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EEOC v. Moka Shoe Corporation

Judge Aida M. Delgado-Colon

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EEOC v. Moka Shoe Corporation

Keywords

EEOC, Sylvia Caban, Maribel Rodriguez, Moka Shoe Corporation, 3:06-cv-1976 (ADC), Consent Decree, Retaliation, Sexual Harassment, Sex, Female, Retail, Employment Law, Title VII

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

UNITED STATES EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION,

CIVIL ACTION NO.
3:06-cv-1976 (ADC)

Plaintiff,

v.

MOKA SHOE CORPORATION,

Defendant.

CONSENT DECREE

I. THE LITIGATION

1. This Consent Decree ("Decree") is made and entered into by and between Plaintiff, the Equal Employment Opportunity Commission, and Defendant Moka Shoe Corporation. EEOC and Defendant are collectively referred to as the "Parties" throughout this Decree.

2. EEOC filed this action alleging that Defendant violated Title VII of the Civil Rights Act of 1964 when it subjected Sylvia Caban and Maribel Rodriguez to sexual harassment and retaliated against Sylvia Caban for complaining about the unlawful harassment. Moka Shoe denies the allegations.

3. 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 Decree. This Decree resolves EEOC Charge No. 162-2005-00382 filed by Maribel Rodriguez against Defendant and EEOC Charge No. 162-2005-00383 filed by Sylvia Caban. The Decree does not resolve any other Charges of

Discrimination including any pending or future charges.

II. 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 the parties.
- b. No party shall contest the jurisdiction of this Federal Court to enforce this Decree and its terms or the right of the EEOC to bring an enforcement suit upon alleged breach of any term(s) of this Decree.
- c. The terms of this Decree are and shall be binding upon the present and future representatives, agents, directors, officers, successors, and assigns of Defendant.

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

III. MONETARY RELIEF

5. Defendant shall pay an aggregate of ONE HUNDRED THOUSAND DOLLARS (\$100,000.00) to resolve this litigation to be paid to Sylvia Caban and Maribel Rodriguez in the manner set forth below:

- a. Fifty thousand dollars (\$50,000) shall be paid to Sylvia Caban
 1. Twenty thousand dollars (\$20,000) shall be representative of lost wages to Sylvia Caban, less amounts required to be withheld for Commonwealth of Puerto Rico income taxes. Defendant will issue a Commonwealth of Puerto tax form to Sylvia Caban for such amount, and Defendant shall be responsible for paying the

employer's share of any income taxes and social security withholdings.

2. Thirty thousand dollars (\$30,000) shall be representative of compensatory damages. Defendant shall issue a Commonwealth of Puerto Rico tax form to Sylvia Caban for this amount.

b. Fifty thousand dollars (\$50,000) shall be paid to Maribel Rodriguez.

1. Twenty thousand dollars (\$20,000) shall be representative of lost wages to Maribel Rodriguez, less amounts required to be withheld for Commonwealth of Puerto Rico income taxes. Defendant will issue a Commonwealth of Puerto Rico tax form to Maribel Rodriguez for such amount, and Defendant shall be responsible for paying the employer's share of any income taxes and social security withholdings.

2. Thirty thousand dollars (\$30,000) shall be representative of compensatory damages. Defendant shall issue a Commonwealth of Puerto Rico tax form to Maribel Rodriguez for this amount.

6. Defendant shall make these payments in three installments of equal amounts:

- a. The first payment shall be made by September 15, 2008.
- b. The second payment shall be made by October 15, 2008.
- c. The third payment shall be made by November 15, 2008.

Defendant shall mail all payments described in paragraph 5(a) directly to Sylvia Caban Certified Mail (Return Receipt Requested) at the following address: 3342 S. Semoran Blvd. Apt. 8, Orlando, FL 32822 and in paragraph 5(b) to Maribel Rodriguez at the

following address: 262 Pascua Street, Urb. Corchado, Isabela, PR 00662. Copies of all payments and tax forms shall be forwarded to the attention of Nora E. Curtin, Regional Attorney, U.S. Equal Employment Opportunity Commission, Miami District Office, 2 South Biscayne Blvd., Suite 2700, Miami, Florida 33131 within five calendar days of issuance.

7. If Defendant fails to tender payments described in paragraph 5 in the manner set forth in paragraph 6, then Defendant shall pay interest on the defaulted payment at the rate calculated pursuant to 26 U.S.C. §6621(b) until it is paid, and bear any additional costs incurred by Defendant's delay or non-compliance.

IV. GENERAL INJUNCTIVE PROVISIONS

8. Defendant denies that it engaged in any discriminatory conduct but agrees that Moka Shoe, its officers, managers, employees, agents and partners, successors and assigns, shall refrain from engaging in sexual harassment in violation of Title VII of the Civil Rights Act of 1964.

9. Defendant, its officers, managers, agents and partners, successors and assigns, and all persons acting in concert with shall refrain from retaliating against any employee because he or she has opposed any of Defendant's practices which the employee believed to be a violation of Title VII, filed a charge of discrimination with the EEOC alleging violation(s) of such statute, testified or participated in any manner in any investigation, proceeding, or hearing under Title VII, or asserted any rights under this Decree.

V. DISTRIBUTION OF ANTI-DISCRIMINATION POLICY

10. Defendant shall redistribute its written policy prohibiting discrimination

and sexual harassment ("Policy") to all current employees and management staff within sixty calendar days after the entry of this Consent Decree. This Policy shall clearly define conduct prohibited by Title VII. The Policy shall specifically prohibit all forms of sexual harassment and retaliation.

11. A copy of the Policy referenced in paragraph 10 shall be forwarded to EEOC within thirty calendar days of the entry of this Decree. This and any other submissions, reports, certifications, notices, or other materials that are required to be submitted to EEOC shall be mailed to Nora E. Curtin, Regional Attorney, U.S. Equal Employment Opportunity Commission, Miami District Office, 2 South Biscayne Blvd., Suite 2700, Miami, Florida 33131.

12. The Policy shall be included in any relevant policy or employee manuals kept by Defendant's business. The Policy shall also be kept and maintained in a conspicuous and accessible place for all employees at all of Defendant's facilities and printed in a font that is easily legible (at least 12 point font). The Policy shall be kept and maintained in an area that is accessible to all workers.

13. A copy of the Policy shall be distributed to each new regular full-time, part-time, or temporary employee on the day the employee is hired and, for temporary workers who are assigned to work for Defendant through a staffing or temporary agency, on the day that the worker first performs work for Defendant. The manager responsible for distributing the Policy shall review the Policy in depth with each new employee. Defendant shall maintain records demonstrating that each new employee discussed the Policy with the responsible manager and illustrating the length of time spent discussing the Policy.

VI. TRAINING

14. Defendant shall provide training to all of its management personnel on Title VII and the Policy. The training shall be conducted by videotape which has been prepared by an entity acceptable to the EEOC. This training shall be conducted separately from other job-related training and/or business-wide meetings and the training sessions shall be dedicated solely to Title VII and the Policy. Defendant shall provide EEOC with written notice of the training session, including the location of the training, no later than fifteen business days before the session. Defendant will provide EEOC any and all copies of pamphlets, brochures, outlines, or other written materials provided to the participants of the training sessions at least fifteen calendar days before any materials are used in the training sessions.

15. Defendant agrees that EEOC shall, at EEOC's discretion, be in attendance at each training session.

16. Within ten calendar days of completing the training session, Defendant shall notify EEOC of the dates the training was conducted, the name and title of the person(s) who conducted the training, and the name and job title of each person who received the training.

VII. POSTING OF NOTICE

17. Within ten (10) business days after entry of this Decree, Defendant shall post an eleven (11) inches by fourteen (14) inches laminated copy of a Spanish-language translation of the Notice attached as Exhibit A to this Decree at each of its facilities in a conspicuous location easily accessible to and commonly frequented by persons who

perform work for Defendant. The Notice shall remain posted for one year from the date of entry of this Decree. Defendant shall take all reasonable steps to ensure that the posting is not altered, defaced or covered by any other material. Defendant shall certify to EEOC in writing within fifteen days after entry of the Decree that the Notice has been properly posted. Defendant shall permit a representative of EEOC to enter Defendant's premises for purposes of verifying compliance with this paragraph at any time during normal business hours without prior notice.

VIII. MONITORING AND REPORTING

18. Defendant shall furnish to EEOC the following written reports twice annually for a period of one year following the entry of this Decree. The first report shall be due six months after entry of the Decree. Each report shall contain:

a. A description of each complaint of sexual harassment, including the names, addresses and current telephone numbers of the complaining parties and witnesses and the resolution of such complaint of each person complaining about discrimination.

b. A description of any and all action Defendant took in response to each complaint, conclusions reached, and actions taken as a result of each complaint, and all related investigative records and/or documents related to the complaint/s and investigation/s.

c. A certification by Defendant that the Notice required to be posted remained posted during the entire six month period preceding the report.

19. Defendant shall provide the last known home address, home telephone number, and mobile telephone number for all persons within its employ during the term

of the Decree whom EEOC requests and identifies for purposes of verifying compliance with this Decree within ten business days of EEOC's request. In the event that EEOC is unable to contact an employee for purposes of verifying compliance with this Decree, it shall notify Defendant and Defendant shall, within ten business days, provide EEOC with the employee's scheduled hours of work over the next fourteen day period so that EEOC can conduct interviews during employees' breaks, at the end of the day, or at some other time convenient to the employee and EEOC. Defendant agrees that it will not discourage employees from participating in the interviews.

20. Nothing in this Decree shall be construed to limit any obligation Defendant may otherwise have to maintain records under any law or regulation.

IX. DURATION OF THE DECREE AND RETENTION OF JURISDICTION

21. All provisions of this Decree shall be in effect for a period of one (1) year immediately following entry of the Decree.

SO ORDERED, ADJUDGED AND DECREED, this 21st day of August,
2008.

Alice C. Helquist Rubin
U.S. District Judge

**AGREED TO:
FOR THE PLAINTIFF, UNITED STATES EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION**

By: /s/ Nora E. Curtin

Date: 20 August 2008

NORA E. CURTIN
Regional Attorney

United States Equal Employment
Opportunity Commission
2 S. Biscayne Blvd., Ste. 2700
Miami, FL 33131

Telephone: (305) 808-1789
Facsimile: (305) 808-1834
nora.curtin@eeoc.gov

**AGREED TO:
FOR DEFENDANT MOKA SHOE CORPORATION**

By: /s/ Graciela J. Belaval, Esq.

Date: 20 August 2008

GRACIELA J. BELAVAL, ESQ.
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ENTERED:

Date: 8/21/08

Aida M. Delgado Colon

**HON. AIDA M. DELGADO-COLON
UNITED STATES DISTRICT COURT JUDGE**

EXHIBIT A

NOTICE TO ALL EMPLOYEES OF MOKA SHOE CORPORATION
PURSUANT TO CONSENT DECREE

This Notice is being posted pursuant to a Consent Decree entered by the United States District Court in EEOC v. Moka Shoe Corporation, Civil Action No. 3:06-cv-1976 (ADC).

Moka Shoe Corporation is committed to providing all employees with a workplace that is free from discrimination.

EEOC is the United States government agency that enforces federal laws prohibiting employment discrimination on the basis of sex, race, national origin, religion, color, disability and age. If you believe you have been discriminated against, you may contact the San Juan Office of EEOC at 787 771 1464. EEOC charges no fees and has employees who speak Spanish and English.

This Notice must remain posted for one year (1) 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:

Date: _____

MOKA SHOE CORPORATION

DO NOT REMOVE BEFORE AUGUST 2009.