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EEOC v. Olver Incorporated

Judge Samuel G. Wilson

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EEOC v. Olver Incorporated

Keywords

EEOC, Olver, 7:05-CV-00417, consent decree, disparate treatment, termination, race, black, national origin, service, employment law, title VII

CLERK'S OFFICE U.S. DIST. COURT
 AT ROANOKE, VA
 FILED
 NOV 06 2006
 JOHN F. CORCORAN, CLERK
 BY: *[Signature]*
 DEPUTY CLERK

**IN THE UNITED STATES DISTRICT COURT
 FOR WESTERN THE DISTRICT OF VIRGINIA
 ROANOKE DIVISION**

EQUAL EMPLOYMENT OPPORTUNITY)	
COMMISSION,)	
)	
Plaintiff,)	Civil Action No.: 7:05CV00417
)	
v.)	CONSENT DECREE
)	
OLVER INCORPORATED,)	
)	
Defendant.)	
_____)	

The Equal Employment Opportunity Commission (the "Commission") instituted this action pursuant to Section 706(f)(1) and (3) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. Section 2000e-5(f)(1) and (3) ("Title VII"), and Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981a. The Commission's complaint alleged that Defendant Olver Incorporated (the "Defendant") discharged Shannica Allen Dickenson from her job as a temp to hire front-desk receptionist because of her race (Black), national origin (Virgin Islands), and interrelated accent/dialect.

The Commission and the Defendant hereby stipulate to jurisdiction of the Court over the parties and agree that the subject matter of this action is properly before the Court.

The parties have advised this Court that they desire to resolve the allegations in the Complaint without the burden, expense, and delay of further litigation.

It is therefore the finding of this Court, made on the pleadings and the record as a whole, that: (1) the Court has jurisdiction over the parties and the subject matter of this action; (2) the purpose and provisions of Title VII will be promoted and effectuated by the entry of the Consent

Decree; and (3) this Decree resolves all matters in controversy between the parties as provided in paragraphs 1 through 16 below.

It is therefore ORDERED, ADJUDGED AND DECREED as follows:

1. Defendant shall not discriminate against any person on the basis of race, national origin, including interrelated accent/dialect, or any other protected category within the meaning of Title VII.

2. Defendant shall not discriminate or retaliate against any person because of opposition to any practice made unlawful under Title VII of the Civil Rights Act of 1964 or because of the filing of a charge, the giving of testimony or assistance, or the participation in any investigation, proceeding or hearing under that statute.

3. Defendant shall pay Shannica Allen Dickenson the sum of fifteen thousand dollars (\$ 15,000) including back pay with interest and compensatory damages, in settlement of the claims raised in this action. Defendant shall make payment by issuing a check payable to Shannica Allen Dickenson. Payment shall be made within fifteen (15) days after the Court approves this Consent Decree, and Defendant shall mail the check to Shannica Allen Dickenson at an address provided by the Commission. Within five (5) days after the check has been sent to Ms. Dickenson, Defendant shall mail to Lynette A. Barnes, Regional Attorney, Equal Employment Opportunity Commission, 129 W. Trade Street, Suite 400, Charlotte N.C., 28202, a copy of the check and proof of its delivery to Shannica Allen Dickenson.

4. Within fifteen (15) days of the entry of this Decree by the Court, Defendant shall eliminate from its employment records regarding Shannica Allen Dickenson any and all documents, entries, or references of any kind relating to the allegations of discrimination in the

underlying charge of discrimination or the instant lawsuit. Defendant shall report compliance with this provision to the EEOC by mailing such certification to Lynette Barnes, Regional Attorney, Equal Employment Opportunity Commission, 129 W. Trade Street, Suite 400, Charlotte N.C., 28202, within five (5) days after the referenced documents have been eliminated.

5. Within fifteen (15) days of the entry of this Decree by the Court, Defendant shall revise its terminating paperwork on Shannica Allen Dickenson to indicate that she resigned her employment. Within fifteen (15) days of the entry of this Decree by the Court, Defendant shall also provide Shannica Allen Dickenson with a neutral employment reference letter providing only dates of employment and position held. Defendant shall report compliance with these provisions to the EEOC by mailing such certification to Lynette Barnes, Regional Attorney, Equal Employment Opportunity Commission, 129 W. Trade Street, Suite 400, Charlotte N.C., 28202, within five (5) days after the termination records have been revised and Shannica Allen Dickenson has been provided with the referenced letter. Defendant will respond to any phone inquiries concerning Ms. Dickenson's employment with the same neutral information, providing only dates of employment and position held.

6. Within ninety (90) days of the entry of this Decree by the Court, Defendant shall revise the language of its "Policy Statement on Equal Employment Opportunity and Non-discrimination" to include at least the following: an explanation of the requirements of the federal equal employment opportunity laws, including Title VII and its prohibition against race and national origin discrimination; procedures for reporting discrimination, including alternative contact persons and numbers; and a procedure for the thorough and immediate investigation of employee complaints of discrimination. Defendant shall adopt and implement the formal,

written revised anti-discrimination policy and distribute a copy to each current employee within the aforementioned 90 day time period. Within fifteen (15) days after the distribution of the revised policy, Defendant shall certify to the Commission that the adoption, implementation, revision and distribution of the anti-discrimination policy was undertaken, the dates of compliance and shall provide the Commission with a copy of the distributed policy. During the term of this Decree, Defendant shall distribute the policy to all new employees and review it with them at the time of hire.

7. During the term of this Decree, Defendant shall post a copy of the revised policy described in paragraph 6, *supra*, in all of its facilities in a place where it is visible to employees. If the policy becomes defaced or unreadable, Defendant shall replace it by posting another copy of the policy. Within fifteen (15) days after the Consent Decree is entered, Defendant will post the revised policy. Within five (5) days of the posting of the revised policy, Defendant shall certify to the Commission compliance with the requirements of this paragraph.

8. During the term of this Decree, Defendant shall provide an annual training program to all of its managers, supervisors and employees. Each training program shall include an explanation of the requirements of Title VII of the Civil Rights Act of 1964, and its prohibition against discrimination on the bases of race and national origin, including interrelated accent/dialect. Each training program shall also include an explanation of Defendant's revised policy referenced in paragraph 6, above, and an explanation of the rights and responsibilities of employees and managers under the policy.

The first training program shall be completed within six (6) months after entry of the Decree by the Court. Subsequent training programs shall be conducted annually thereafter,

during the term of this Decree. At least fifteen (15) days prior to each program, Defendant shall provide the Commission with an agenda for the training program. Within fifteen (15) days after completion of each training program, Defendant shall certify to the Commission the specific training which was undertaken, the date of each training program, and shall provide the Commission with a roster of all employees in attendance at each training program.

9. Beginning within thirty (30) days after the entry of this Decree by the Court, and continuing throughout the term of this Decree, Defendant shall conspicuously post the attached Employee Notice, marked Exhibit A, hereby made a part of this Decree, in a place in each of its facilities where it is visible to all employees. If the Notice becomes defaced or unreadable, Defendant shall replace it by posting another copy of the Notice. Within forty-five (45) days after entry of this Decree, Defendant shall notify the Commission that the Notice has been posted pursuant to this provision.

10. During the term of this Decree, Defendant shall provide the Commission with reports at six (6) month intervals, with the first being due four (4) months after approval by the Court of this Decree. The reports will include the following information:

- A. the identities of all individuals who have complained to any of Defendant's owners, managers, or supervisors, of race or national origin discrimination in violation of Title VII of the Civil Rights Act of 1964, including by way of identification each person's name, address, telephone number, position, and social security number;
- B. for each individual identified in 10.A. above, explain the outcome

of the individual's complaint of discrimination and any ensuing investigation or action to address the complaint. Describe whether the individual's employment status has changed in any respect (for example, including but not limited to, termination, firing, demotion, promotion, or to part-time from full-time) since the complaint was made; and

C. for each individual whose employment status has changed as identified in 10.B. above, a detailed statement explaining why the individual's employment status has changed.

In the event there is no activity to report pursuant to this paragraph, Defendant shall send EEOC a "negative" report indicating no activity.

11. The Commission may review compliance with this Decree. As part of such review, the Commission may inspect Defendant's facilities, interview employees and examine and copy documents.

12. If anytime during the term of this Decree, the Commission believes that Defendant is in violation of the Decree, the Commission shall give notice of the alleged violation to Defendant. Defendant shall have ten (10) days in which to investigate and respond to the allegations. Thereafter, the parties shall then have a period of ten (10) days or such additional period as may be agreed upon by them, in which to engage in negotiation regarding such allegations before the Commission exercises any remedy provided by law.

13. The term of this Decree shall be for two (2) years from its entry by the Court.


14. All reports or other documents sent to the Commission by Defendant pursuant to this Decree shall be sent to: Lynette A. Barnes, Regional Attorney, Equal Employment

Opportunity Commission, 129 W. Trade Street, Suite 400, Charlotte N.C., 28202.

15. Each party shall bear its own costs and attorney's fees, and neither party shall be considered to have prevailed in this litigation, as no part of the resolution of this case shall be considered to be an admission of wrongdoing by any party.

16. This case is dismissed with prejudice and removed from the docket of this Court, except that this Court shall retain jurisdiction of this cause during the term of the Decree for purposes of monitoring compliance with this Decree and entry of such further orders as may be necessary or appropriate.

11/6/06
Date



Judge, U.S. District Court
Western District of Virginia

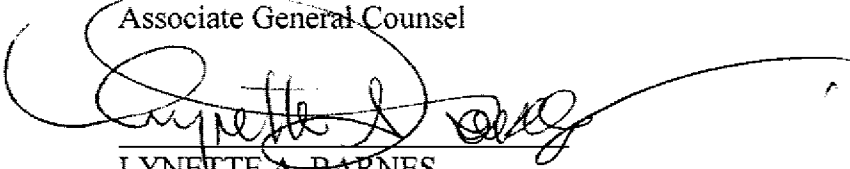
The parties jointly request that the Court approve and enter the Consent Decree:

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION, Plaintiff

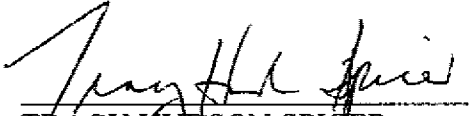
RONALD S. COOPER
General Counsel

JAMES L. LEE
Deputy General Counsel

GWENDOLYN YOUNG REAMS
Associate General Counsel



LYNETTE A. BARNES
Regional Attorney
Charlotte District Office
129 West Trade Street, Suite 400
Charlotte, N.C. 28202

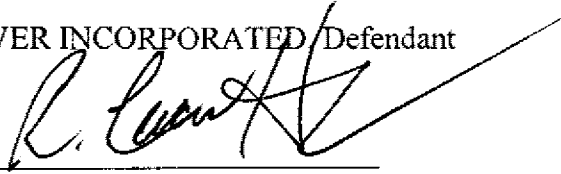


TRACY HUDSON SPICER
Supervisory Trial Attorney



STACEY TURNER CALDWELL
Senior Trial Attorney, VSB # 35609
EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION
Richmond Local Office
830 East Main Street, Suite 600
Richmond, Virginia 23219
(804)771-2214
(804) 771-2222 facsimile

OLVER INCORPORATED Defendant

A handwritten signature in black ink, appearing to read 'R. Lucas Hobbs', written over a horizontal line. The signature is stylized and includes a long, sweeping flourish extending to the right.

MARK MITCHELL LAWSON, ESQ., VSB # 15903

R. LUCAS HOBBS, ESQ., VSB # 42861

Elliott, Lawson & Minor P.C.

P.O. Box 8400

Bristol, VA 24203-8400



EMPLOYEE NOTICE

1. This notice is being posted pursuant to an agreement between the U.S. Equal Employment Opportunity Commission and Olver Incorporated.
2. Federal law requires that employers not discriminate against any employee or applicant for employment because of the individual's race, color, religion, sex, national origin, age (40 or older) or disability. Title VII specifically prohibits discrimination based on race and national origin.
3. Olver Incorporated will comply with such federal law in all respects. Furthermore, Olver Incorporated will not take any actions against employees because they have exercised their rights, reported an alleged violation under the law or given testimony, assistance or participation in any investigation, proceeding or hearing conducted by the U. S. Equal Employment Opportunity Commission.

An employee has the right, and is encouraged to exercise that right, to report allegations of employment discrimination in the workplace. An employee may contact their local U. S. Equal Employment Opportunity Commission field office for the purpose of filing a charge of employment discrimination. To locate the nearest field office, contact:

Equal Employment Opportunity Commission
1801 L Street, N.W.
Washington, DC 20507
TEL: 1-800-669-4000
TTY: 1-800-669-6820

This Notice will remain posted for at least two (2) years by agreement with the U.S. Equal Employment Opportunity Commission.

DO NOT REMOVE THIS NOTICE UNTIL: _____, 2008.

Exh. A



U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Richmond Local Office

Stacey Turner Caldwell
(804) 771-2214
stacey.caldwell@eeoc.gov

830 East Main Street, Suite 600
Richmond, VA 23219
(804) 771-2200
TTY (804) 771-2227
FAX (804) 771-2222
EEOC Web Site: www.eeoc.gov

November 2, 2006

John F. Corcoran, Clerk of Court
United States District Court
Western District of Virginia
The Poff Federal Building
210 Franklin Road, S.W.
Room 308
Roanoke, Virginia 24011

**CLERK'S OFFICE U.S. DIST. COURT
AT ROANOKE, VA
FILED**

NOV 03 2006

**JOHN F. CORCORAN, CLERK
BY:
DEPUTY CLERK**

RE: EEOC v. Olver Incorporated
Civil Action No. 7:05cv00417

Dear Mr. Corcoran:

Enclosed for the Court's consideration for entry, please find a Consent Decree executed by counsel for both parties to the above-styled litigation.

If you have any questions or concerns, please call me at the number listed above.

Sincerely,

Stacey Turner Caldwell
Senior Trial Attorney

Enclosure

cc: R. Lucas Hobbs, Esq.