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3-18-2004

## **EEOC v. Hiten Hospitality L.L.C. d/b/a Family Motor Inn and Jay Kishan Hospitality, Inc. and Mike Patel**

Judge Mary Ann L. Medler

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## EEOC v. Hiten Hospitality L.L.C. d/b/a Family Motor Inn and Jay Kishan Hospitality, Inc. and Mike Patel

### Keywords

EEOC, Hiten Hospitality LLC d/b/a Family Motor Inn and Jay Kishan Hospitality Inc., Mike Patel, 4:03CV01158MLM, Consent Decree, Hostile Work Environment, sexual harassment, retaliation, constructive discharge, sex, female, hospitality, Employment Law, Title VII

FOR THE EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

EQUAL EMPLOYMENT )  
 OPPORTUNITY COMMISSION, )  
 )  
                   Plaintiff, )  
 )  
                   v. )  
 )  
 HITEN HOSPITALITY L.L.C. d/b/a )  
 FAMILY MOTOR INN and JAY KISHAN )  
 HOSPITALITY, INC., )  
 )  
                   Defendants. )  
 )  
 and )  
 )  
 TINA SETTLES, CAROLYN ROGERS, )  
 AND NATASHA DELONG, )  
 )  
                   Plaintiff-Intervenors, )  
 )  
                   v. )  
 )  
 )  
 )  
 HITEN HOSPITALITY L.L.C. d/b/a )  
 FAMILY MOTOR INN and MIKE PATEL, )  
 )  
                   Defendants. )

CIVIL ACTION CASE NO:  
4:03CV01158 MLM

CONSENT DECREE

**Introduction**

Plaintiff, Equal Employment Opportunity Commission (hereinafter the "Commission"), has instituted this action alleging that Defendants violated Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. Section 2000e et seq. (hereinafter "Title

VII"), by sexually harassing Tina Settles, Carolyn Rogers, and Natasha Delong, by retaliating against Tina Settles and Natasha Delong, and by constructively discharging Carolyn Rogers because of their sex.

Tina Settles, Carolyn Rogers, and Natasha Delong, by and through their attorneys, have intervened in this lawsuit, alleging violations of Title VII, and tort claims under Missouri state law.

For purposes of settlement and compromise only, the parties have advised the Court that they wish to resolve the instant controversy without the expense, delay, and burden of further litigation;

THEREFORE, it is the finding of this Court, made on the pleadings and on the record as a whole and upon agreement of the parties, that: (i) this Court has jurisdiction over the parties to and the subject matter of this action, (ii) the requirements of Title VII will be carried out by the implementation of this Decree, (iii) this Decree is intended to and does resolve all matters in controversy in this lawsuit among the parties, and (iv) the terms of this Decree constitute a fair and equitable settlement of all issues in this lawsuit.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED as follows:

**I. General Provisions**

1. This Decree, being entered with the consent of the parties for purposes of settlement, shall not constitute an

adjudication on the merits of this lawsuit and shall not be construed as an admission by Defendants of any violation of Title VII or claims made under Missouri state law, or any executive order, law, rule or regulation dealing with or in connection with sex discrimination in employment.

2. Defendants shall not discriminate or retaliate against any person because she has opposed any practices alleged in this action as unlawful under Title VII, has participated in an investigation conducted under Title VII with respect to this complaint, or because she has participated in this lawsuit or has benefited in any way as a result of this Consent Decree.

## **II. Relief for Charging Party**

3. By March 19, 2004, Defendants shall forward to Darrell Graham, Anthony Gray, and/or Sandra Baker, attorneys for the three individual plaintiffs/intervenors the gross sum of One Hundred Eighty Thousand Dollars, (\$180,000.00).

4. Within thirty (30) days of the entry of this Decree, Defendants will prepare a letter in the form shown in **Exhibit A** on appropriate Hiten Hospitality letterhead, and will make a signed copy of the resulting letter part of the permanent employment record of Tina Settles, Natasha Delong, and Carrie Rogers. Defendants will provide a copy of this letter for review to Plaintiff-Intervenors' attorneys. In the case of any inquiries by any prospective employers regarding Tina Settles, Natasha Delong,

or Carrie Rogers, Defendants will limit their response to the information contained in this letter, which shall be available to the prospective employer and a copy provided, if requested.

### **III. Training**

5. Within sixty days (60) days after the Consent Decree is approved by the Court, Defendants shall provide mandatory sexual harassment and retaliation training for all of its owners, managers, supervisors and employees, either in person or by videotape, within any Missouri facility owned and/or operated by Hiten Hospitality, Inc. and/or Jay Kishan Hospitality, Inc., including but not limited to, the Family Motor Inn of Sullivan, Missouri, and the Super 8 Motel in Sullivan, Missouri. The content of this training shall include sexual harassment, sex discrimination, and retaliation under Title VII of the Civil Rights Act. This training shall be presented by an outside, third-party consultant who is approved by the Regional Attorney of the EEOC's St. Louis District Office. The training shall include information regarding Title VII's prohibition against the sexual harassment and retaliation of employees, and shall be at least three hours in duration. Defendants shall submit to the Regional Attorney the names and qualifications of the designated trainers, along with a draft of the training curriculum and materials to be distributed at the training, sufficiently in advance of the training to allow for Commission comment and discussion.

6. In the event that the proposed training is not acceptable to the EEOC, the parties will confer in good faith and attempt to reach an agreement no later than fifteen (15) days after receiving the EEOC's objection. In the event the parties are unable to reach an agreement, they shall submit their dispute to a neutral and mutually agreeable third party for mediation before pursuing remedies with the Court. Defendants agree that, should this dispute be referred to a third party for mediation as described above, Defendants shall bear all costs, if any, related thereto. Once the EEOC approves of the content of the training and the trainers, the EEOC will be notified at least five (5) days before the training occurs. This notification shall contain the training date, time and location. The EEOC may observe some or all of Defendants' training to ascertain the trainer's effectiveness. This training will be completed no later than one year from the Court's approval of this Consent Decree. At the conclusion of all training, a certificate or other proof of course completion by all employees of this training shall be provided to the EEOC.

7. Within sixty (60) days of providing any training pursuant to paragraph 5, Defendants shall send to the EEOC's Regional Attorney in its St. Louis Office a report describing the training, and listing the names, addresses, and phone numbers of all Defendants' employees who were trainees, and the names and business addresses and phone numbers of all trainers.

#### **IV. Posting and Policies**

8. Defendants shall post and cause to remain posted copies of the notice in the form attached hereto as **Exhibit B** in locations publicly visible to all employees and applicants in all facilities owned and/or operated by Hiten Hospitality, L.L.C. and/or Jay Kishan Hospitality, Inc., including but not limited to, the Family Motor Inn of Sullivan, Missouri, and the Super 8 Motel in Sullivan, Missouri for a period of two years starting from the date of entry of this Decree.

9. Within sixty days of the entry of this Decree, Defendants shall cause the policy attached hereto as **Exhibit C** to be signed by Hiten Hospitality L.L.C. and/or Jay Kishan Inc.'s Chief Executive Officer and distributed to each and every management official employed at any facility owned and/or operated by either Defendant in the states of Missouri and/or Illinois. Defendants shall also cause all of the aforementioned officials to sign the statement attached hereto as **Exhibit D** to indicate that they have received and read the policy.

#### **V. Reporting, Record-keeping, and Access**

10. Within forty-five days of the entry of this Decree, Defendants shall prepare and submit to the EEOC's Regional Attorney in its St. Louis District Office a letter indicating as follows:

- a. that the notice (**Exhibit B**) required by paragraph 8 above has been posted,



b. that the Equal Employment Opportunity policy (**Exhibit C**) has been distributed as required by paragraph 9, above, and

c. that the training required by paragraph 5 above has been completed.

The signed copies of **Exhibit D** shall be enclosed with the letter.

11. During the term of this Decree, Defendants shall allow representatives of the Commission to review Defendants' compliance with this Decree by inspecting and photocopying relevant documents and records, interviewing employees and management officials on their premises, and inspecting their premises. Such review of compliance shall be initiated by written notice to the Defendants' attorney of record at least three business days in advance of any inspection of Defendants' documents or premises.

#### **VI. Term and Effect of Decree**

12. By entering into this Decree, the parties do not intend to resolve any charges of discrimination currently pending before the Commission other than the charge that created the procedural foundation for the complaint in this case.

13. This Decree shall be binding upon the parties hereto, their successors and assigns. Defendants shall affirmatively notify any purchasers of the obligations of this Consent Decree prior to any sale which may take place.

14. This Decree shall be for a period of four years and can only be extended for good cause shown. During the Decree's term the Court shall retain jurisdiction of this cause for purposes of compliance.

15. Each party shall bear its own costs.

DATE: 3/18/04

Mary Ann Lynedler  
UNITED STATES ~~RECTOR~~ MAGISTRATE Judge

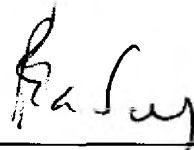
BY CONSENT:

FOR DEFENDANTS:

FOR PLAINTIFF:


Kathi L. Chestnut  
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Robert G. Johnson  
ROBERT G. JOHNSON  
Regional Attorney



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---

JAN SHELLY  
Senior Trial Attorney

EQUAL EMPLOYMENT OPPORTUNITY  
COMMISSION  
St. Louis District Office  
Robert A. Young Federal Bldg.  
1222 Spruce, Room 8.100  
St. Louis, MO 63103  
(314) 539-7918

FOR PLAINTIFF-INTERVENORS:



---

SANDRA LEE BAKER  
Attorney at Law  
906 N. Albany Avenue  
Bolivar, MO 65613  
(417) 864-5797  
Fax: (417) 864-5944



---

DARRELL E. GRAHAM  
ANTHONY GRAY  
7318 South Florissant Rd.  
St. Louis, MO 63121  
(314) 385-9500  
Fax: (314) 385-9504

EXHIBIT A

LETTER OF REFERENCE

Hiten Hospitality letterhead

To Whom it May Concern:

Carolyn Rogers was employed at Family Motor Inn in the position of front desk clerk. Her job performance was consistently acceptable, her attendance was regular, and she is eligible for re-hire.

Sincerely,

---

Site Manager

EXHIBIT A

LETTER OF REFERENCE

Hiten Hospitality letterhead

To Whom it May Concern:

Tina Settles was employed at Family Motor Inn in the position of front desk clerk. Her job performance was consistently acceptable, her attendance was regular, and she is eligible for re-hire.

Sincerely,

\_\_\_\_\_  
Site Manager

EXHIBIT A

LETTER OF REFERENCE

Hiten Hospitality letterhead

To Whom it May Concern:

Natasha Delong was employed at Family Motor Inn in the position of front desk clerk. Her job performance was consistently acceptable, her attendance was regular, and she is eligible for re-hire.

Sincerely,

---

Site Manager

EXHIBIT B

NOTICE TO EMPLOYEES

Federal law prohibits discrimination against any employee or applicant for employment because of the individual's race, national origin, color, religion, sex, or age (forty and over) with respect to hiring, promotion, firing, compensation, or other terms, conditions or privileges of employment. It also prohibits retaliation against employees because they have opposed practices they believe discriminate on the basis of race, national origin, color, religion, sex, or age (forty and over) or because they have filed charges with the EEOC or participated in or cooperated with an EEOC investigation.

In particular, Federal law prohibits harassment of employees on the basis of their sex. Hiten Hospitality L.L.C. d/b/a Family Motor Inn and Jay Kishan Hospitality, Inc. support and will comply with such Federal law in all respects and will not take any action against employees because they have exercised their rights under the law. Hiten Hospitality L.L.C. d/b/a Family Motor Inn and Jay Kishan Hospitality, Inc will not tolerate harassment of employees based upon sex. Specifically, Hiten Hospitality L.L.C. d/b/a Family Motor Inn and Jay Kishan Hospitality, Inc. will not tolerate language that is demeaning to persons of a particular sex, inappropriate touching, sexual jokes and comments, and unwelcome advances toward persons of a particular sex.

Employees should feel free to report instances of prohibited harassment to any management official at any time. In the event the management official is engaged in the harassment, Hiten Hospitality L.L.C. d/b/a Family Motor Inn and Jay Kishan Hospitality, Inc. provide additional avenues for the employees to use to report instances of sexual harassment. Hiten Hospitality L.L.C. d/b/a Family Motor Inn and Jay Kishan Hospitality, Inc. have established policies and procedures to promptly investigate any such reports and to protect the person making the reports from retaliation.

Employees are also free to make complaints about sexual harassment or about other employment discrimination to the Office of the Regional Attorney, United States Equal Employment Opportunity Commission, Robert A. Young Building, 1222 Spruce Street, Room 8.100, St. Louis, MO 63103, (Attention: Jan Shelly, Senior Trial Attorney) or by telephone at (314)539-7918.

\_\_\_\_\_  
CHIEF EXECUTIVE OFFICER

\_\_\_\_\_  
DATE

## EXHIBIT C

### POLICY ON HARASSMENT

Pursuant to Title VII of the Civil Rights Act of 1964, as amended, it is unlawful for an employer to subject any employee to acts of harassment based upon the employee's sex, race, color, religion or national origin, or to permit or encourage a work environment in which such conduct occurs.

Sexual harassment is defined as any unwelcome sexual advance, requests for sexual favors, or other verbal or physical conduct of a sexual nature where any one of the three criteria below are met:

- 1) Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
- 2) Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
- 3) Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive work environment.

Harassment based upon sex, race, color, religion or national origin includes any verbal or other conduct that demeans, insults or intimidates an employee or a group of employees because of their sex, race, color, religion or national origin. Prohibited conduct includes, but is not limited to jokes, labels, names, or stories offensive to a particular group of persons.



It is the policy of Hiten Hospitality L.L.C. d/b/a Family Motor Inn and Jay Kishan Hospitality, Inc. to prohibit the harassment described above. All persons, including all managers, who engage in such conduct, shall be discharged.

Employees also should be aware of the following:

1) That the harassment described above is unlawful and such conduct will not be tolerated or condoned by this company;

2) That persons subjected to such harassment may complain to anyone in management and that within 10 (ten) calendar days management shall conduct a full investigation, report back to the complaining individual, and take appropriate action against an offending party;

3) Every employee has a right to file a charge alleging sexual harassment with the Equal Employment Opportunity Commission, Robert A. Young Building, 1222 Spruce Street, Room 8.100, St. Louis, MO 63103; and

4) Any employee who files a sexual harassment complaint shall not be fired or otherwise harmed because he or she filed a complaint.

---

Chief Executive Officer



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Federal law prohibits discrimination against any employee or applicant for employment because of the individual's race, national origin, color, religion, sex, or age (forty and over) with respect to hiring, promotion, firing, compensation, or other terms, conditions or privileges of employment. It also prohibits retaliation against employees because they have opposed practices they believe discriminate on the basis of race, national origin, color, religion, sex, or age (forty and over) or because they have filed charges with the EEOC or participated in or cooperated with an EEOC investigation.

In particular, Federal law prohibits harassment of employees on the basis of their sex. Jay Kishan Hospitality, Inc. d/b/a Sullivan Super 8 Motel ("Jay Kishan") supports and will comply with such Federal law in all respects and will not take any action against employees because they have exercised their rights under the law. Jay Kishan will not tolerate harassment of employees based upon sex. Specifically, Jay Kishan will not tolerate language that is demeaning to persons of a particular sex, inappropriate touching, sexual jokes and comments, and unwelcome advances toward persons of a particular sex.

Employees should feel free to report instances of prohibited harassment to any management official at any time. In the event the management official is engaged in the harassment, Jay Kishan provides additional avenues for the employees to use to report instances of sexual harassment. has established policies and procedures to promptly investigate any such reports and to protect the person making the reports from retaliation.

Employees are also free to make complaints about sexual harassment or about other employment discrimination to the Office of the Regional Attorney, United States Equal Employment Opportunity Commission, Robert A. Young Building, 1222 Spruce Street, Room 8.100, St. Louis, MO 63103, (Attention: Jan Shelly, Senior Trial Attorney) or by telephone at (314)539-7918.

CHIEF EXECUTIVE OFFICER

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Harassment based upon sex, race, color, religion or national origin includes any verbal or other conduct that demeans, insults or intimidates an employee or a group of employees because of their sex, race, color, religion or national origin. Prohibited conduct includes, but is not limited to jokes, labels, names, or stories offensive to a particular group of persons.

It is the policy of Jay Kishan Hospitality, Inc. d/b/a Sullivan Super 8 Motel ("Jay Kishan") to prohibit the harassment described above. All persons, including all managers, who engage in such conduct, shall be discharged.

Employees also should be aware of the following:

- 1) That the harassment described above is unlawful and such conduct will not be tolerated or condoned by this company;
- 2) That persons subjected to such harassment may complain to anyone in management and that within 10 (ten) calendar days management shall conduct a full investigation, report back to the complaining individual, and take appropriate action against an offending party;
- 3) Every employee has a right to file a charge alleging sexual harassment with the Equal Employment Opportunity Commission, Robert A. Young Building, 1222 Spruce Street, Room 8.100, St. Louis, MO 63103; and
- 4) Any employee who files a sexual harassment complaint shall not be fired or otherwise harmed because he or she filed a complaint.

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Chief Executive Officer

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