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Equal Employment Opportunity Commission, Plaintiff, and John Doe, Intervenor, - against - North Shore-Long Island Jewish Health System, Inc., Defendant.

Judge Nicholas G. Garaufis

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**Equal Employment Opportunity Commission, Plaintiff, and John Doe, Intervenor, -
against - North Shore-Long Island Jewish Health System, Inc., Defendant.**

Keywords

Equal Employment Opportunity Commission, John Doe, North Shore-Long Island Jewish Health System Inc., 1:05-cv-02769-NGG-MDG, Consent decree / Settlement, Disparate Treatment, Terms and Conditions, Other mental impairment disability, Healthcare, Employment Law, ADA

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----x
EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,

and JOHN DOE

Plaintiff,
Intervenor,

- against -

NORTH SHORE-LONG ISLAND JEWISH HEALTH
SYSTEM, INC.,

Defendant.
-----x

ECF CASE

CIVIL ACTION NO.:
05-CV-02769 (NGG) (MDG)

CONSENT DECREE

This cause of action was initiated on June 9, 2005, by the United States Equal Employment Opportunity Commission ("EEOC") alleging that North Shore-Long Island Jewish Health System, Inc. ("NS-LIJ") engaged in unlawful employment practices on the basis of disability in violation of Section 102 of Title I of the Americans with Disabilities Act of 1990 as amended, 42 U.S.C. §12112(d) *et seq.* ("ADA"). EEOC alleged that Defendant violated the ADA rights of Charging Party John Doe ("Doe") by disclosing his confidential medical information in an unauthorized manner in the presence of his co-workers. NS-LIJ has denied EEOC's allegations, and this Consent Decree is not an admission of liability or wrong-doing.

The Parties agree that it is in their mutual interests to fully resolve the matter without further litigation. In consideration of the mutual promises, agreements and consideration contained herein, EEOC and NS-LIJ do hereby stipulate and consent to the entry of this Decree as final and binding between the Parties and their successors or assigns.

This Decree resolves all disability discrimination claims presented by EEOC's Complaint and Doe's Charge No. 160-2003-02356. This Decree in no way affects EEOC's right to process any future charges that may be filed against NS-LIJ, including a charge filed by a member of the Commission, in accordance with EEOC procedures, and to commence civil actions on any such charges. Nothing in this Decree shall be construed to preclude EEOC from bringing proceedings to enforce this Decree in the event that NS-LIJ fails to perform any of the promises and representations contained herein.

The Parties agree that this Court has jurisdiction over the subject matter of this action and the parties for the duration of this Decree, that venue is proper, and that all administrative prerequisites have been met. The Parties further agree that this Decree may be entered without Findings of Fact and Conclusions of Law having been made and entered by the Court.

In consideration of the mutual promises of each party to this Decree, the sufficiency of which is hereby acknowledged, it is agreed and IT IS ORDERED, ADJUDGED, AND DECREED AS FOLLOWS:

1. NS-LIJ and its agents agree not to discriminate against any employee or applicant because of her or his disability, including, but not limited to, any unlawful disclosure of that individual's medical information. Additionally, NS-LIJ and its agents agree not to retaliate against any employee or applicant who makes, and/or cooperates with an investigation of, a complaint of discrimination.
2. NS-LIJ has agreed to pay a total of sixty-four thousand dollars (\$64,000) inclusive of attorney's fees to Doe and his attorneys in settlement of (a) the claims asserted by EEOC in this action and (b) the claims asserted by Doe in his intervenor's complaint. NS-LIJ shall confirm in writing to EEOC that such payment has been made.

3. Within two (2) months of the date of entry of this Decree and each calendar year thereafter for the duration of this Decree, NS-LIJ will provide a one (1) hour anti-discrimination training for the following persons who work at Long Island Jewish Hospital, Schneider Children's Hospital, and the Zucker Hillside Hospital (the "Affected Hospitals"): 1. An appropriate management representative for each department, to be identified by NS-LIJ and listed on Exhibit A hereto ("Department Administrators"); 2. the Security Department; and 3. Human Resources Labor Specialists. This live training is to be conducted by NS-LIJ's Office of Legal Affairs. This training should at a minimum cover the following: (a) a discussion of the Americans with Disabilities Act of 1990 ("ADA"), including, but not limited to the confidentiality of an employee's medical information; (b) examples of conduct prohibited under the ADA and NS-LIJ's anti-discrimination policies; (c) case studies covering a variety of scenarios and a question/answer session; and (d) a summary of the procedures and policies that NS-LIJ has instituted to prevent any violation of the ADA, including procedures regarding receiving, documenting and investigating claims of discrimination. NS-LIJ will forward to EEOC a summary of the topics covered and a copy of the attendance sheet within ten (10) days of the completion of the training program. All Department Administrators of NS-LIJ's Affected Hospitals will convey the information learned from this training program and provide written materials distributed at the training to all management personnel who report to them. A letter verifying that such training has been conducted and who attended will be provided to EEOC on a quarterly basis according to the calendar year.

4. Within one (1) month of the date of entry of this Decree and each calendar year thereafter for the duration of this Decree, NS-LIJ's Affected Hospitals will advise new employees of their right to confidentiality of his or her medical information consistent with Section 102 of the ADA during the existing Foundations training program. A letter verifying that this information has been conveyed during the Foundations training program will be provided to EEOC on a quarterly basis according to the calendar year.

5. Within five (5) days of the entry of this Decree, NS-LIJ's Affected Hospitals shall post and maintain, in employee break areas and places where employee notices are posted, the notice of non-discrimination attached as Exhibit B. Within two (2) months of the entry of this Decree, NS-LIJ's Affected Hospitals will provide this notice to all administrators, supervisors and managers who receive electronic mail with instructions that they print the e-mail and notice and distribute them to their direct reports.

6. Within one (1) month of the entry of this Decree, NS-LIJ shall amend its non-discrimination policy to include the following language: "Consistent with the Americans with Disabilities Act of 1990, the Health System does not tolerate any unlawful disclosure of an employee's confidential medical information that an employee provides in connection with a request for a reasonable accommodation. Additionally, the Health System does not tolerate any discrimination on the basis of disability or any retaliation for any complaint, or cooperation with an investigation of a complaint, of discrimination on the basis of disability." This policy will be provided to all employees on NS-LIJ's Intranet (in the event that NS-LIJ's human resources policies are generally available on it Intranet during the term of this Consent Decree) and incorporated in any subsequent reprinting of NS-LIJ's Employee Handbook.

7. NS-LIJ's Affected Hospitals, through their Human Resources Department, will advise their employees who request a reasonable accommodation under the ADA in writing that the Affected Hospitals will maintain the confidentiality of such medical information as the employees may provide in connection with the request for a reasonable accommodation. This notification will be provided to such employees within five (5) days of the employees' request for reasonable accommodation and shall be in the form of the letter attached as Exhibit C.

8. Upon written notice by EEOC to NS-LIJ's in-house counsel, NS-LIJ shall make available all employees of the Affected Hospitals whom EEOC requests and identifies for purposes of verifying compliance with this Decree and shall permit a representative of EEOC to enter NS-LIJ's premises to conduct these interviews on five (5) business days of advance written notice by EEOC. NS-LIJ shall not discourage employees from participating in these interviews.

9. Each party shall bear its own attorney fees and costs incurred in this action.

10. This Decree constitutes the complete understanding between the Parties hereto. No other promises or agreements shall be binding unless agreed to in writing and signed by the Parties. No waiver, modification or amendment or any provision of the Consent Decree shall be effective unless made in writing, approved by all Parties to this Decree and approved by the Court or ordered by the Court.

11. This Decree will remain in effect for a period of three (3) years from the date of entry of this Decree by the Court.

Dated: New York, New York
June 29, 2006

Dated: New York, New York
June ____, 2006

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION

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NORTH SHORE-LONG ISLAND JEWISH
HEALTH SYSTEM

By: Joseph Cabral
Joseph Cabral
145 Community Drive
Great Neck, NY 11202
(516) 465-8099

SO ORDERED:

/signed/
Hon. Nicholas G. Garaufis, U.S.D.J.

Date: July 7, 2006

<u>HOSPITAL</u>	<u>DEPARTMENT</u>	<u>TITLE</u>	<u>INDIVIDUAL</u>
LIJ	Specialty Care - 5N, 5S, MSSU 1&2	Director	Barbara Popkin, RN
LIJ	Critical Care -ICU/PCU	Director	Terry Pando, RN
LIJ	HSU, CCU - 6S, 7N, 7S	Director	Marie Floredeliza, RN
LIJ	Surgical Services - 9N, 9S, 8N, 8S	Director	Elana Memoracion, RN
LIJ	Surgical Services - 9N, 9S, 8N, 8S	Director	Diana Simmons, RN
LIJ	Woman's Services	Director	Joanne Newcombe, RN
LIJ	Education	Director	Barbara Callahan, RN
LIJ	Emergency	Director	Mia Scaramuzzino, RN
LIJ	Interventional Cardiology	Director	Patricia Farrell, RN
LIJ	Dietary	Director	Joan Oxford
LIJ	Medical Library	Director	Debra Rand
LIJ	PA Service	Director	Martin Morales
LIJ	Pharmacy	Director	James Abberton
LIJ	PT	Director	David Marcello
LIJ	Respiratory Therapy	Director	Mike Karol
LIJ	HIM (Health Information Management)	Director	Joanne Marino
LIJ	Housekeeping	Director	Leon Vidal
LIJ	Patient Placement	Director	Catherine Exline
LIJ	Quality Mgmt.	Director	Donna Dalton
LIJ	Anatomical Lab.	Manager	Claudine Alexis

<u>HOSPITAL</u>	<u>DEPARTMENT</u>	<u>TITLE</u>	<u>INDIVIDUAL</u>
LIJ	Clinical Laboratory	Asst. Administrative	Joyce Ann Musel-Winn
LIJ	Radiology	Sr. Administrative Director	Andreas Nicou
LIJ	Safety & Security	Director	Gerry Ryan
LIJ	Telecommunications	Director	Sig Stefansson
LIJ	Medicine	Administrative Director	June Scarlett
LIJ	OP Svc & Otolatyngology	Administrative Director	Virginia Cudahy
LIJ	Urology	Department Head	Joan Cardell
LIJ	Neurology	Department Head	Andrew Ashkenase
LIJ	Surgery - General	Department Head	Joey Gregory
LIJ	Surgery - Cardiothoracic	Department Head	Laura McDonough
LIJ	OBS-GYN - Dept.	Director	Ron Sliwinski
Schneider	Hospital Administration	Department Head	Eric Chaikin
Schneider	Access Services	Department Head	Patricia Abitabile
Schneider	Nursing Administration	Department Head	Carl Quinn
Schneider	Physical Medicine and Rehab	Department Head	Bryan Maguire
Schneider	Pediatrics Critical Care	Department Head	Steve Friedman
Schneider	CT - Social Work	Department Head	Kathie Krieg
Hillside	Quality Management	Director	Georgette Lozier
Hillside	Resource Management	Director	Leslie Zeren
Hillside	Access Services	Director	Anne Ferguson

<u>HOSPITAL</u>	<u>DEPARTMENT</u>	<u>TITLE</u>	<u>INDIVIDUAL</u>
Hillside	Data Processing/Medical Records	Director Health Information Management	Roslyn Stronger
Hillside	Psychiatry - General	Senior Admin. Director I	Ann Handel
Hillside	Psychiatry - Medical	Manager - Business II	Sheila Marks
Hillside	Psych Day Treatment/Adult Day	Manager, Adult Day Hospital Program	Tom Arceri
Hillside	Psychiatric Rehabilitation	Director	Estelle Douglas
Hillside		Director, Nrpsy. Rehab. Research	Judith Jaeger
Hillside	Geriatric Psych Clinic	Assoc. Chairperson - Hillside	Blaine Greenwald
Hillside	Child Psychiatry	Director Psychiatric Services	Carmel Foley
Hillside	Adult Outpatient Clinic, Aftercare	Director Central Intake	Dennis Darvin
Hillside	Evaluation Unit/Critical Care	Director Psychiatric Services	Mark Russ
Hillside	Medical Staff Admin./Residency	Director Education/Training	Bruce Levy
Hillside	NRSG - Administration/Kaufman	Director Patient Care Services	Nancy Abbinanti
Hillside	NRSG - Administration	Manager Patient Support	Virginia Ammirati
Hillside	Pharmacy	Assistant Director	Ken Sokol
Hillside	Social Work Services	Assistant Director	Arlene Cohen
Hillside	Psychology Service	Assoc. Director Psych. Services	Gregory Hinrichsen

<u>HOSPITAL</u>	<u>DEPARTMENT</u>	<u>TITLE</u>	<u>INDIVIDUAL</u>
Hillside	Child & Adolescent Day Hospital	Assistant Director, Rehab. Act Chd/Ad. Services	Sharon Conway
Hillside	Housekeeping	Director, Environmental Services	Dale Arnold
Hillside	Maintenance	Assistant Director, Engineer and Maintenance	Gilbert Francisco
Hillside	Day Training	Director, Psychiatric Rehabilitation Program	Bruce Glick
Hillside	Day Rehabilitation Alcohol - Elmont	Director, Substance Abuse Program	John Cunningham
Hillside	Far Rockaway Treatment Center	Director, Substance Abuse Program	Alberto Barreto
Hillside	Family Treatment Center	Director, Substance Abuse Program	Estelle Freilich
Hillside	Family Consult (NCDDAA)	Program Director	Martin Moskowitz
Hillside	Queens Support Living	Manager - Social Work	Peter Digilio
Hillside	Nassau Support Living	Director, Residential Services	Mike Stellman



**U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
New York District Office**

33 Whitehall Street, 5th Floor
New York, NY 10004-2112
(212) 336-3721
TTY (212) 336-3622

**NOTICE TO EMPLOYEES OF
NORTH SHORE-LONG ISLAND JEWISH HEALTH SYSTEM, INC.**

This notice is being posted pursuant to an agreement between North Shore-Long Island Jewish Health System, Inc. ("NS-LIJ") and the United States Equal Employment Opportunity Commission ("EEOC").

Federal law prohibits discrimination against any individual because of his or her disability in any and all aspects of the employment relationship, such as pay, promotion, assignments, hours, and any other terms, conditions or privileges of employment. Federal law also prohibit the unlawful disclosure of an employee's confidential medical information.

Federal law also prohibits retaliation against any individual by an employer because the individual complains of discrimination, cooperates with the government's investigation of a charge of discrimination, participates as a witness or potential witness in litigation, or otherwise exercises his or her rights under the law.

Should you have any complaints of discrimination, you may contact the

**Equal Employment Opportunity Commission
33 Whitehall Street, 11th Floor
New York, New York 10004-2112
(212) 336-3620
(800) 669-4000**

THIS IS AN OFFICIAL NOTICE AND SHALL NOT BE DEFACED BY ANYONE.

This notice must remain posted until three years from the date of posting and may not be altered, defaced or covered by any other material.

[Letterhead of NS-LIJ's Affected Hospitals]

[Date]

[Name of Employee]

[Address]

[Address]

Dear [Mr. or Ms.] [Last Name of Employee]:

We have received your request for a reasonable accommodation under the Americans with Disabilities Act of 1990 ("ADA"). North Shore-Long Island Jewish Health Systems, Inc., including the Human Resources Department and your supervisor(s), want to assure you that we will treat as confidential any and all medical information you provide us in connection with this request for a reasonable accommodation, as consistent with Section 102 of the ADA. This means that we will not share your medical information with anyone except as permitted by Section 102 of the ADA. Additionally, we encourage you to provide any and all medical information related to this request to Human Resources rather than to your supervisor.

If you have any questions concerning your right to confidentiality of your medical information under the ADA, please feel free to contact us.

Sincerely,

[Name]

Human Resources Labor Specialist