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Equal Employment Opportunity Commission v. PZ Restaurants, Inc.

Judge Philip G. Reinhard

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Equal Employment Opportunity Commission v. PZ Restaurants, Inc.

Keywords

EEOC, PZ Restaurants Inc., 04 C 50251, Consent Decree, Hostile Work Environment, Sexual Harassment, Sex, Female, Service, Title VII, Employment Law

FILED
OCT 27 PM 3:35

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
WESTERN DIVISION**

DOCKETED
OCT 28 2004

EQUAL EMPLOYMENT OPPORTUNITY)
COMMISSION,)
)
Plaintiff,)
)
v.)
)
PZ RESTAURANTS, INC.,)
)
Defendant.)

Case No. 04 C 50251
Judge Philip G. Reinhard
Magistrate Judge
Michael P. Mahoney

CONSENT DECREE

THE LITIGATION

1. Plaintiff Equal Employment Opportunity Commission (the "EEOC") filed this action alleging that Defendant, PZ Restaurants, Inc. violated Section 703(a) of Title VII of the Civil Rights Act of 1964, as amended ("Title VII"), 42 U.S.C. § 2000e-2(a), by fostering or tolerating a working environment that was sexually hostile to female employees. PZ Restaurants denies the allegations contained within the Complaint, and denies that any actions attributable to it or its employees and/or owners, in any way fostered or permitted a work environment that was sexually hostile to female employees.

2. In the interest of resolving this matter, and as a result of having engaged in comprehensive settlement negotiations, the parties have agreed that this action should be finally resolved by entry of this Consent Decree (hereafter "Decree"). This Decree fully and finally resolves any and all issues and claims arising out of the Complaint filed by the EEOC in this action. Nothing in this Decree should be construed as an admission by any party regarding either liability or non-liability.

FINDINGS

3. Having carefully examined the terms and provisions of this Decree, and based on the pleadings, record, and stipulations of the parties, the Court finds the following:

a. This Court has jurisdiction of the subject matter of this action and of the parties.

b. The terms of this Decree are adequate, fair, reasonable, equitable, and just. The rights of the parties and the public interest are adequately protected by this Decree.

c. This Decree conforms with the Federal Rules of Civil Procedure and Title VII and is not in derogation of the rights or privileges of any person. The entry of this Decree will further the objectives of Title VII and will be in the best interests of the parties, the Charging Party, and the public.

NOW, THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED THAT:

INJUNCTION AGAINST HARASSMENT

4. PZ Restaurants and its officers, agents, management (including supervisory employees), successors and assigns, and all those in active concert or participation with them, or any of them, are hereby enjoined from: (i) discriminating against women on the basis of sex; (ii) engaging in or being a party to any action, policy or practice that is intended to or is known to have the effect of harassing or intimidating any female employee on the basis of her gender; and/or (iii) creating, facilitating or permitting the existence of a hostile work environment within the meaning of Title VII.

NON-RETALIATION

5. PZ Restaurants, its officers, agents, employees, successors, assigns and all persons acting in concert with it shall not engage in any form of retaliation against any person because such person has opposed any practice made unlawful under Title VII, filed a Charge of Discrimination under Title VII, testified or participated in any manner in any investigation, proceeding, or hearing under Title VII, or asserted any rights under this Decree.

MONETARY RELIEF

6. PZ Restaurants shall pay the gross sum of \$10,000.00 inclusive of attorneys' fees and costs, to Charging Party Sandra White, represented by the law firm of Pignatelli, Liston & Mertes, P.C.. This amount shall be apportioned and distributed as follows: (1) \$6,670.00 made payable to Charging Party Sandra White; and (2) \$3,300.00 made payable to Pignatelli, Liston & Mertes, P.C. in full and final release of attorneys' fees for which Pignatelli, Liston & Mertes, P.C. will be issued a form 1099. The payment to Charging Party shall be apportioned as follows: (1) \$1,700.00 shall be for lost wages and subject to applicable withholdings of the employee's share only; and (2) the remaining \$4,970.00 shall be payment for emotional pain and suffering from which no withholdings shall be made. Charging Party and Defendant have entered into a separate release agreement that was negotiated entirely between Charging Party's attorney and Defendant. EEOC has had no part in and EEOC in no way endorses or approves of such release agreement.

7. Within ten (10) business days after receipt by PZ Restaurants of the separate Release Agreement between Charging Party and Defendant discussed above in paragraph 6, PZ Restaurants or its agent shall issue checks to Charging Party and to Charging Party's attorney in the amounts set forth in paragraph 6 above. The checks shall be sent to Pignatelli, Liston & Mertes, P.C.. A copy of each check issued shall be sent to the EEOC.

POSTING OF NOTICE

8. Within ten (10) business days after entry of this Decree, PZ Restaurants shall post same sized copies of the Notice attached as Exhibit A to this Decree on bulletin boards usually used by PZ Restaurants for communicating with employees at its Parkway Restaurant in Sterling, Illinois. The Notice shall remain posted for two (2) years from the date of entry of this Decree. PZ Restaurants shall take all reasonable steps to ensure that the posting is not altered, defaced or covered by any other material. PZ Restaurants shall certify to the EEOC in writing within ten (10) business days after entry of this Decree that the Notice has been properly posted. PZ Restaurants shall permit a representative of the EEOC to enter Parkway

Restaurant for purposes of verifying compliance with this Paragraph at any time during business hours without prior notice.

RECORD KEEPING

9. For a period of two (2) years following entry of this Decree, PZ Restaurants shall maintain and make available for inspection and copying by the EEOC records of each complaint of sexual harassment. Such records shall indicate the date the complaint was made, who made it, what was alleged, and what actions PZ Restaurants took to resolve the matter, and when.

10. PZ Restaurants shall make all documents or records referred to in Paragraph 9 above, available for inspection and copying within ten (10) business days after the EEOC so requests. In addition, PZ Restaurants shall make available for interview all persons within its employ whom the EEOC reasonably requests for purposes of verifying compliance with this Decree and shall permit a representative of the EEOC to enter PZ Restaurants's premises for such purposes on five (5) business days advance notice by the EEOC.

11. Nothing contained in this Decree shall be construed to limit any obligation PZ Restaurants may otherwise have to maintain records under Title VII or any other law or regulation.

REPORTING

12. PZ Restaurants shall furnish to the EEOC the following written reports semi-annually for a period of two (2) years following entry of this Decree. The first report shall be due six (6) months after entry of the Decree. The final report shall be due twenty-three (23) months after entry of the Decree. Each such report shall contain:

a. A summary of the information recorded by PZ Restaurants pursuant to Paragraph 9, including the names of each person who complained of sexual harassment, the date of the complaint, and the actions, and dates thereof, taken by PZ Restaurants, including any discipline given;

b. A certification by PZ Restaurants that the Notice required to be posted

in 8, above, remained posted during the entire six (6) month period preceding the report.

MAINTENANCE AND DISTRIBUTION OF POLICY
AGAINST SEXUAL HARASSMENT

13. PZ Restaurants shall maintain a written policy against sexual harassment (“the Policy”) and provide a copy of the Policy to the EEOC within fourteen (14) working days after entry of this Consent Decree. The Policy shall:

a) Prohibit sexual harassment by employees, supervisors, officer and owners of PZ Restaurants;

b) Provide that complaints of sexual harassment may be made directly to an owner;

c) Provide that if the alleged harasser is an owner or officer of PZ Restaurants, complaints can be made to a designated outside representative;

d) Provide that employees who violate the policy are subject to discipline up to and including discharge; and

e) Advise employees that they may complain of sexual harassment to the Equal Employment Opportunity Commission at 500 West Madison, Chicago, Illinois.

14. Within twenty-one (21) days after the entry of this Consent Decree if it has not already done so, PZ Restaurants shall provide a copy of its Policy to each employee of PZ Restaurants.

15. A copy of the Policy shall be given to each new employee on the day the person is hired. Copies of the Policy shall also be posted on the bulletin boards customarily used for posting notices from management to employees.

TRAINING

16. Within 60 days of the entry of this Decree, PZ Restaurants shall retain and pay for a trainer approved by the EEOC, to provide training to all owners, officers, supervisors, managers and employees with respect to sexual harassment and with respect to the Policy implemented pursuant to Paragraph 13 above. Attendance shall be mandatory. A registry of attendance shall be maintained .

17. PZ Restaurants shall obtain the EEOC's approval of its proposed trainer prior to the training session. PZ Restaurants shall submit the name, address, telephone number and resume of the proposed trainer to the EEOC within 30 days of the entry of this Decree. The EEOC shall have ten calendar days from the date of receipt of the information described above to accept or reject the proposed trainer. In the event the EEOC does not approve PZ Restaurants's designated trainer, PZ Restaurants shall have ten calendar days to identify an alternate trainer. The EEOC shall have ten calendar days from the date of receipt of the information described above to accept or reject the alternate trainer. In the event the EEOC does not approve PZ Restaurants's alternate trainer, the EEOC shall designate the trainer to be retained and paid for by PZ Restaurants.

18. PZ Restaurants shall certify to the EEOC in writing with ten (10) days after the training has occurred that the training has taken place and that the required personnel have attended. Such certification shall include: (i) the date, location and duration of the training; and (ii) a copy of the registry of attendance, which shall include the name and position of each person in attendance.

19. PZ Restaurants agrees to provide EEOC with any and all copies of pamphlets, brochures, outlines or other written materials provided to the participants of the training sessions.

DISPUTE RESOLUTION

20. In the event that either party to this Decree believes that the other party has failed to comply with any provision(s) of the Decree, the complaining party shall notify the other party of the alleged non-compliance within ninety (90) days of the alleged non-compliance and shall afford the alleged non-complying party ten (10) business days to remedy the non-compliance or to satisfy the complaining party that the alleged non-complying party has complied. If the alleged non-complying party has not remedied the alleged non-compliance or satisfied the complaining party that it has complied within ten (10) business days, the complaining party may apply to the Court for appropriate relief.

DURATION OF THE DECREE AND RETENTION OF JURISDICTION

21. All provisions of this Decree shall be in effect (and the Court will retain jurisdiction of this matter to enforce this Decree) for a period of two (2) years immediately following entry of the Decree, provided, however, that if, at the end of two years, any disputes under Paragraph 20, above, remain unresolved, the term of the Decree shall be automatically extended (and the Court will retain jurisdiction of this matter to enforce the Decree) until such time as all such disputes have been resolved.

MISCELLANEOUS PROVISIONS

22. Each party to this Decree shall bear its own expenses and costs. The EEOC and PZ Restaurants shall bear their own attorneys' fees.

23. The terms of this Decree are and shall be binding upon the present and future representatives, agents, directors, officers, assigns, and successors of PZ Restaurants in their capacities as representatives, agents, directors and officers of PZ Restaurants, and not in their individual capacities.

24. When this Decree requires the submission by PZ Restaurants of reports, certifications, notices, or other materials to the EEOC, they shall be mailed to: Laurie Elkin, Trial Attorney, Equal Employment Opportunity Commission, 500 West Madison Street, Suite 2800, Chicago, Illinois, 60661. When this Decree requires submission by the EEOC of materials to PZ Restaurants, they shall be mailed to: Timothy Zollinger, Esq., Ward, Murray, Pace & Johnson, P.C., 202 East Fifth Street, P.O. Box 400, Sterling, Illinois 61021.

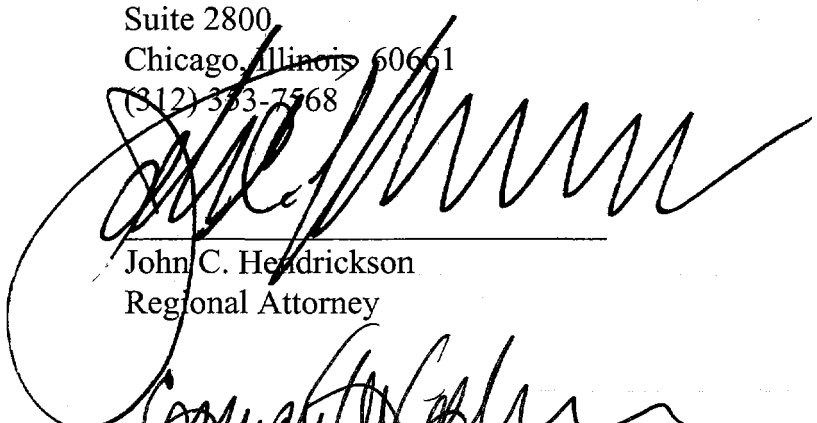
For the Equal Employment
Opportunity Commission
1801 L Street, N.W.
Washington, D.C. 20507

Eric Dreiband
General Counsel

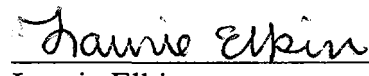
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Regional Attorney

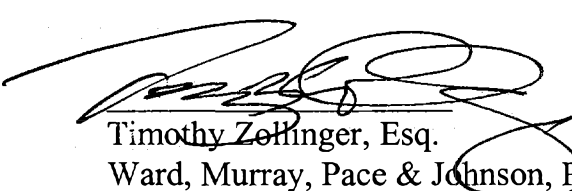

Gregory M. Gochanour
Supervisory Trial Attorney

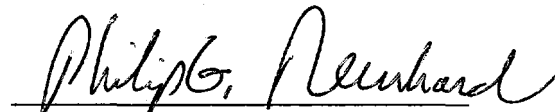

Laurie Elkin
Trial Attorney

DATE: October 27, 2004

For PZ Restaurants, Inc.


Co-owner of PZ Restaurants, Inc.


Timothy Zollinger, Esq.
Ward, Murray, Pace & Johnson, P.C.
202 East Fifth Street
P.O. Box 400
Sterling, Illinois 61021


ENTER:

Judge Philip G. Reinhard

EXHIBIT A
NOTICE TO ALL PZ RESTAURANT EMPLOYEES

This Notice is being posted pursuant to a Consent Decree entered by the federal court in *EEOC v. PZ Restaurants, Inc.*, No. 04 C 50251 (N.D.Ill.) resolving a lawsuit filed by the Equal Employment Opportunity Commission ("EEOC") against PZ Restaurants, Inc. ("the Company").

In its suit, the EEOC alleged that the Company fostered or tolerated a working environment that was hostile to female employees, in violation of Title VII of the Civil Rights Act of 1964 ("Title VII"). The Company denies these allegations.

To resolve the case, the Company and the EEOC have entered in to a Consent Decree which provides, among other things, that:

- 1) the Company will make a payment to the complainant;
- 2) the Company will not foster or tolerate sexual harassment;
- 3) the Company will not retaliate against any person because (s)he opposed any practice made unlawful by Title VII, filed a Title VII charge of discrimination, participated in any Title VII proceeding, or asserted any rights under the Consent Decree; and
- 4) the Company will adopt and distribute to all employees a policy against sexual harassment and will train all its supervisors, officers and employees regarding sexual harassment and its policy.

The EEOC enforces the federal laws against discrimination in employment on the basis of race, color, religion, national origin, sex, age or disability. If you believe you have been discriminated against, you may contact the EEOC at (312) 353-8195. The EEOC charges no fees and has employees who speak languages other than English. If you believe you have been discriminated against you may contact the EEOC.

THIS IS AN OFFICIAL NOTICE AND MUST NOT BE DEFACED BY ANYONE

This Notice must remain posted for two years from the date below and must not be altered, defaced or covered by any other material. Any questions about this Notice or compliance with its terms may be directed to: PZ Restaurants Settlement, EEOC, 500 West Madison Street, Suite 2800, Chicago, Illinois 60661.

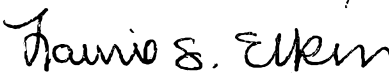
10/27/04
Date

Melvin Reinhard
Judge Reinhard

CERTIFICATE OF SERVICE

I, Laurie S. Elkin, an attorney, do hereby certify that I caused a true and correct copy of the foregoing **Agreed Motion For Entry of Consent Decree** to be served by Unites States Mail on this 19th day of October, 2004, to the following counsel of record:

Timothy B. Zollinger, Esq.
Ward, Murray, Pace & Johnson, P.C.
202 East Fifth Street
P.O. Box 400
Sterling, Illinois 61081


Laurie S. Elkin

Laurie S. Elkin