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Equal Employment Opportunity Commission, Plaintiff, v. Von Hoffman Graphics, Inc., Defendant.

Judge Andre M. Davis

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Equal Employment Opportunity Commission, Plaintiff, v. Von Hoffman Graphics, Inc., Defendant.

Keywords

Equal Employment Opportunity Commission, Von Hoffman Graphics Inc., AMD-01-CV-2187, Consent decree / Settlement, Disparate Treatment, Failure to Accommodate, Constructive Discharge, Termination, Training / Advancement, Other physical impairment disability, Hearing, Media, Employment Law, ADA

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF MARYLAND
NORTHERN DIVISION

EQUAL EMPLOYMENT OPPORTUNITY)
COMMISSION,)
)
Plaintiff,)
)
v.)
)
VON HOFFMANN GRAPHICS, INC.,)
)
Defendant.)
)
_____)

C.A. No. AMD-01-CV-2187

CONSENT DECREE

This action was instituted by Plaintiff, Equal Employment Opportunity Commission (the "EEOC" or the "Commission"), against Defendant, Von Hoffmann Graphics, Inc. (hereinafter Defendant), alleging that Defendant violated Sections 102(a), 102(b)(5)(a) and 102(b)(5)(b) of Title I of the Americans with Disabilities Act ("ADA"), 42 U.S.C. §12112(a); 12112(b)(5)(a) and 12112(b)(5)(b) by discriminating against Eddie Griffith because of his disability.

Both the Commission and Defendant desire to resolve the Commission's action without the time and expense of continued litigation, and they desire to formulate a plan to be embodied in a Decree which will promote and effectuate the purposes of the ADA.

This Decree shall not constitute an adjudication on the merits of the Commission's case and shall not be construed as an admission by Defendant of any discriminatory practice or as a waiver by the Commission of any contentions of discrimination. 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 the ADA. Therefore, upon due consideration of the record herein and being fully

advised in the premises, it is ORDERED, ADJUDGED AND DECREED:

1. This Decree resolves all issues and claims alleged in the Complaint filed by the Commission in this ADA action which emanated from the Charge of Discrimination filed by Eddie Griffith.

2. Defendant, its officers, agents, servants, employees and all persons acting or claiming to act in its behalf and interest hereby are enjoined from denying employment opportunities to deaf individuals and violating the provisions of Title I of the ADA, including the following provision:

No covered entity shall discriminate against a qualified individual with a disability because of the disability of such individual in regard to . . . advancement . . ., job training, and other terms, conditions, and privileges of employment.

ADA, Title I, Section 102(a).

3. Defendant agrees that it will not retaliate against Eddie Griffith for challenging Defendant's employment practices under Title I of the ADA. Particular reference is made to the following provision:

No person shall discriminate against any individual because such individual has opposed any act or practice made unlawful by this chapter or because such individual made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this chapter.

ADA, Title I, Section 503.

4. Within ten days after entry of this Consent Decree, Defendant will pay to Eddie Griffith the amount of \$54,000, in full settlement of damages alleged by the Commission in this case, minus all lawful deductions and withholdings.

5. Upon approval of this Decree, Defendant will post immediately in all places where notices to employees customarily are posted at its Frederick, Maryland facility, the Notice

attached hereto and made a part hereof. Said Notice attached hereto shall be posted and maintained for a period of one year from the date of posting and shall be signed by a responsible official of Defendant with the date of actual posting shown thereon. Should the Notice become defaced, marred, or otherwise made unreadable, Defendant will ensure that new readable copies of the Notice are posted in the same manner as heretofore specified. Within 30 days of approval of this Decree, Defendant shall forward to the attorney of record at the Baltimore District Office a copy of the signed Notice attached hereto and written certification that the Notice referenced herein has been posted and a statement of the location(s) and date of posting.

6. The Commission and Defendant shall bear their own costs and attorneys' fees.

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

FOR DEFENDANT:

FOR PLAINTIFF:

/s/
Thomas O. McCarthy
William M. Lawson
(signed by Debra M. Lawrence with
permission of Thomas O. McCarthy and
William M. Lawson)
McMahon, Berger, Hanna, Linihan, Cody
& McCarthy, P.C.
2730 North Ballas Road
St. Louis, Missouri 63131-3039
(314) 567-7350

/s/
Gerald S. Kiel
Regional Attorney
(signed by Debra M. Lawrence with
permission of Gerald S. Kiel)

/s/
Debra M. Lawrence
Supervisory Trial Attorney
EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION
Baltimore District Office
10 S. Howard Street, 3d Floor
Baltimore, Maryland 21201
(410) 962-4349 _____

SO ORDERED.

Signed and entered this 7th day of April, 2003.

/s/ Andre M. Davis
United States District Court Judge

NOTICE TO EMPLOYEES POSTED PURSUANT TO A CONSENT
DECREE BETWEEN THE EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION AND VON HOFFMANN GRAPHICS, INC.

Under Section 102 of Title I of the Americans with Disabilities Act (“ADA”),

No covered entity shall discriminate against a qualified individual with a disability because of the disability of such individual in regard to job application procedures, the hiring, advancement, or discharge of employees, employee compensation, job training, and other terms, conditions, and privileges of employment.

Under Section 503(a) of Title I of the ADA,

No person shall discriminate against any individual because such individual has opposed any act or practice made unlawful by this chapter or because such individual made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this chapter.

WE WILL NOT engage in any acts or practices made unlawful by the above sections.

WE WILL NOT discriminate or retaliate in any manner against any person because of opposition to any practice declared unlawful under Title I of the ADA or because of the filing of a charge, the giving of testimony or assistance, or the participation in any investigation, proceeding, or hearing under the statute.

WE WILL provide reasonable accommodations to our deaf employees and ensure that they are afforded equal terms, conditions, and privileges of employment as all other employees, including being afforded the same opportunities for job enhancement, training, and communication with co-workers and supervisors.

VON HOFFMANN GRAPHICS, INC.
(Employer)

Dated: _____

By: _____
(Representative)(Title)