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EEOC v. Market Burgers, L.L.C.,

Judge Michael M. Baylson

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EEOC v. Market Burgers, L.L.C.,

Keywords

EEOC v. Market Burgers, L.L.C., 13-cv-4651, Sex, Female, Compensation, Disparate Treatment, Terms and Conditions of Employment, Title VII, Consent Decree

mmB

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

EQUAL EMPLOYMENT OPPORTUNITY)
COMMISSION)
)
)
Plaintiff,)
v.)
)
MARKET BURGERS, L.L.C.,)
)
Defendant.)
)
)
)
)
)
)
_____)

Civil Action No. 13-cv-4651



CONSENT DECREE

This action was instituted by Plaintiff, the U.S. Equal Employment Opportunity Commission (“the EEOC” or the “Commission”), against Defendant, Market Burgers, L.L.C., d/b/a “Checkers” (“Defendant”). The Commission alleges violations of Sections 703(a)(1) and 704(a) of Title VII of the Civil Rights Act of 1964 (“Title VII”), as amended, 42 U.S.C. §§ 2000e-2(a)(1) and 2000e-3(a), and of the Equal Pay Act (“the EPA”), as incorporated into the Fair Labor Standards Act, 29 U.S.C. §§ 206(d)(1) and 215(a)(2).

The EEOC’s Complaint alleges that Defendant discriminated against LaToya Snyder and a class of female employees by paying them lower wages than those paid to their male counterparts for equal work which requires the same levels of skill, effort, and responsibility. The Complaint further alleges that Defendant discriminated against LaToya Snyder and a class of female employees by suppressing their wages through discriminatory job assignments and subjecting them to inferior terms and conditions of employment based on their sex.

The Commission and Defendant desire to resolve this 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 Title VII and the EPA.

The Court has examined this Decree and finds that it is reasonable and just and in accordance with the Federal Rules of Civil Procedure, Title VII and the EPA. Therefore, upon due consideration of the record herein and being fully advised in the premises, it is hereby **ORDERED, ADJUDGED AND DECREED:**

1. This Decree resolves all issues and claims alleged in the Complaint filed by the Commission in this action, which emanated from the Charge of Discrimination filed by LaToya Snyder, Charge No. 530-2011-01209.

2. This Decree shall be in effect for a period of three years from the date it is entered by the Court.

3. Defendant, its officers, agents, servants, employees, successors, assigns, and all persons acting or claiming to act on its behalf, are hereby enjoined from violating Title VII with regard to compensation, terms, conditions, or privileges of employment of its female employees. Discrimination with regard to terms, conditions, and privileges of employment violates Title VII, which sets forth in relevant part:

It shall be an unlawful employment practice for an employer . . .
to discriminate against any individual with respect to h[er]
compensation, terms, conditions, or privileges of employment,
because of such individual's . . . sex[.]

42 U.S.C. § 2000e-2(a)(1).

4. Defendant, its officers, agents, servants, employees, successors, assigns, and all persons acting or claiming to act on its behalf, are hereby enjoined from violating the EPA, which sets forth in relevant part:

No employer . . . shall discriminate . . . between employees on the basis of sex by paying wages to employees . . . at a rate less than the rate at which he pays wages to employees of the opposite sex for equal work on jobs the performance of which requires equal, skill, effort, and responsibility, and which are performed under similar working conditions.

29 U.S.C. § 206(d)(1).

5. Every six (6) months following the entry of this Consent Decree, and continuing throughout the life of the Decree, Defendant shall submit written reports to the Commission's counsel of record concerning the implementation of this Decree. The reports shall include the following information: (1) Copies of any formal or informal complaints of wage discrimination based on sex or sex-based discrimination in job assignments, by any employee of Defendant, including but not limited to internal complaints, administrative charges, and lawsuits, and (2) for every complaint, whether oral or written, the name of the complainant, and a detailed explanation of Defendant's actions taken in response to the complaint.

6. Defendant will pay three installments totaling \$100,000 to be structured as follows:

a. Within ten (10) days after entry of this Decree, the EEOC will provide Defendant with the names, addresses, and payment allocations of all claimants to receive the first installment of \$30,000. Defendant will make these payments within twenty (20) days of receipt of the EEOC's information.

b. Within forty (40) days after entry of this Decree, the EEOC will provide to Defendant with the names, addresses, and payment allocations of all claimants to receive the second installment of \$30,000. Defendant will make these payments within twenty (20) days of receipt of the EEOC's information.

c. Within seventy (70) days after entry of this Decree, the EEOC will provide to Defendant with the names, addresses, and payment allocations of all claimants to receive the third and final installment of \$40,000. Defendant will make these payments within fifty (50) days of receipt of the EEOC's information.

d. \$80,606 of this amount represents back pay for the aggrieved class members/claimants, as identified by the EEOC. \$19,394 represents damages under 42 U.S.C. § 1981a for the aggrieved class members/claimants, as identified by the EEOC. For the back pay portions, Defendant will make the appropriate withholdings, and issue an IRS form W-2 for the 2014 tax year. For the non-wage, compensatory damages allocations, no withholdings will be made and Defendant shall prepare and distribute IRS Form 1099s to claimants receiving compensatory damages, as identified by the EEOC.

7. Effective April 30, 2014, the hourly wages of Cashier/Sandwich Makers in Defendant's Checkers restaurant in Philadelphia will be increased to \$7.50, the wage rate Defendant pays to males performing equal work, and Defendant will agree to pay this hourly wage to all incoming Cashier/Sandwich Makers hired at that facility during the life of this Decree.

8. Within sixty (60) days after the entry of this Decree, Defendant will provide training, led by an outside attorney or consultant previously agreed to by the parties, for all owners of Market Burgers, L.L.C., which shall focus on compliance with Title VII's and the Equal Pay Act's prohibition against sex-based wage discrimination, with an emphasis on the prohibition against making job assignments based on sex-based stereotypes. The duration of the training will be five hours. Within seven (7) business days of the training's completion, Defendant will provide certification to the Commission's counsel of record that such training has

been provided, including the date[s] and location[s] of the training, and the identities of the trainees and trainers.

9. Within thirty (30) days after entry of this Decree, Defendant shall adopt and adhere to a written anti-discrimination policy that comports with all requirements of Title VII and the EPA.


10. Within ten (10) days after entry of this Decree, Defendant will post immediately, in all places where notices to employees customarily are posted within Defendant's Checkers restaurant, the Notice attached hereto and made a part hereof. Said Notices shall be posted and maintained for the life of the Consent Decree and shall be signed by a responsible management official with the date of actual posting shown thereon. Should the Notices become defaced, marred, or otherwise made unreadable, Defendant will ensure that new, readable copies of the Notices are posted in the same manner as heretofore specified. Within thirty (30) days of approval of this Decree, Defendant shall forward to the EEOC's attorney of record a copy of the signed Notice attached hereto and written certification that the Notice referenced herein has been posted and a statement of the locations and dates of posting.

Subject to these provisions and this Court's jurisdiction to enforce the provisions of this Consent Decree, it is further

ORDERED that this case shall be and hereby is dismissed with prejudice, with the Commission and Defendant each bearing their own costs and fees.

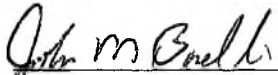
SO ORDERED

Signed and entered this 31st day of March, 2014.

By: 
MICHAEL M. BAYLSON
UNITED STATES DISTRICT COURT JUDGE

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:


John M. Borelli
Segal, McCambridge, Singer & Mahoney
1818 Market Street, Suite 2600
Philadelphia, PA 19103

FOR PLAINTIFF:

/s/ Debra Lawrence
Debra M. Lawrence
Regional Attorney

/s/ Maria Luisa Morocco
Maria Luisa Morocco
Supervisory Trial Attorney

/s/ Philip M. Kovnat
Philip M. Kovnat
Jennifer Hope
Trial Attorneys
Philadelphia District Office
801 Market Street, Penthouse Suite 1300
Philadelphia, PA 19107



U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

POSTED PURSUANT TO FEDERAL COURT ORDER

This Notice is posted pursuant to a federal court order voluntarily resolving a sex discrimination lawsuit brought by the U.S. Equal Employment Opportunity Commission (the EEOC), an agency of the federal government, against Market Burgers, L.L.C. In that lawsuit, called EEOC v. Market Burgers, L.L.C., Case No. 13-CV-4651 (U.S. District Court for the Eastern District of Pennsylvania), the EEOC alleged that Market Burgers, L.L.C., violated Title VII of the Civil Rights Act of 1964 and the Equal Pay Act of 1963 by subjecting a class of female employees to lower wages and inferior working conditions because of their sex. Under Section 706 of Title VII, it is unlawful for an employer to

“discriminate against any individual with respect to compensation, terms, conditions, or privileges of employment, because of such individual’s . . . sex.”

Date Posted:

By: _____

Market Burgers, L.L.C.

Also, under the Equal Pay Act, “[n]o employer . . . shall discriminate . . . between employees on the basis of sex by paying wages to employees . . . at a rate less than the rate at which he pays wages to employees of the opposite sex for equal work.”

Market Burgers, L.L.C. WILL NOT engage in any acts or practices made unlawful by the above sections.

A copy of this Notice will be posted in a conspicuous place where employee notices are ordinarily placed and will be replaced if it becomes defaced, marred, or otherwise made unreadable.