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EEOC v. Harlingen Family Dentistry, P.C.

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EEOC v. Harlingen Family Dentistry, P.C.

Keywords

EEOC, Harlingen Family Dentistry P.C., B-02-163, Consent Decree, Disparate Treatment, Retaliation, Religion, Healthcare, Employment Law, Title VII

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
BROWNSVILLE DIVISION**

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,	§	
	§	
Plaintiff,	§	
	§	Civil Action No. B-02-163
v.	§	
	§	
HARLINGEN FAMILY DENTISTRY, P.C.,	§	
	§	
Defendant.	§	

CONSENT DECREE

The parties to this Consent Decree are the Plaintiff, United States Equal Employment Opportunity Commission (“EEOC”), and Defendant, Harlingen Family Dentistry, P.C. This Consent Decree resolves the above-referenced Civil Action No. B-02-163. The EEOC initiated this lawsuit under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §2000e, *et seq.* (“Title VII”) and Title I of the Civil Rights Act of 1991, 42 U.S.C. § 1981a to correct alleged unlawful employment practices on the basis of religion and retaliation, and to provide appropriate relief to Rosemary DeLeon and Maria Carrizales, who claim to be adversely affected by such practices.

The EEOC and Harlingen Family Dentistry, P.C. wish to settle this action, without the necessity of further litigation, pursuant to the terms delineated in this Decree because bona fide disputes and controversies exist between the parties, both as to liability and the amount of damages allegedly resulting thereof, if any, and by reason of such disputes and controversies the parties hereto desire to compromise and settle all claims, causes of action, and issues alleged in this Complaint and/or the underlying Charges of Discrimination 31CA00840 and 31CA01008.

IT IS ORDERED, ADJUDGED AND DECREED as follows:

1. This Court has jurisdiction over the parties and of the subject matter of this action, venue is proper, and all administrative prerequisites to the filing of this action have been met. The Complaint states claims, which, if proved, would authorize this Court to grant relief against Harlingen Family Dentistry, P.C. pursuant to Title VII;

2. This Decree resolves those claims against Harlingen Family Dentistry, P.C. raised in EEOC's Complaint in this case and asserted in Charge Numbers 31CA00840 and 31CA01008. The EEOC waives further litigation of all claims, causes of action, and issues raised in the above-referenced complaint and asserted in Charge Numbers 31CA00840 and 31CA01008. The EEOC expressly reserves its right, however, to process and litigate any other charges which may now be pending or may in the future be filed against Harlingen Family Dentistry, P.C.; and

3. The duration of this Decree shall be two (2) years from the date of its filing with the Court (the "term"). This Court shall retain jurisdiction of this action for the duration of this Decree and may enter such other and further relief as it deems appropriate to ensure implementation and enforcement of its provisions. If neither party moves the court for enforcement of any provision and/or condition of the Consent Decree during the term, Harlingen Family Dentistry, P.C. can move the court for dismissal with prejudice at the expiration of the term of this Consent Decree.

INJUNCTIVE PROVISIONS

4. Defendant Harlingen Family Dentistry, P.C. is enjoined, during the term of this Decree, from discriminating against any employee on the basis of religion. Defendant Harlingen Family Dentistry, P.C. is also enjoined from engaging in retaliation in any manner against any past, present, or future employee for opposing any employment practice made unlawful by Title VII, including but not limited to opposing and/or refusing to attend any mandatory employee course

because it contains religious content, or for filing a discrimination charge, giving testimony or assistance, or participating in any manner in any investigation, proceeding, hearing or action under Title VII.

5. Within sixty (60) days after the entry of this Decree, Harlingen Family Dentistry, P.C. shall create or modify and implement a written anti-discrimination policy which meets the following criteria:

- (a) Contains a provision stating that Harlingen Family Dentistry, P.C. prohibits discrimination against employees because of an employee's religion or for an employee's failure to conform to a religious belief or practice;
- (b) Contains a provision stating that Harlingen Family Dentistry, P.C. prohibits retaliation against any employee; and
- (c) Provides for a simple, convenient, confidential and reliable mechanism for reporting incidents of religious discrimination and/or retaliation and provides for progressive discipline of employees for violating the religious anti-discrimination policy, up to and including discharge.

TRAINING

6. Within 90 days of the date of entry of this Decree, all supervisory and managerial employees employed by Defendant Harlingen Family Dentistry, P.C. shall participate in EEO training of not less than eight hours. This training include instruction on the law relating to Title VII of the Civil Rights Act of 1964 and Title I of the Civil Rights Act of 1991 (hereinafter referred to as "the training"). Within 30 days prior to the date scheduled for the training, Defendant Harlingen Family Dentistry, P.C. shall furnish to the EEOC a written report describing the training to be

attended by the employees referred to in this paragraph, identifying the instructor(s) and describing his/her/their qualifications to conduct such training, and the EEOC shall have the right to approve the training and/or the instructor(s).

MONETARY RELIEF

7. Harlingen Family Dentistry, P.C., in settlement of this dispute, shall pay the sum of FORTY-TWO THOUSAND AND FIVE HUNDRED DOLLARS AND 00/100 DOLLARS (\$42,500.00) apportioned and delivered as follows:

(a) Payments totaling \$21,250.00, less applicable taxes, shall be made to Maria Carrizales as follows:

- (1) \$5,312.50, less applicable taxes, to be paid on or before October 15, 2003;
 - (2) \$5,312.50, less applicable taxes, to be paid on or before April 15, 2004;
 - (3) \$5,312.50, less applicable taxes, to be paid on or before October 15, 2004;
- and
- (4) \$5,312.50, less applicable taxes, to be paid on or before April 15, 2005.

All payments shall be made by certified check and mailed directly to Maria Carrizales, 1027 Leal Street, San Benito, Texas 78586.

(b) Payments totaling \$21,250.00, less applicable taxes, shall be made to Rosemary DeLeon as follows:

- (1) \$5,312.50, less applicable taxes, to be paid on or before October 15, 2003;
 - (2) \$5,312.50, less applicable taxes, to be paid on or before April 15, 2004;
 - (3) \$5,312.50, less applicable taxes, to be paid on or before October 15, 2004;
- and

(4) \$5,312.50, less applicable taxes, to be paid on or before April 15, 2005.

All payments shall be made by certified check and mailed directly to Rosemary DeLeon, 1406 Anadal Street, Harlingen, Texas 78550.

A copy of the settlement checks and any accompanying transmittal documents shall be contemporaneously forwarded to the EEOC to the attention of Robert B. Harwin, Regional Attorney, Equal Employment Opportunity Commission, Mockingbird Plaza II, 5410 Fredericksburg Road, Suite 200, San Antonio, Texas 78229.

POSTING OF NOTICE

8. Defendant Harlingen Family Dentistry, P.C., its agents, officers, employees, servants, successors, and assigns, shall post a notice within ten (10) days of the entry of this Decree regarding its practices, policies, and intent not to discriminate against any employee in violation of Title VII. Such notice shall be as set forth in Exhibit A, which is attached to this Decree. A copy of Exhibit A shall be posted at Defendant's Harlingen, Texas, facility and on all employee bulletin boards or other areas where employees are likely to congregate. This notice shall remain posted for the duration of this Decree. Harlingen Family Dentistry, P.C. shall certify to the EEOC in writing within ten (10) business days after the posting of the Notice that the Notice has been properly posted.

COMPLIANCE

9. During the duration of this Decree, the EEOC on noticed motion to the Court shall have the right to ensure compliance with the terms of this Decree. In furtherance, the parties agree to the following:

- (a) Harlingen Family Dentistry, P.C. shall maintain and make available for inspection and copying all documents relevant to its compliance with this Decree; and

- (b) Harlingen Family Dentistry, P.C. shall, upon 10 days written notice and during Harlingen Family Dentistry, P.C.'s regular business hours, permit representatives of the EEOC to review all documents, and meet and interview all persons within its employ for purposes of verifying compliance with this Decree.

MISCELLANEOUS PROVISIONS

10. Nothing contained in this Decree shall be construed to limit any obligation Harlingen Family Dentistry, P.C. may otherwise have to maintain records under Title VII or any other statute.

11. The terms of this Decree shall be binding upon Harlingen Family Dentistry, P.C., and its present and future representatives, agents, officers, employees, servants, successors, and assigns, as to the issues resolved herein. It is understood and agreed that this is a compromise of a doubtful and disputed claim, and that nothing contained herein shall be construed as an admission of liability by or on behalf of Harlingen Family Dentistry, P.C., all such liability being expressly denied.

12. It is understood and agreed that this Decree shall be governed by, construed and enforced in accordance with, and subject to, the laws of the United States.

13. It is understood and agreed that this Decree may be executed in a number of identical counterparts, each of which shall be deemed an original for all purposes.

14. The parties to this Decree shall bear their own costs and attorneys' fees incurred in this action. The parties further agree that pursuant to Section 706(k) of Title VII, 42 U.S.C. § 2000e-5(k), there is no "prevailing party" in this action or proceeding.

The Clerk shall furnish a copy hereof to each attorney of record.

SO ORDERED.

Signed this ____ day of _____, 2003.

HONORABLE ANDREW S. HANEN
UNITED STATES DISTRICT JUDGE

Respectfully submitted,

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General Counsel

JAMES L. LEE
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Telecopier: (210) 281-7669

ATTORNEYS FOR PLAINTIFF

EXHIBIT A

NOTICE TO ALL EMPLOYEES

HARLINGEN FAMILY DENTISTRY, P.C., IS FIRMLY COMMITTED TO TREATING EMPLOYEES AND APPLICANTS FOR EMPLOYMENT ACCORDING TO MERIT WITHOUT REGARD TO THEIR RACE, RELIGION, COLOR, NATIONAL ORIGIN, SEX, OR THEIR HAVING ENGAGED IN ACTIVITY PROTECTED BY TITLE VII OF THE CIVIL RIGHTS ACT OF 1964, AS AMENDED. THIS POLICY APPLIES TO ALL EMPLOYMENT DECISIONS, INCLUDING RECRUITMENT, RETENTION, PROMOTION, TRANSFER, LAYOFF AND/OR TERMINATION, AND ALL OTHER TERMS AND CONDITIONS OF EMPLOYMENT. HARLINGEN FAMILY DENTISTRY, P.C., WILL SPECIFICALLY NOT TOLERATE DISCRIMINATION OF ITS EMPLOYEES BASED ON AN EMPLOYEE'S RELIGION OR BECAUSE AN EMPLOYEE FAILS TO CONFORM TO A RELIGIOUS BELIEF OR PRACTICE, AND WILL FURTHER SPECIFICALLY NOT TOLERATE RETALIATION AGAINST AN EMPLOYEE WHO OBJECTS OR OPPOSES FORCED CONFORMITY WITH ANY RELIGIOUS BELIEFS OR PRACTICES.

IF YOU BELIEVE, YOU ARE BEING DISCRIMINATED AGAINST IN ANY TERM OR CONDITION OF YOUR EMPLOYMENT BECAUSE OF YOUR RACE, RELIGION, COLOR, NATIONAL ORIGIN, SEX, AGE, OR DISABILITY; OR THAT YOU ARE BEING SUBJECTED TO HARASSMENT BECAUSE OF YOUR RACE, RELIGION, COLOR, NATIONAL ORIGIN, SEX, AGE OR DISABILITY; OR BECAUSE OF HAVING ENGAGED IN TITLE VII-PROTECTED ACTIVITY, YOU ARE ENCOURAGED TO SEEK ASSISTANCE FROM SUPERVISORY PERSONNEL, OR FROM THE UNITED STATES EQUAL EMPLOYMENT OPPORTUNITY COMMISSION, 5410 FREDERICKSBURG ROAD, SUITE 200, SAN ANTONIO, TEXAS 78229-3550, (210) 281-7600 OR 1-800-669-4000.

NO RETALIATORY ACTION MAY BE TAKEN AGAINST YOU FOR SEEKING ASSISTANCE, FILING A CHARGE, OR COMMUNICATING WITH THE UNITED STATES EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

EEOC ENFORCES TITLE VII OF THE CIVIL RIGHTS ACT OF 1964, WHICH PROHIBITS EMPLOYMENT DISCRIMINATION BASED ON RACE, COLOR, RELIGION, SEX OR NATIONAL ORIGIN; THE AGE DISCRIMINATION IN EMPLOYMENT ACT; THE EQUAL PAY ACT; PROHIBITIONS AGAINST DISCRIMINATION AFFECTING INDIVIDUALS WITH DISABILITIES IN THE FEDERAL SECTOR; SECTIONS OF THE CIVIL RIGHTS ACT OF 1991; AND TITLE I OF THE AMERICANS WITH DISABILITIES ACT, WHICH PROHIBITS DISCRIMINATION AGAINST PEOPLE WITH DISABILITIES IN THE PRIVATE SECTOR AND STATE AND LOCAL GOVERNMENTS.