10,000.00)
- f. Daniel Ferry (\$ 10,000.00) and
- g. Ralph David Fisher, Jr. (\$ 10,000.00)

Within two days of the execution of the Decree, the EEOC shall provide Defendants with the current addresses of each of the above individuals. Defendants will send checks directly to the Claimants, and send a photocopy of the checks and related correspondence to the EEOC, Philadelphia Field Office, 801 Market Street, 13th Floor, Philadelphia, PA 19107, Attn: David Staudt, Trial Attorney. Defendants shall issue Claimants IRS Form 1099s to document the payments on or before the date required by the Internal Revenue Service for the 2010 calendar year.

Injunctive Relief

6. Defendants are enjoined from discriminating against or harassing any person or condoning the harassment of any person based on sex and race. The prohibited harassment includes, but is not limited to, the use of offensive or derogatory comments, or other verbal or physical conduct based on an individual's race and sex, which create an intimidating, hostile, or offensive working environment, or interfere with the individual's work performance. Such sex and race-based harassment violates Title VII, which, in part, is set forth below:

It shall be an unlawful employment practice for an employer --

(1) to discriminate against any individual with respect to his ... terms, conditions, or privileges of employment, because of such individual's race [or] ... sex . . .

(2) to limit, segregate, or classify his employees or applicants for employment in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of such individual's race [or] ... sex ...

42 U.S.C. § 2000e-2(a)(1).

7. Defendants are enjoined from retaliating against any of Defendants' employees

who complain of harassment or discrimination, as set forth in the following provision:

It shall be an 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 this subchapter, or because he has made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this subchapter.

42 U.S.C. § 2000e-3(a).

8. Defendants are enjoined from retaliating against any current or former employee

of Defendants who has in any way given information to Plaintiff in this action or its preceding administrative investigation, or who has been mentioned by Plaintiff or the claimants during this action as persons having knowledge relevant to the claims and defenses at issue in this action.

"Retaliation" shall include, among other actions defined by Title VII and implementing regulations, the selective actual or threatened enforcement of non-competition clauses against current or former hourly employees who have in any way given information to Plaintiff in this action or its preceding administrative investigation, or who have been mentioned by Plaintiff or the claimants during this action as persons having knowledge relevant to the claims and defenses at issue in this action.

9. Defendants are enjoined from enforcing any non-competition covenants currently in force between any of Defendants and claimant Daniel Ferry, and between any of Defendants and claimant William H. Tomcr, Jr.

10. Armand Upchurch, Claude Ashe, Joshua Stahl, Daniel Ferry, William Turner, Jr., Jeremy Onori, and Ralph David Fisher, Jr., will direct any prospective employer's inquiries to Julie Grady-Heard, Director of Human Resources - First Aid & Safety, Cintas Corporation, P.O. Box 625737, Cincinnati OH 45262-5737. In response to said inquiries, Defendants agree to provide a neutral reference confirming the position held, promotions received, dates of employment and, if requested, wage information. Defendants shall not inform any prospective employer either directly or indirectly that Defendants had any concerns regarding these persons' performance, attendance, or attitude; or that these persons were claimants in an EEOC action against Defendants.

11. The injunction is intended to survive the life of the Consent Decree.

Written Policies & Procedures

12. Defendants will maintain its current written workplace anti-discrimination policies in effect for the Cintas Corporation within the United States or similar policies (including but not limited to Corporate Policy C-138 ("Workplace Harassment Prevention"), Corporate Compliance Policy C-201 ("Code of Conduct and Business Ethics,") and Corporate Policy C-123).

13. Within 30 days of the entry of this Decree, Cintas will provide copies of the current Cintas Corporate Policy C-138 ("Workplace Harassment Prevention," Corporate Compliance Policy C-201 ("Code of Conduct and Business Ethics,") and Corporate Policy C-123, as well as directions for using Defendants' confidential reporting system (e.g., hotline or direct line) to take workplace discrimination complaints, to all employees at the Covered

Facility.

14. Within 30 days of the entry of this Decree, Defendants will require its managers at the Covered Facility to: (1) document any complaints of alleged discrimination, harassment, or other allegedly wrongful behavior they receive that the complainant believes to have been based upon sex, race, color, disability, or national origin; or any and all complaints of behavior that the complainant believes to be in retaliation for opposing such alleged discrimination or harassment; (2) to document Defendants' actions in response to such complaints including any investigation taken; the results of the investigation and whether any disciplinary action was taken. A complete file of such complaints and documentation shall be maintained securely by Defendants' human resources manager at the Covered Facility. Cintas shall forward a copy of any and all such files to the EEOC six (6) months after the entry of the Decree and at the end of the term of this Consent Decree.

Notice and Posting

15. Within 30 days of the entry of this Decree, Defendants will display and maintain the EEOC's EEO poster at the Covered Facility, in a place visually accessible to applicants and employees of the Defendants.

16. Within 30 days of the entry of this Decree, Defendants will display and maintain, in a place visually accessible to employees at the Covered Facility, and at a minimum in all work place bulletin boards in the Covered Facility in which general announcements are routinely posted, a remedial Notice pursuant to this Decree, a copy of which is attached as Appendix A,

printed on EEOC letterhead.

Anti-Discrimination Training

17. Within five days of entry of this Decree, a copy of this Decree as executed by the Court, shall be given to the general manager and human resources manager of the Covered Facility, with the instruction that this Decree is an Order of the Court.

18. Within five days from the entry of this Decree, all Cintas Corporation workplace anti-discrimination policies applicable to the Covered Facility, including all in-force periodic training requirements, shall be strictly enforced at these facilities. Defendants will maintain attendance records identifying the name and job title of attendees at all training to be maintained by the human resources manager for each facility and provided to the EEOC at the end of the term of this Consent Decree.

19. Defendants shall conduct in-person training on federal workplace anti-discrimination law for all employees of the Covered Facility within 90 days of entry of this Consent Decree. Cintas counsel shall arrange for the facilitation of said training and is free to substitute for itself an appropriate third party other than Global Novations. Attendance shall be recorded, and employees shall be paid their usual wage for attending the training. The training shall cover, at minimum:

- a. the prohibited bases for discrimination, including retaliation
- b. what harassment is (as opposed, e.g., to disparate treatment)
- c. the difference between joking/roughhousing and harassment

- d. options for reporting discrimination in-house under in-force Cintas Corporation policies, including the level of confidentiality to be expected for each option. Further, employees and managers shall be instructed that employees have the right to make such reports without the alleged wrongdoer being present. The training will include a statement that: "The EEOC enforces federal workplace discrimination laws" and will include the EEOC's contact information for the Philadelphia district office.
- e. what retaliation is and that it may include making disparaging or defamatory statements about Cintas partners or former partners who have complained about discrimination
- f. for managers, how to handle discrimination complaints consistent with this Consent Decree and in-force Cintas Corporation policies.

Completion of this training shall be certified in writing to the EEOC within 30 days of the training. The certification shall include a list of attendees and non-attendees, the reason why the training was not conducted for any employee, and the date certain by which the training will be completed for any non-attendees.

Miscellaneous

20. The Commission shall not disclose or publish, or cause to be disclosed or published, to the public the contents of its files in this matter, pursuant to Title VII, sections 706 and 709. Further, all individual claimants shall return to EEOC their copies of any audio recordings relating to this matter, to be held by the EEOC and not to be disseminated to the

public, pursuant to Title VII, sections 706 and 709; 42 U. S. C. §§ 2000e-5(b) and 2000e-8(e).

The EEOC shall not return any audio recordings to Defendants

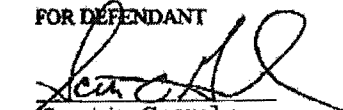
21. All materials required by this Decree to be sent to EEOC shall be addressed to:

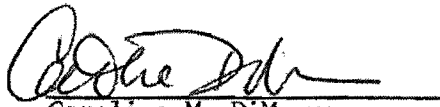
Equal Employment Opportunity Commission
Philadelphia District Office
Attention: David Staudt, Trial Attorney
801 Market Street, 13th Floor
Philadelphia, P A 17108

22. The Commission and Defendants shall bear their own costs and attorneys' fees.

23. The undersigned counsel of record in the above-captioned action hereby consent, on behalf of their respective clients or class members, to the entry of the foregoing Consent Decree.

FOR DEFENDANT


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Philadelphia, P A 17108

SO ORDERED:


Petrese B. Tucker

SO ORDERED.

Hon. Petrese B. Tucker
United States District Judge

(on EEOC Letterhead)

NOTICE TO ALL EMPLOYEES

This Notice is being posted as part of the resolution of a lawsuit filed by the Equal Employment Opportunity Commission ("EEOC") against Cintas Corporation and Cintas Corporation No. 2 (collectively, "Cintas") in the United States District Court for the Eastern District of Pennsylvania.

Title VII prohibits employment discrimination based on sex, race, color, national origin, or religion. Unlawful discrimination can take the form of harassment based on sex, race, color, national origin, and religion or retaliating against individuals who have complained of or opposed discrimination. Therefore, in accordance with the applicable law:

CINTAS WILL NOT engage in any conduct that is unlawful under Title VII.

CINTAS WILL NOT tolerate racially or sexually offensive conduct in the workplace.

CINTAS WILL NOT retaliate against employees for complaining of or opposing discrimination.

Cintas's policies provide that persons who believe that they have been subjected to unlawful discrimination may report it to their supervisor, their facility's General Manager, or their facility's Human Resources manager or representative. In addition, complaints may be made to Cintas using a Hotline form, located near lunch or breakrooms and in restrooms or by calling Cintas' confidential 24-hour Direct Line at 1-800-292-9480. Cintas will thoroughly investigate all such complaints with due regard for the privacy of the individuals involved. Anyone who retaliates against an employee who has complained of discrimination shall be subject to immediate disciplinary action, up to and including discharge.

Darryl Peterson
Cintas Corporation

Date Posted: