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EEOC v. Northwest Territorial Mint, LLC.

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EEOC v. Northwest Territorial Mint, LLC.

Keywords

eeoc, northwest territorial mint llc, 2:15-cv-01554-RSM, manufacturing, hostile work environment, constructive discharge, sex, female, consent decree, Title VII, employment law

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,

Plaintiff,

v.

NORTHWEST TERRITORIAL MINT,
LLC,

Defendant.

CIVIL ACTION NO. 2:15-cv-01554-RSM

**CONSENT DECREE AND ORDER
APPROVING**

I. INTRODUCTION

1. This action originated when Patricia Hoffman (“Hoffman”) filed a charge of discrimination with the Equal Employment Opportunity Commission (“EEOC” or “Commission”). Hoffman alleged that Defendant Northwest Territorial Mint, LLC (“Defendant” or “NWTM”) through the actions of its owner and president Ross Hansen, discriminated against her in violation of Title VII of the Civil Rights Act of 1964, as amended, (“Title VII”), 42 U.S.C. § 2000e, *et seq.*, by subjecting her and a class of similarly aggrieved female employees to a

1 hostile and abusive work environment based on their sex (Female), resulting in conditions so
2 intolerable that Ms. Hoffman was constructively discharged from her position.

3 2. On July 3, 2015, the EEOC issued a Letter of Determination with a finding of
4 reasonable cause to believe that Defendant violated Title VII regarding Hoffman and a class of
5 similarly aggrieved female employees. Thereafter, EEOC attempted to conciliate the charge and
6 conciliation was unsuccessful.

7 3. The Commission filed its Complaint on September 30, 2015, in the United States
8 District Court for the Western District of Washington. The Complaint alleges that Defendant
9 subjected Hoffman and a class of similarly aggrieved female employees (also referred to as
10 “EEOC Class” and “EEOC Class Member”) to a hostile work environment based on their sex,
11 female, and constructively discharged Hoffman. The EEOC’s class consisted of two other
12 similarly aggrieved females as of September 30, 2015, which the EEOC expected would increase
13 with additional discovery. The EEOC presently seeks relief for Hoffman and four other
14 similarly aggrieved females.
15

16 4. The parties want to conclude fully and finally all claims arising out of the EEOC’s
17 Complaint and Ms. Hoffman’s charge of discrimination filed with EEOC. The EEOC and
18 Defendant enter into this Consent Decree to further the objectives of equal employment
19 opportunity as set forth in Title VII.
20

21 5. On April 1, 2016, NWTM filed a voluntary petition under Chapter 11 of the
22 United States Bankruptcy Code in the United States Bankruptcy Court, Western District of
23 Washington (the “Bankruptcy Case”) (Case No. 16-11767-CMA). Pursuant to 11 U.S.C. §
24 362(a)(4), this action was not subject to the automatic stay. *See* 11 U.S.C. § 362; *EEOC v.*
25

1 *McLean Trucking Co.*, 834 F.2d 398 (4th Cir. 1987). On April 11, 2016, the Court appointed
2 Mark Calvert as the Chapter 11 Trustee pursuant to 11 U.S.C. § 1104.

3 6. Upon execution of this Consent Decree, the parties shall file a motion in the
4 Bankruptcy Court pursuant to 11 U.S.C. § 105 and Federal Rule of Bankruptcy Procedure 9019,
5 requesting an order approving the resolution of this lawsuit, including the allowance of the full
6 amount of the monetary relief provided to the EEOC's Class Members be allowed as a general
7 unsecured claim. The Bankruptcy Court's order, if issued, shall not become effective unless this
8 Court grants final approval of the Consent Decree. The EEOC will then file an amended proof
9 of claim against the Bankruptcy Estate after issuance of the Bankruptcy Court's order and this
10 Court's final approval of the Consent Decree.
11

12 13 14 II. SETTLEMENT SCOPE

15 7. This Consent Decree is the final and complete resolution of all allegations of
16 unlawful employment practices contained in Hoffman's discrimination charge, in the EEOC's
17 administrative determination, and in the EEOC's Complaint filed herein under Title VII on
18 behalf of Hoffman and EEOC Class Members Lauren Bailie, Judy Elder, Stephanie Seretis, and
19 Angela Boddy, including all claims by the EEOC and Defendant for attorney fees and costs.
20

21 22 III. MONETARY RELIEF

23 8. In settlement of this lawsuit, Hoffman and other EEOC Class Members shall have
24 an allowed general unsecured claim (the "Allowed General Unsecured Claim") in the total
25

1 amount of \$725,000.00 *in re Northwest Territorial Mint, L.L.C.*, Case No. 16-11767-CMA
2 (Bankr. W.D. Wa.), in specific amounts allocated by the EEOC below.

3
4 a. A claim in the amount of one-thousand-seven-hundred-and-seventy-six dollars
5 (\$1,776) as back pay from June 11, 2014 when she was constructively discharged to July 1, 2014
6 when she found alternative work, payable to Hoffman. Defendant will issue Hoffman an IRS
7 Form W-2 for the back pay described in this subpart (a).

8
9 b. A separate claim in the amount of one-hundred-forty-four-thousand, six-hundred-
10 and-forty-four-dollars-and eighty-cents (\$ 144,644.80) as compensatory damages payable to
11 Hoffman. Defendant will issue Hoffman an IRS Form 1099 for the payment described in this
12 subpart (b).

13 c. A separate claim in the amount of one-hundred-forty-four-thousand, six-hundred-
14 and-forty-four-dollars-and eighty-cents (\$ 144,644.80) as compensatory damages payable to
15 EEOC Class Member Lauren Bailie (“Bailie”). Defendant will issue Bailie an IRS Form 1099
16 for the payment described in this subpart (c).

17
18 d. A separate claim in the amount of one-hundred-forty-four-thousand, six-hundred-
19 and-forty-four-dollars-and eighty-cents (\$ 144,644.80) as compensatory damages payable to
20 EEOC Class Member Judy Elder (“Elder”). Defendant will issue Elder an IRS Form 1099 for
21 the payment described in this subpart (d).

22 e. A separate claim in the amount of one-hundred-forty-four-thousand, six-hundred-
23 and-forty-four-dollars-and eighty-cents (\$ 144,644.80) as compensatory damages payable to
24

1 EEOC Class Member Stephanie Seretis (“Seretis”). Defendant will issue Seretis an IRS Form
2 1099 for the payment described in this subpart (e).

3 f. A separate claim in the amount of one-hundred-forty-four-thousand, six-hundred-
4 and-forty-four–dollars-and eighty-cents (\$ 144,644.80) as compensatory damages payable to
5 EEOC Class Member Angela Boddy (“Boddy”). Defendant will issue Boddy an IRS Form 1099
6 for the payment described in this subpart (f).

7 NWTM shall provide an accounting of deductions, including all taxes required by law,
8 from the foregoing payments to Hoffman and each of the EEOC Class Members listed above.
9 NWTM shall provide copies of the associated accounting to EEOC counsel via certified mail no
10 later than thirty (30) days after the final distribution to creditors made in the case *in re Northwest*
11 *Territorial Mint, L.L.C.*, Case No. 16-11767-CMA (Bankr. W.D. Wa.).

12
13 9. Defendant will not condition the receipt of monetary relief by requiring Hoffman,
14 Bailie or any other EEOC Class Member in this suit to: (a) maintain as confidential the facts
15 and/or allegations underlying her charge and complaint and the terms of this Decree; (b) waive
16 her statutory right to file a future charge with any government agency; (c) agree to a non-
17 disparagement and/or confidentiality agreement; or (d) release any claims beyond the Title VII
18 claims at issue in this action and which this Consent Decree resolves.
19

20
21 **IV. INJUNCTIVE AND OTHER RELIEF**

22 **A. General Provisions**

23
24 10. Defendant, Ross Hansen, its officers, agents, managers, and supervisors and all
25 human resource professionals who provide advice and assistance to the foregoing individuals are

1 enjoined from engaging in practices which constitute harassment based on any employee's sex.
2 In recognition of its obligations under Title VII, Defendant shall institute the policies and
3 practices set forth below at all of its facilities and divisions in the state of Washington and
4 Dayton, Nevada, and any other facility or division that employs fifteen or more individuals in
5 one geographic location on or prior to July 1, 2016 collectively, the "Defendant's Operations")

6 B. Anti-Discrimination Policies and Procedures

7 11. Defendant shall carry out anti-discrimination policies, procedures and training for
8 all management personnel, supervisors and employees.
9

10 12. Within sixty (60) days of the date of entry of this Consent Decree, Defendant will
11 revise and submit the following to the EEOC for review and consideration: (a) a written equal
12 employment opportunity policy which defines harassment consistent with Title VII, prohibits
13 retaliation against any current or former employee for opposing any practice made unlawful by
14 Title VII and defines the responsibilities of managers and supervisors to enforce these policies;
15 (b) a harassment complaint and investigation procedure with a special emphasis on how an
16 employee may file a harassment complaint against the owner and/or President of NWTM, and
17 how such a complaint will be investigated and by whom, and how each investigation will be
18 documented; and (c) a personnel policy that holds managers and supervisors accountable if
19 he/she fails to report, investigate or stop harassment, including but not limited to disciplinary
20 action. The EEOC will notify Defendant of any concerns about the Defendant's policies within
21 thirty (30) days after receiving drafts of the foregoing policies, and agrees to work with
22 Defendant in good faith to resolve any concerns with the foregoing policies.
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1 After incorporating revisions to resolve any concerns raised by the EEOC to the
2 foregoing policies, Defendant will confirm that it has distributed a written copy of its most recent
3 EEO policies to its owner, managers, supervisors and employees no later than one-hundred-
4 twenty (120) days after entry of this Consent Decree.

5 C. Equal Employment Opportunity Training

6 13. Defendant shall provide annual EEO training to the owner, all of its managers,
7 supervisors, Human Resources staff, and all employees during the pendency of this Consent
8 Decree. This anti-discrimination training shall include, at a minimum, a discussion of federal
9 law prohibiting harassment, and a review of Defendant's EEO policies and updates or revisions
10 thereto. The training shall instruct attendees about how to identify harassment, the acceptable
11 avenues of complaint, and the steps Defendant will take to investigate any harassment complaint.
12 The training shall describe appropriate workplace civility standards in order to prevent hostile
13 work environments from arising. The training shall also describe bystander intervention
14 procedures so that all employees will know that they can report suspected hostile work
15 environments even if they are not subjected to them personally and without fear of retaliation for
16 doing so. Training materials and background information about the provider for the first year of
17 this Consent Decree must be submitted to the EEOC no later than sixty (60) days of the date of
18 entry of this Consent Decree to allow the EEOC the opportunity to comment on the training, and
19 for Defendant to revise the training materials accordingly. For each year of the Consent Decree
20 thereafter, Defendant will submit training materials and background information about the
21 provider to the EEOC at least thirty (30) days prior to the training session to allow the EEOC the
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1 opportunity to comment on the training, and for Defendant to revise the training materials
2 accordingly.

3 14. After incorporating revisions to resolve any concerns raised by the EEOC to the
4 foregoing training session, Defendant shall provide the EEO training noted in Paragraph 11 for
5 the first year of this Consent Decree to its owner, managers, supervisors and employees no later
6 than one-hundred-twenty (120) days after entry of this Consent Decree.

7 15. For the duration of this Consent Decree, Defendant shall notify the EEOC in
8 writing of the completion of the training seminars and shall specify the names and job titles of
9 Ross Hansen, managers, supervisors and employees who participated in and completed the
10 training. This information shall be provided as part of the annual report Defendant submits to
11 the EEOC.
12

13
14 D. Non-Disclosure of Information

15 16. Defendant shall not disclose any information or make reference to any charge of
16 discrimination or this lawsuit in responding to requests for information about Hoffman or any of
17 the EEOC's Class Members in this suit.
18

19
20 E. Policies Designed to Promote Accountability

21 17. Defendant agrees that it shall impose discipline, up to and including termination
22 of employment, upon any manager, supervisor or employee who harasses an NWTM employee
23 based on his/her sex, or fails to report, investigate or stop harassment about which he/she
24 becomes aware. Defendant also agrees to report any harassment complaint against Ross Hansen
25

1 by any NWTM employee to the EEOC within thirty (30) days of receiving the complaint.
2 Defendant shall communicate this zero tolerance and accountability policy to Ross Hansen, all
3 managers, supervisors and employees within ten (10) days of the entry of the Consent Decree.

4 18. Defendant agrees that it shall advise Ross Hansen, all managers and supervisors
5 in writing within ten (10) days of the entry of the Consent Decree of their duty to ensure
6 compliance with anti-discrimination laws and the Company's EEO policy. In conducting
7 performance reviews, the Company shall hold each manager, and supervisor accountable for
8 EEO enforcement and compliance.
9

10
11 F. Reporting

12 19. Defendant shall report to the EEOC for the duration of this Consent Decree. The
13 first report shall be submitted twelve (12) months after the entry of this Consent Decree and
14 annually thereafter until the expiration of this Decree. The reports shall be in writing and
15 submitted on an annual basis during the four-year reporting period. The reporting period will run
16 from the date of the entry of this Consent Decree.
17

18 20. These annual reports shall contain the following information and attachments:

19 a. Certification that Defendant has:

- 20 1. Revised and maintained its written EEO policies and procedures and
21 annually distributed copies of its EEO policy as described in Paragraphs
22 11 and 12;
23 2. Complied with the training provisions enumerated in this Consent Decree
24 in Paragraphs 13-15;
25

3. Reported any harassment complaint against Ross Hansen by any NWTM employee to the EEOC within thirty (30) days of receiving the complaint as required by Paragraph 17;
4. Continued to enforce policies and procedures to promote EEO accountability by managers and supervisors, as required by Paragraph 17-18; and
5. Complied with all other provisions of this Consent Decree.

b. Copies of the following documents shall be included with each annual report submitted to the Seattle Filed Office of the EEOC:

1. A copy of the Company's EEO policy and procedures developed and implemented in accordance with the provisions of this Consent Decree;
2. A summary of formal or informal discrimination complaints that allege harassment, if any, filed by any employee, and the resolution of each such complaint;
3. A sign-in sheet or list of the names and job titles of Ross Hansen, and each manager, supervisor and employee of the Defendant who completed EEO training and the dates the training was conducted during the previous reporting period.

21. If applicable, Defendant shall submit a statement with its report to the EEOC specifying the areas of noncompliance, the reason for the noncompliance, and the steps that were or shall be taken to bring the Company into compliance.

G. Posting

22. Defendant shall post a Notice to All Employees. This Notice is attached as Exhibit 1 to this Consent Decree. The Notice shall be posted on a centrally located bulletin board at each of Defendant's facilities and divisions in the state of Washington and Dayton, Nevada, and any other facility or division that employs fifteen or more individuals in one geographic location.

V. SUCCESSOR LIABILITY

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2 23. In accordance with Federal Rule of Bankruptcy Procedure 2002 Defendant shall
3 provide notice to the EEOC of any motion for an order authorizing the sale of any ownership
4 interest in any component of Defendant’s operations to an individual and/or entity (including the
5 name of the individual and/or entity, a contact person, mailing address and telephone number).

6 24. This Consent Decree is binding upon, and shall inure to the benefit of the Parties
7 hereto , including any debtor under a confirmed plan of reorganization in the Reorganization
8 Cases (the “Reorganized Debtor”), and any trustee, examiner or receiver appointed in the
9 Bankruptcy Case.

10 25. Defendant further agrees that the terms of this Consent Decree are binding on any
11 individual, entity and/or successor after it acquires any ownership interest in any component of
12 Defendant’s Operations after July 1, 2016 to the extent the following conditions are met: (a)
13 Ross Hansen owns, directly or indirectly, any part of the entity and/or successor, is an officer,
14 director, or board member of, or is employed in any capacity by the entity and/or successor that
15 acquires any ownership interest in any component of Defendant’s Operations; and (b) if Ross
16 Hansen, in his individual capacity, directly or indirectly purchases the Defendant’s Operations
17 (the “Bound Successors”). Defendant agrees that any Asset Purchase Agreement or similar
18 agreement entered into with any Bound Successor involving the purchase of any of the
19 Defendant’s Operations contains an assumption of liabilities clause requiring compliance with
20 the terms of the Consent Decree.
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VI. ENFORCEMENT

26. If the EEOC determines that Defendant has not complied with the terms of this Consent Decree, the EEOC shall provide written notification of the alleged breach to Defendant. The EEOC shall not petition the Court for enforcement of this Consent Decree for at least twenty (20) days after providing written notification of the alleged breach. The 20-day period following the written notice shall be used by the EEOC and Defendant for good faith efforts to resolve the dispute.

VII. RETENTION OF JURISDICTION

27. The United States District Court for the Western District of Washington at Seattle shall retain jurisdiction over this matter for the duration of this Consent Decree.

VIII. DURATION AND TERMINATION

28. This Consent Decree shall be in effect for: (a) six (6) years from the date of the entry of the Decree if (i) Ross Hansen owns, directly or indirectly any part of the Reorganized Debtor, (ii) Ross Hansen owns, directly or indirectly, any part of an entity and/or successor that acquires any ownership interest in any component of Defendant's operations, or (iii) Ross Hansen is an officer, director, or board member of, or employed in any capacity by, the entity and/or successor that acquires any ownership interest in any component of Defendant's Operations; or (b) four (4) years from the date of entry of the Decree. If the EEOC petitions the Court for breach of this Consent Decree, and the Court finds Defendant to be in violation of the terms of the Consent Decree, the Court may extend the duration of this Consent Decree.

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Respectfully submitted this ____ day of _____, 2016.

BY: _____

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ORDER APPROVING CONSENT DECREE

3 The Court, having considered the foregoing stipulated agreement of the parties,
4 HEREBY ORDERS THAT the Consent Decree be, and the same hereby is, approved as the final
5 decree of this Court in full settlement of this action. This lawsuit is hereby dismissed with
6 prejudice and without costs or attorneys' fees. The Court retains jurisdiction of this matter for
7 purposes of enforcing the Consent Decree approved herein.

8 DATED this 31 day of January 2017.

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11 **RICARDO S. MARTINEZ**
12 **CHIEF UNITED STATES DISTRICT JUDGE**