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EEOC v. Bridgestone/Firestone North American Tire, LLC

Judge Arlander Keys

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EEOC v. Bridgestone/Firestone North American Tire, LLC

Keywords

EEOC, Burt Barton, James Anderson, Lennard Browder, Ada Charlson, Eugene Clark, Jorge Crespo, Kenneth Davis, Vinson Durham, Victor Garcia, Raul Moreno, Devan Pitts, Ignacio Ponce, Charles Prado, Tomm Sing, Gregory Wheat, Cedric White, Michael White, Bridgestone/Firestone North American Tire, LLC, 1:05-cv-05445, Consent Decree, Disparate Treatment, Hostile Work Environment, Terms and Conditions, National Origin, Race, Black or African American, Hispanic or Latino, Service, Employment Law, Title VII

HHG

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

EQUAL EMPLOYMENT OPPORTUNITY)	
COMMISSION,)	
)	Civil Action No. 05 C 5445
Plaintiff,)	
v.)	
)	Magistrate Judge Keys
)	
BRIDGESTONE/FIRESTONE NORTH)	
AMERICAN TIRE,LLC)	
)	
Defendant.)	
)	

CONSENT DECREE

THE LITIGATION

1. Plaintiff United States Equal Employment Opportunity Commission ("EEOC") filed this action alleging that the Defendant Bridgestone Firestone North American Tire, LLC ("BFNT"), violated Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e et seq. ("Title VII"), when it subjected classes of black and Hispanic employees to a hostile work environment based upon their race and/or national origin, subjected classes of black and Hispanic employees to different terms and conditions of employment based on their race and/or national origin, and discharged Burt Barton in retaliation for his opposition to race discrimination prohibited by Title VII. BFNT filed an answer denying these allegations and denying that it had violated Title VII.

2. In the interest of resolving this matter, and as a result of having engaged in comprehensive settlement negotiations, the parties have agreed that this action should be finally

resolved by entry of this Consent Decree ("Decree").

3. This Decree fully and finally resolves any and all issues and claims arising out of the Complaint filed by the EEOC and the parties' subsequent litigation of this action.

FINDINGS

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

a. This Court has jurisdiction over the subject matter of this action and over the parties;

b. The terms of this Decree are adequate, fair, reasonable, equitable, and just. The rights of the EEOC, BFNT, class members, and the public interest are adequately protected by this Decree; and

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 class members, and the public.

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

INJUNCTION AGAINST FUTURE EMPLOYMENT DISCRIMINATION

5. BFNT and its officers, management employees (including supervisory employees), successors, and assigns are hereby enjoined for the term of this Decree from engaging in any form of discrimination on the basis of race, color, or national origin prohibited by Title VII with respect to any employee of BFNT's Woodridge, Illinois distribution center ("Woodridge DC"). BFNT and its officers, management employees (including supervisory employees), successors, and assigns are further enjoined for the term of this Decree from

engaging in any form of retaliation against any person because such person has opposed any practice at the Woodridge DC that is prohibited by Title VII, filed a charge of discrimination under Title VII concerning a practice at the Woodridge DC, testified, assisted, or participated in any manner in any investigation, proceeding, or hearing under Title VII concerning a practice at the Woodridge DC, or asserted any rights under this Decree. Nothing in this paragraph is meant to expand liability to any person or entity not already covered by Title VII.

MONETARY RELIEF

6. Subject to the terms and conditions of this Decree, BFNT shall make payments ("Payment(s)") to the individuals for whom the EEOC has sought relief ("Class Members") in the following amounts, totaling \$425,000.00 with appropriate deductions made from the portion of the Payments designated as backpay:

Burt Barton:	damages — \$35,000, backpay — \$20,000
James Anderson	damages — \$30,000
Lennard Browder:	damages — \$30,000
Ada Charlson:	damages — \$20,000
Eugene Clark:	damages — \$30,000
Jorge Crespo:	damages — \$15,000
Kenneth Davis	damages — \$30,000
Vinson Durham:	damages — \$30,000
Victor Garcia:	damages — \$10,000
Raul Moreno:	damages — \$5,000
Devan Pitts:	damages — \$30,000
Ignacio Ponce	damages — \$5,000
Charles Prado:	damages — \$10,000
Tomm Sing:	damages — \$30,000
Gregory Wheat:	damages — \$30,000
Cedric White:	damages — \$30,000
Michael White:	damages — \$35,000

The Payment designated as backpay will be subject to required tax withholdings and deductions, which BFNT will report on IRS Form W-2, a copy of which shall be furnished to Burt Barton. BFNT shall not deduct the employer's portion of any applicable payroll taxes from

the Payment designated as backpay. Each Payment designated as damages shall be reported on IRS Form 1099, a copy of which shall be furnished to the appropriate Class Member. BFNT shall make no deductions from Payments designated as damages. Other than the employer's portion of any applicable payroll taxes from the Payment designated as backpay, BFNT shall not be responsible for the payment of any other taxes with respect to the Payments.

7. For each Class Member named in Paragraph 6, no later than ten (10) business days after the approval and entry of this Decree and receipt by BFNT of a copy of the Release Agreement executed by that Class Member (in the form set forth in Exhibit A to this Decree), whichever is later, BFNT shall issue and mail to that Class Member, by certified mail, a check for backpay, if applicable, and a check for damages, in the amounts specified in Paragraph 6 (less required tax withholdings and deductions). Contemporaneously, BFNT shall submit copies all such checks to the EEOC. The EEOC shall provide BFNT with current mailing addresses for Class Members who are no longer employed by BFNT.

POSTING OF NOTICE

8. No later than ten (10) business days after approval and entry of this Decree, BFNT shall post the Notice attached as Exhibit B to this Decree at the Woodridge DC, on a bulletin board commonly used by BFNT for posting notices directed to employees. The Notice shall remain posted during the entire period during which this Decree is effective (see Paragraph 19). BFNT shall take all reasonable steps to ensure that the posting is not altered, defaced or covered by any other material. No later than ten (10) business days after entry of this Decree, BFNT shall certify to the EEOC in writing that the Notice has been properly posted. During the term of this Decree, BFNT shall permit a representative of the EEOC to enter the Woodridge DC for purposes of verifying compliance with this Paragraph at any time during normal business

hours. The EEOC representative must comply with any applicable safety rules and will be escorted by a representative designated by BFNT who is available at that time.

RECORD KEEPING

9. During the period in which this Decree is effective, BFNT shall maintain and make available for inspection and copying by the EEOC written records of every separation of a BFNT employee from employment at the Woodridge DC, and every complaint or report by a BFNT employee or applicant, of employment discrimination prohibited by this Decree, including complaints or reports of retaliation. For each such separation from employment, the above-noted records shall include: (a) the name of the employee whose employment at BFNT has ended; (b) the reason for that employee's separation from employment at BFNT, including whether the separation was required or requested by BFNT; and (c) the race of the employee. For each such complaint or report of employment discrimination, the above-noted records shall include: (i) the name of the complaining or reporting person (including social security number, address, and telephone number); (ii) the date of the complaint or report; (iii) a written description of what was alleged in the complaint or report; (iv) the names of any witnesses of which BFNT is aware; (v) a written description of the resolution or outcome of the complaint or report, including a description of what actions, if any, BFNT took; and (vi) if the complaint or report was made in written form, a copy thereof.

10. During the period in which this Decree is effective, BFNT shall maintain and make available for inspection and copying by the EEOC records identifying the names of all material handlers working at the Woodridge DC and, if disclosed by the material handler or known to BFNT, their race and national origin. BFNT shall also maintain in electronic format and make available for inspection and copying by the EEOC records of selecting assignments

made to materials handlers at the Woodridge DC. These records shall include for each selecting assignment: (i) the number and total weight of tires selected; (ii) the number of tire storage locations in the Woodridge DC visited to complete the assignment; (iii) the time required to complete the assignment (exclusive of breaks); and (iv) by agreement of both parties, any other data reasonably necessary to assess compliance with Paragraphs 17-18.

11. BFNT shall require personnel within its employ whom the EEOC requests for purposes of verifying compliance with this Decree to cooperate reasonably with the EEOC and to be interviewed, provided that with respect to any interviews of management or salaried supervisory personnel the EEOC shall give BFNT reasonable notice and BFNT may have a representative present.

ADOPTION, POSTING, AND DISTRIBUTION OF POLICY
AGAINST EMPLOYMENT DISCRIMINATION

12. During the period in which this Decree is effective, BFNT shall maintain a written policy for Woodridge DC employees prohibiting employment discrimination ("Policy"). No later than sixty (60) calendar days after the approval and entry of this Decree, BFNT shall distribute a copy of said Policy to each BFNT employee assigned to the Woodridge DC.

Additionally:

(a) The Policy shall, at a minimum, specifically prohibit all forms of discrimination prohibited by Title VII;

(b) The Policy shall, at a minimum, inform employees that they are entitled to make complaints or reports of unlawful employment discrimination to BFNT and to the EEOC and the Policy, as well as other documents distributed to employees at the Woodridge DC that summarize, describe or affect the right of employees to make complaints or reports of unlawful

employment discrimination or the procedures for doing so, shall not contain statements contradicting the same;

(c) The Policy shall, at a minimum, inform employees that BFNT will investigate thoroughly and promptly all complaints and reports of unlawful employment discrimination and shall provide that employees who violate the Policy are subject to discipline up to and including discharge; and

(d) Copies of the Policy will be provided to BFNT employees assigned to the Woodridge DC at the time that they start work at the Woodridge DC.

BFNT shall provide a copy of the Policy to the EEOC within thirty (30) calendar days after the approval and entry of this Decree. The inclusion of this Paragraph in the Decree does not represent the EEOC's or the Court's approval of BFNT's anti-discrimination policy.

TRAINING

13. During the period in which this Decree is effective, all of BFNT's employees at the Woodridge DC, including all supervisors and managers, shall participate in an annual training session or sessions, conducted by a trainer paid for by BFNT and approved by the EEOC, regarding the law pertaining to employment discrimination, including race and national origin discrimination and retaliation. A registry of attendance shall be maintained for each training session. The first such annual training shall occur no later than ninety (90) calendar days after the entry of this Decree. The subsequent annual training session shall occur within thirty (30) calendar days of the first anniversary date following the entry of this Decree.

14. BFNT shall obtain the EEOC's approval of its proposed trainer prior to the commencement of the training sessions described in Paragraph 13. The EEOC shall not unreasonably withhold its approval. BFNT shall submit the name, address, telephone number,

resume and training proposal of the proposed trainer to the EEOC at least twenty (20) business days prior to the proposed date of each training session. The EEOC shall have five (5) business days from the date of receipt of the information described above to accept or reject the proposed trainer. In the event the EEOC rejects BFNT's designated trainer, it will inform BFNT of the reasons for this rejection. BFNT shall have five (5) business days from the date of receipt of the EEOC's rejection to submit the name, address, telephone number, resume and training proposal of an alternate trainer. The EEOC shall have five (5) business days from the date of receipt of the information described above to accept or reject the alternate trainer (and to inform BFNT of the reasons for any rejection). If the parties cannot through this process agree on a trainer, then they may seek the Court's assistance under Paragraph 18.

15. BFNT shall certify to the EEOC in writing no later than ten (10) business days after each annual training session described in Paragraph 13 that the training required by this Decree has taken place and that the required personnel have attended. Every certification of training described in this Paragraph shall include: (i) the date, location and duration of the training; (ii) a copy of the registry of attendance, which shall include the name and position of each person trained; and (iii) copies of any and all pamphlets, brochures, outlines or other written materials provided to the personnel attending the training session(s).

REPORTING

16. BFNT shall furnish to the EEOC the following written reports semi-annually ("Semi-Annual Report") during the period in which this Decree is effective. The first Semi-Annual Report shall be due six (6) months after entry of the Decree. Subsequent Semi-Annual Reports shall be due every six (6) months thereafter, except that final Semi-Annual Report shall be due 30 calendar days prior to the expiration of the Decree. Each such Semi-Annual Report

shall contain:

- (a) copies of all records described in Paragraph 9 for each separation of a BFNT employee from employment at the Woodridge DC that occurred and for each complaint or report of discrimination that was received by BFNT during the six (6) month period preceding the Semi-Annual Report, or a certification by BFNT that no such separations, complaints, or reports were received during that period;
- (b) electronic copies of all records described in Paragraph 10; and
- (c) a certification by BFNT that the Notice required to be posted by Paragraph 8, remained posted properly at the Woodridge DC during the entire six (6) month period preceding the Semi-Annual Report.

WORK ASSIGNMENT PROGRAM

17. BFNT shall maintain a policy of assigning work to materials handlers at the Woodridge DC based upon objective, non-discriminatory business reasons for the entire term of this Decree ("Work Assignment Program"). Before entry of this Decree, BFNT and the EEOC agreed on the Work Assignment Program that will be in place at the Woodridge DC during the term of this Decree. During the term of this Decree, the EEOC shall monitor the implementation of the Work Assignment Program through the recordkeeping and reporting requirements set forth in Paragraphs 10 and 16 above. In the event the EEOC has any questions or concerns about the implementation of the Work Assignment Program, the EEOC shall submit to BFNT a written statement of the EEOC's concerns about the implementation of the Work Assignment Program. BFNT shall have thirty (30) calendar days from the date of receipt of the EEOC's concerns to submit to the EEOC a written statement responding to the EEOC's concerns about the implementation of the Work Assignment Program and setting forth the steps BFNT

will take to ensure compliance with the Work Assignment Program. If, through this process, the parties cannot resolve their differences regarding the implementation of the Work Assignment Program then either party may seek the Court's assistance under Paragraph 18.

In the event BFNT desires to change its Work Assignment Program during the term of this Decree, it will submit to the EEOC a written statement outlining its changes. The EEOC shall then have thirty (30) calendar days from the date of receipt of BFNT's proposed changes to submit to BFNT a written statement responding to BFNT's proposed changes. If, through this process, the parties cannot resolve their differences regarding a new Work Assignment Program then either party may seek the Court's assistance under Paragraph 18.

DISPUTE RESOLUTION

18. If during the term of this Decree 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, or such other time period as agreed to by both parties, 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, or such other time period as agreed to by both parties, then the complaining party may apply to the Court for appropriate relief.

DURATION OF THE DECREE AND RETENTION OF JURISDICTION

19. All provisions of this Decree shall be in effect (and the Court will retain jurisdiction of this matter to enforce this Decree) for a period of two (2) years immediately following the approval and entry of the Decree, provided, however, that if, at the end of that

period, any disputes under Paragraph 18 remain unresolved, the term of the Decree shall be automatically extended (and the Court will retain jurisdiction of this matter to enforce the Decree) until such time as all such disputes have been resolved.

MISCELLANEOUS PROVISIONS

20. Neither party admits any of the claims or defenses raised by the other party in this action.

21. Each party to this Decree shall bear its own expenses, attorney's fees, and costs.

22. The terms of this Decree are and shall be binding on the present and future officers, management employees (including supervisory employees), successors, and assigns of BFNT. BFNT shall provide prior written notice to any potential purchaser of BFNT's business, or a potential purchaser of all or a substantial portion of BFNT's assets, and to any other potential successor, of: (i) this action by the EEOC against BFNT; (ii) the allegations raised in the Complaint filed in this action; and (iii) the existence and contents of this Decree. Nothing in this paragraph is meant to expand liability to any person or entity not already covered by Title VII.

23. When this Decree requires a certification by BFNT of any fact(s), such certification shall be made under oath or penalty of perjury by an officer or management employee of BFNT.

24. When this Decree requires the submission by BFNT of reports, certifications, notices, or other materials to the EEOC, they shall be mailed to: Bridgestone/Firestone Consent Decree Compliance, Equal Employment Opportunity Commission, 500 West Madison Street, Suite 2800, Chicago, Illinois 60661. When this Decree requires submission by the EEOC of notices, written statements, or other materials to BFNT, they shall be mailed to: Robert W.

Vyverberg Holland & Knight LLP, 131 South Dearborn Street, 30th Floor, Chicago, Illinois
60603.

ENTERED AND APPROVED FOR:

For the UNITED STATES EQUAL
EMPLOYMENT OPPORTUNITY
COMMISSION

For BRIDGESTONE FIRESTONE NORTH
AMERICAN TIRE, LLC

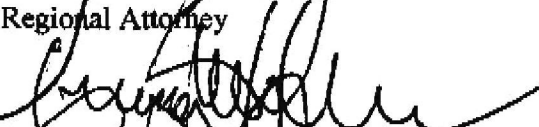
JAMES LEE
Deputy General Counsel

GWENDOLYN YOUNG REAMS
Associate General Counsel

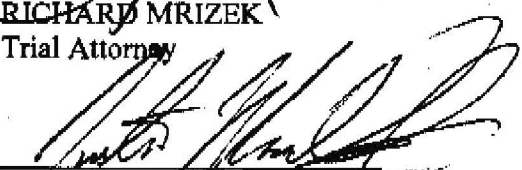
UNITED STATES EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION
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JOHN C. HENDRICKSON
Regional Attorney


GREGORY GOCHANOUR
Supervisory Trial Attorney


RICHARD MRIZEK
Trial Attorney


JUSTIN MULAIRE
Trial Attorney

DATE: May 21, 2008

Arlander Keys

ENTER:

The Honorable Arlander Keys
United States Magistrate Judge

ENTERED AND APPROVED FOR:

For the UNITED STATES EQUAL
EMPLOYMENT OPPORTUNITY
COMMISSION

JAMES LEE
Deputy General Counsel

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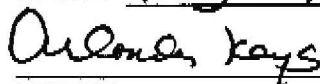
JUSTIN MULAIRE
Trial Attorney

For BRIDGESTONE FIRESTONE NORTH
AMERICAN TIRE, LLC



Robert Vyverberg
Naomi Katz
Counsel to Bridgestone Firestone
Holland & Knight LLP
131 South Dearborn Street, 30th Floor
Chicago, Illinois 60603
312-263-3600

DATE: May 21, 2008



ENTER:

The Honorable Arlander Keys
United States Magistrate Judge

EXHIBIT A

RELEASE AGREEMENT

In consideration of \$ _____ to be paid to me by Bridgestone Firestone North American Tire, LLC, in connection with the resolution of EEOC v. Bridgestone/Firestone North American Tire, LLC, No. 05 C 5445 (N.D.Ill.), I waive my right to recover from BFNT and its parents, subsidiaries, affiliated entities, predecessors, successors, assigns, officers, and employees (collectively, "Releasees") for any claims of employment discrimination, harassment and/or retaliation arising under Title VII of the Civil Rights Act of 1964 that I had against Releasees on or before the date of this release and that were included in the claims brought by the EEOC in EEOC v. Bridgestone/Firestone North American Tire, LLC.

Nothing in this Agreement constitutes or should be construed as an admission of liability on the part of Releasees and Releasees deny any such liability.

I acknowledge that I have carefully read and fully understand this Release Agreement and that I know and understand the rights I am waiving by signing this Release Agreement.

Signature: _____
[NAME OF CLASS MEMBER]

Date: _____

NOTICE TO BRIDGESTONE FIRESTONE EMPLOYEES

This Notice is being posted pursuant to a Consent Decree entered by the federal court in the Northern District of Illinois in EEOC v. Bridgestone/Firestone North American Tire, LLC, No. 05 C 5445 (N.D.Ill.), resolving a lawsuit filed by the Equal Employment Opportunity Commission ("EEOC") against Bridgestone Firestone North American Tire, LLC ("BFNT").

In its suit, the EEOC alleged that BFNT violated Title VII of the Civil Rights Act of 1964 ("Title VII") by subjecting employees to harassment based on their race and national origin, subjecting employees to different terms and conditions of employment because of their race and/or national origin, and discharging an employee in retaliation for reporting or complaining about race discrimination. In its answer to the lawsuit, BFNT denied these allegations and denied that it had violated Title VII.

To resolve the case, BFNT and the EEOC have entered into a Consent Decree which provides, among other things, that:

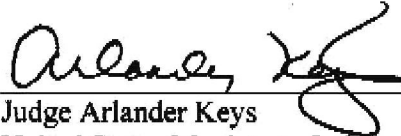
- 1) BFNT will make monetary payments to the individuals who claim to have been affected by the alleged violations of Title VII;
- 2) BFNT will not discriminate against any employee at its Woodridge, Illinois distribution center ("Woodridge DC") on the basis of race or national origin;
- 3) BFNT will not retaliate against any person because he or she makes or files a complaint of discrimination, opposes any discriminatory practice at the Woodridge DC that is prohibited by Title VII, participates in any Title VII investigation or proceeding, or asserts any rights under the Consent Decree; and
- 4) BFNT will maintain and distribute to all employees a policy prohibiting discrimination and will train its Woodridge DC employees, including managers and supervisors, regarding prohibited discrimination and BFNT's policy.

The EEOC is the federal agency that enforces the nation's laws prohibiting discrimination in employment based on race, color, sex (including sexual harassment and pregnancy), religion, national origin, age, disability, and retaliation. Further information about the EEOC and these laws is available on the EEOC's web site at www.eeoc.gov. If you believe you have been subjected to unlawful discrimination, you may contact the EEOC by phone at 312-353-8195, or by TTY at 312-353-2421. The EEOC charges no fees.

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: Bridgestone/Firestone Consent Decree Compliance, EEOC, 500 West Madison Street, Suite 2000, Chicago, IL 60661.

May 21, 2008
Date



Judge Arlander Keys
United States Magistrate Judge