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EEOC v. Sapark Enterprises, L.L.C. d/b/a Ramada Inn Pasadena

Judge Keith P. Ellison

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EEOC v. Sapark Enterprises, L.L.C. d/b/a Ramada Inn Pasadena

Keywords

EEOC, Andy Martinez, Professional Transit Management, Springs Transit, 06-cv-01915, Consent Decree, Disparate Treatment, Hostile Work Environment, Sex, Female, Retaliation, Sexual Harassment, Transportation, Employment Law, Title VII

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

United States Courts
Southern District of Texas
ENTERED

JAN 10 2006

Michael N. Milby, Clerk of Court

EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION
Plaintiff

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CIVIL ACTION NO. H-04-3706

v.

SAPARK ENTERPRISES, L.L.C. d/b/a
RAMADA INN PASADENA
Defendant.

JURY TRIAL DEMANDED

CONSENT DECREE

Plaintiff, the United States Equal Employment Opportunity Commission ("Commission") and Defendant, Sapark Enterprises, L.L.C. d/b/a Ramada Inn Pasadena ("Defendant" or "Sapark"), agree to entry of this Consent Decree.

I. Background and History of Proceedings

A. Charging Parties Tawna Giamalva and Lori Lambert ("Charging Parties") filed charges of discrimination with the Commission (Charge Nos. 330-2004-00943 and 330-2004-00686) alleging Defendant violated Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §2000e *et seq.* ("Title VII").

B. On September 23, 2004, after investigating the Charges and finding discrimination, the Commission commenced this action alleging that Defendant's conduct toward them during the course of their employment constituted sexual harassment against them and a class of female employees in violation of Section 703 (a) of Title VII. The Commission also alleged that Defendant had retaliated against Charging Parties and a class of female employees in violation of Section 704 (a) of Title VII.

C. Defendant denied the allegations of sexual harassment and retaliation.

D. The parties wish to avoid the risks, uncertainties and expenses of continued litigation. Accordingly, the parties have agreed to settle this lawsuit. Defendant's consent to the entry of this decree nor any of the terms set forth in it shall not constitute or be construed as an admission of any Title VII violation. Both parties agree that this Consent Decree is being entered into for the sole purpose of compromising disputed claims without the necessity for protracted litigation.

E. The Commission and Defendant stipulate to the jurisdiction of the Court and the satisfaction of all administrative prerequisites. The parties further waive hearing and entry of findings of fact and conclusions of law on all issues.

IT IS ORDERED that:

1. This Consent Decree is entered in full and complete settlement of any and all claims arising out of or asserted in Civil Action No. H-04-3706 and the above-referenced Charges on behalf of Tawna Giamalva, Lori Lambert and the class of female employees referenced by the Commission in the Commission's Complaint.
2. Defendant Sapark, and all of its employees and/or agents associated with it agree they will not engage in any employment practices which discriminate against any individual with respect to compensation, terms, conditions or privileges of employment because of such individual's sex and will not retaliate against any individual who has opposed any practice made an unlawful employment practice under Title VII or who has made a charge, testified, assisted, or participated in any manner in an investigation, proceeding or hearing under Title VII.

3. Defendant Sapark, and all of its employees and/or agents associated with them agree that they will not engage in any employment practice which discriminates against female employees because of their sex (sexual harassment) in violation of Title VII.
4. Within six (6) months from the date the Consent Decree is entered, Defendant will provide, using either an attorney or an independent experienced training person or group, a program on employment discrimination, including the law relating to sexual harassment and retaliation, to all officers and management and supervisory employees of Sapark. Defendant represents that it no longer owns or operates any hotels or motels. If after this initial program on employment discrimination, Defendant owns or operates any hotel or motel during the effective period of this Consent Decree, Defendant agrees that within thirty (30) days after it assumes ownership or begins operation of said hotel or motel and annually thereafter, it will provide, using either an attorney or an independent experienced training person or group, a program on employment discrimination, including the law relating to sexual harassment and retaliation, to all officers and management and supervisory employees of Sapark. The minimum duration of all trainings described herein shall be two (2) hours. Defendant shall submit to the Commission, each year at least thirty days in advance of the program, the name of the program provider and a curriculum outline indicating the information to be addressed during the program and copies of all agendas and materials to be distributed at the training seminar. The person who shall administer the training will be either attorney(s) or person(s) possessing at least five years of experience in labor and employment law.

The presenter must be approved by the EEOC. Written acknowledgment of receipt of the training shall be obtained by Defendant from all individuals attending the training and retained among the employment records of defendant and also copies shall be forwarded to the EEOC within thirty (30) days of the delivery of the training.

5. Defendant represents that it no longer owns or operates any hotels or motels. If Defendant owns or operates any hotel or motel during the effective period of this Consent Decree, Defendant agrees that within thirty (30) days after it assumes ownership or begins operation of said hotel or motel it will create and implement an equal employment opportunity policy. The parties will cooperate in preparing the policy. The new policy shall include the following provisions: It will identify by name, address and telephone number, the person to whom complaints about sexual harassment or discrimination shall be made. The policy should also outline how the complaints will be investigated, their confidential nature and provide assurances against retaliation for making a complaint. The policy will also provide that the complaining employee will be notified of the resolution of the complaint. During the period this Decree is in effect, copies of any internal complaints of sexual harassment and all notes regarding the investigation, and the resolution of the complaint shall be forwarded to the Commission within 30 days of the complaint being made.
7. If Defendant owns or operates any hotel or motel during the effective period of this Consent Decree, Defendant agrees that within forty (40) days after it assumes ownership or begins operation of said hotel or motel it will provide to all current employees working at any hotel or motel owned or operated by it a copy of

the equal employment opportunity policy outlined in the preceding paragraph and to provide the policy to new employees or to other workers during their first work week. Written acknowledgment of receipt of the policy shall be obtained by Defendant from all individuals receiving it and this acknowledgment retained among the employment records of Defendant.

8. If Defendant owns or operates any hotel or motel during the effective period of this Consent Decree, Defendant agrees that within ten (10) days after it assumes ownership or begins operation of said hotel or motel Defendant will post the attached non-discrimination notice. This notice shall remain posted for the balance of the effective period of this Consent Decree. A copy of this notice is attached hereto as Exhibit "A." The notice will be posted in a location, to be agreed upon by the parties, which is conspicuous and accessible to all employees. Defendant shall designate a manager at each location, whose name will be provided to the Commission, who will be responsible for ensuring that the notice remains posted for the balance of the effective period of this Consent Decree.

9. Defendant agrees to segregate in a separate, confidential folder all documents related to Tawna Giamalva's and Lori Lambert's charges of discrimination and the Commission's lawsuit. These documents shall not be part of their personnel file. Further, Defendant agrees not to reference any of the following to any potential employer of Ms. Gimalva or Ms. Lambert: their charges of discrimination, the Commission's lawsuit, or this Consent Decree entered in the Commission's lawsuit.

10. Defendant agrees to pay the total sum of THIRTY THOUSAND AND NO/100 DOLLARS (\$30,000.00) in full and final settlement of the Commission's lawsuit to provide monetary relief to Tawna Giamalva, Lori Lambert and the class of female employees referenced by the Commission in its Complaint. Said sums shall be paid within fourteen (14) days from the date of entry of the Decree. The Commission shall notify Defendant, within seven (7) days of entry of the Decree of the sum to be paid to each Charging Party and class member and the address to which each check will be mailed. A copy of the checks disbursed to each of them shall be mailed to the Commission's undersigned counsel of record on the same day the checks are mailed to each of the Charging Parties and class members.

11. The sums payable to the Charging Parties and the class members may be subject to federal or state income tax. Sapark agrees to issue Internal Revenue Service ("IRS") Form 1099 or an equivalent form to Charging Parties and the class members for all sums paid pursuant to this Consent Decree. The Charging Parties and the class members will be responsible for paying any federal, state or local taxes, including federal income tax that may be due on the aforementioned monetary award. Defendant and the Commission agree that the sums paid pursuant to this Decree are for personal damages and emotional distress. Sapark makes no representation as to the tax status of the funds being paid herein.


12. Each party to this action shall bear their own costs and attorney's fees.

13. This Consent Decree shall be binding on Defendant and all of Defendant's successors-in-interest, and Defendant will notify all such successors-in-interest of the existence and terms of this Consent Decree.

14. This Decree shall remain in effect for three years from the date of signing. During the period that this Decree shall remain in effect, the Court shall retain jurisdiction to assure compliance with this Decree and to permit entry of such further orders or modifications as may be appropriate. The Commission is specifically authorized to seek Court-ordered enforcement of this Decree in the event of a breach of any of the provisions herein.

15. Nothing in this Consent Decree shall be construed to preclude the Commission from filing a separate action under Title VII or any other statute which the Commission enforces in the future for any alleged violations by Defendant not resolved by this Decree.

Signed this 9th day of January, 200~~5~~⁶ at Houston,
Texas.



Keith P. Ellison
United State District Judge

AGREED AND CONSENTED TO:

ATTORNEY FOR PLAINTIFF
EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION

By: Kathy Boutchee by RMM

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RAMADA INN PASADENA

By: [Signature]

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RAMADA INN PASADENA

By: Sat P. Sanger

, President
Sapark Enterprises, L.L.C.