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Equal Employment Opportunity Commission, Plaintiff, v. Voss Electric Company d/b/a Voss Lighting, Defendant. Rick Eiland and Cindi Eiland, Plaintiffs, v. Voss Electric Company, a Nebraska corporation, d.b.a. Voss Lighting, Defendant.

Judge Robin J. Cauthron

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Equal Employment Opportunity Commission, Plaintiff, v. Voss Electric Company d/b/a Voss Lighting, Defendant. Rick Eiland and Cindi Eiland, Plaintiffs, v. Voss Electric Company, a Nebraska corporation, d.b.a. Voss Lighting, Defendant.

Keywords

Equal Employment Opportunity Commission, Voss Electric Company d/b/a Voss Lighting, Rick Eiland and Cindi Eiland, CIV-02-92-C, Consent decree / Settlement, Disparate Treatment, Failure to Accommodate, Termination, Other mental impairment disability, Utilities, Employment Law, ADA

IN THE UNITED STATES DISTRICT COURT FOR
THE WESTERN DISTRICT OF OKLAHOMA

FILED

MAR 17 2003

ROBERT D. DENNIS, CLERK
U.S. DIST. COURT, WESTERN DIST. OF OKLA.
BY _____ DEPUTY

EQUAL EMPLOYMENT OPPORTUNITY)
COMMISSION,)

Plaintiff,)

v.)

VOSS ELECTRIC COMPANY d/b/a)
VOSS LIGHTING,)

Defendant.)

RICK EILAND and CINDI EILAND)

Plaintiffs,)

v.)

VOSS ELECTRIC COMPANY,)
a Nebraska corporation, d.b.a.)
VOSS LIGHTING,)

Defendant.)

Case No. CIV-02-92-C
(consolidated with CIV-02-100-C)

DOCKETED

CONSENT DECREE

This Consent Decree is made and entered into between the Plaintiff in Civil Action Number CIV-02-0092-C, the Equal Employment Opportunity Commission ("EEOC"), and the Defendant, Voss Electric Company d/b/a Voss Lighting; and the Plaintiffs in Civil Action No. CIV- 02-100-C, Rick Eiland and Cindi Eiland, and the Defendant, Voss Electric Company d/b/a Voss Lighting (collectively referred to as "The Parties").

The parties have agreed that this Consent Decree may be entered without findings of fact and conclusions of law having been made and entered by the Court.

The Equal Employment Opportunity Commission instituted a lawsuit in the United States

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District Court for the Western District of Oklahoma, Civil Action Number CIV-02-0092-C (“Complaint”) against Defendant, alleging that the Defendant violated the Americans with Disabilities Act of 1990 (ADA) by terminating Rick Eiland because of his disability.

Rick Eiland and Cindi Eiland instituted a lawsuit under Civil Action No. CIV-02-100-C, alleging that the Defendant terminated Rick Eiland because of his disability and intentionally inflicted severe emotional distress on Rick Eiland and Cindi Eiland. The two lawsuits were consolidated under Civil Action No. CIV-02-0092-C.

The Parties hereto desire to compromise and settle the differences embodied in the aforementioned consolidated lawsuits, and intend that the terms and conditions be set forth in this Consent Decree.

NOW, THEREFORE, in consideration of the mutual promises and agreements set forth herein, the sufficiency of which is hereby acknowledged, the parties agree as follows, the Court finds appropriate, and therefore, it is ORDERED, ADJUDGED AND DECREED that:

1. This Court has jurisdiction to enforce the provisions set forth in this Consent Decree.
2. (a) This Consent Decree resolves all issues, including all like and related issues, raised in EEOC Charge Number 311A00536. This Decree further resolves all issues in the Complaint filed by the EEOC against Defendant; and in the Complaint filed by Rick Eiland and Cindi Eiland against Defendant, which were consolidated into this civil action. The EEOC does not waive processing or litigating charges or cases other than the above-referenced EEOC charge and its Complaint.

(b) It is understood that this Consent Decree does not constitute an admission by Defendant of any violation of the ADA or any allegations raised by Rick Eiland and Cindi Eiland in their Complaint.

3. Defendant agrees not to discriminate on the basis of disability, perceived disability or record of a disability in any employment action, and Defendant further agrees not to retaliate in any way against any person because of opposition to any practice declared unlawful under the ADA or because of the filing of a charge, giving testimony, or assisting or participating in any manner in any investigation, proceeding or hearing.
4. Defendant agrees to post the Notice appended hereto as Attachment "A" on the employee bulletin board at all of its facilities within 10 days after the entry of this Consent Decree. Defendant will report to the EEOC that it has complied with this requirement within 30 days after posting the notice.
5. For the first two (2) years that this Consent Decree is in effect, Defendant agrees to conduct training one time per year for all employees, including officers, managers, supervisors, at all of its facilities advising them of the requirements and prohibitions of the ADA. The training will inform the employees of the complaint procedure for individuals who suspect that they are being discriminated against by Defendant. This annual training will also advise managers and supervisors of the consequences imposed upon Defendant for violating the ADA. The training will also include a specific discussion or instruction relating to the issue of disability discrimination. The training shall be at least two (2) hours in duration. No less

than 10 days before the training is conducted, Defendant agrees to give written notice to the EEOC as to the date and location of the training, the name of the person providing the training and the substance of the training. All materials used in conjunction with the training shall be forwarded to the EEOC. Within 20 days following the training, Defendant shall submit to the EEOC confirmation that the training was conducted, and a list of attendees.

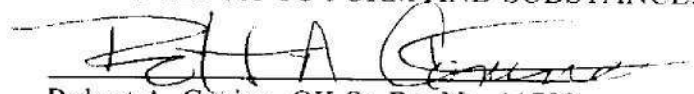
6. Defendant agrees to pay to Rick Eiland for compensatory damages for alleged emotional and physical injury under the ADA the amount of \$91,250.00. The net payment to Rick Eiland and the amounts to be paid for costs and attorneys fees shall be set forth in a separate release entered into between Rick Eiland and Defendant. All payments shall be made by certified or cashiers checks within ten days of the date of the entry of this Consent Decree.
7. All payments pursuant to paragraph 6 above shall be mailed by certified mail, return receipt requested to the attention of Roger Hurt, at Pierce Couch Hendrickson Baysinger & Green, L.L.P. , P.O. Box 26350, Oklahoma City, OK 73126-0350, with a copy of the checks mailed to Sidney B. Chesnin, Senior Trial Attorney, Equal Employment Opportunity Commission, Dallas District Office, 207 S. Houston, 3rd Fl., Dallas, TX 75202.
8. Defendant agrees to report to the EEOC within 30 days of entry of this Consent Decree regarding its compliance with the obligations set forth in paragraphs 4, 6 and 7 above.
9. All reports to the EEOC required by this Consent Decree shall be sent to Sidney

B. Chesnin , Senior Trial Attorney, 207 S. Houston Street, 3rd Floor, Dallas, Texas 75202.

10. If Defendant fails to tender payment or otherwise fails to timely comply with the terms of paragraph 6 above, Defendant shall:
 - a. Pay interest at the rate calculated pursuant to 26 U.S.C. § 6621(b) on any untimely or unpaid amounts; and
 - b. Bear any additional costs incurred by the EEOC caused by the non-compliance or delay of the Defendant.
11. Except as specifically agreed herein or in a separate release entered into by Rick Eiland and Defendant, the Parties agree to bear their own costs associated with this action, including attorney's fees and expert witness fees.
12. The EEOC has the right to specifically enforce the terms of this Consent Decree. Nothing in this Consent Decree can preclude further actions by the EEOC or any other person to remedy any other alleged violations of the ADA by Defendant.
13. All relief not specifically granted herein is DENIED.
14. This Consent Decree is being issued with the consent of the EEOC and Defendant and the consent of Rick and Cindi Eiland and Defendant and does not constitute an adjudication or finding by this Court on the merits of any of the allegations of the Complaints.
15. The effective date of this Consent Decree shall be the date upon which it is signed for approval by the Court.
16. The term of this Consent Decree shall be for three (3) years from the effective

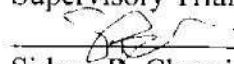
date. The Court shall retain jurisdiction to enforce the terms of this Consent Decree until the expiration of the term of the Consent Decree.

APPROVED AS TO FORM AND SUBSTANCE:



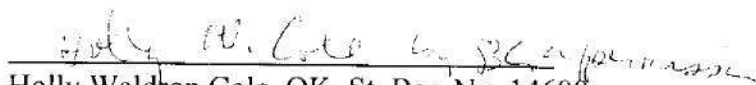
Robert A. Canino, OK St. Bar No. 11782
Regional Attorney

Toby W. Costas, TX. St. Bar No. 04855720
Supervisory Trial Attorney


Sidney B. Chesnin, TX. St. Bar No. 04186600
Senior Trial Attorney

**EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION**

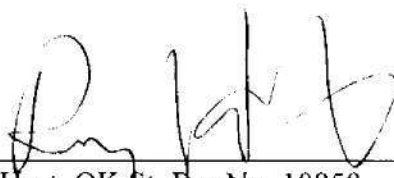
207 S. Houston, 3rd Floor
Dallas, Texas 75202
Tel. No. 214-655-3330
Fax No. 214-655-3331


Holly Waldron Cole, OK. St. Bar. No. 14600
Senior Trial Attorney

**EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION**

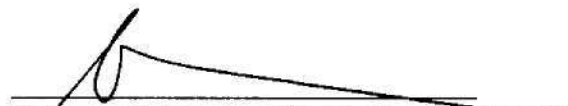
210 Park Avenue, Suite 1350
Oklahoma City, OK 73102
Tel. No. 405-231-4363
Fax No. 405-231-4340

ATTORNEYS FOR PLAINTIFF
EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION



Roger Hurt, OK St. Bar No. 10858
Katherine M. Zynda, OK St. Bar No. 15880
**PIERCE COUCH HENDRICKSON
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1109 N. Francis
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Tel. No. 405-235-1611
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ATTORNEYS FOR PLAINTIFFS
RICK AND CINDI EILAND



Shannon F. Davies, OK St. Bar. No. 13565
LESTER, LOVING & DAVIES, P.C.
1505 S. Renaissance Boulevard
Edmond, OK 73013
Tel. No. 405-844-9900
Fax No. 405-844-9958

ATTORNEYS FOR DEFENDANT
VOSS ELECTRIC COMPANY

SIGNED THIS 17 DAY OF March, 2003



ROBIN J. CAUTHRON
UNITED STATES DISTRICT JUDGE

NOTICE TO ALL EMPLOYEES

Federal law requires that there be no discrimination against any employee or applicant for employment because of the employee's disability, gender, race, color, religion, national origin, or age with respect to hiring, firing, promotions, pay raises or other terms, conditions or privileges of employment. Specifically, the law prohibits an employer discriminating against individual because of that person's disability, perceived disability or record of a disability. Individuals with a disability are entitled to be offered a reasonable accommodation which will enable them to perform the essential functions of their job. Examples of reasonable accommodations include, but are not limited to sick leave.

An employee has the right, and is encouraged to exercise that right, to report allegations of discrimination in the workplace. An employee may do so by notifying _____ at _____.

Any report of such an allegation will be thoroughly investigated, with appropriate disciplinary action taken against any person(s) found to have engaged in such conduct.

Any employee, either alternatively or in addition to reporting such an allegation to company officials, may contact the Equal Employment Opportunity Commission for the purposes of filing a charge of employment discrimination. The address and telephone number of the EEOC office in Oklahoma is 210 Park Ave., Suite 1350, Oklahoma City, OK 73102; telephone: (405) 231-4911. Employees in other states may request to be informed of the location of the EEOC office closest to their place of employment.

DATE

COMPANY OFFICIAL

THIS NOTICE SHALL REMAIN POSTED UNTIL _____, 2006

Attachment "A"