

DISTRICT OF MARYLAND
NORTHERN DIVISION

101 MAR 29 P 3 36

EQUAL EMPLOYMENT OPPORTUNITY)
COMMISSION,)

Plaintiff,)

v.)

NORTH AMERICA AVIATION)
SERVICES,BA, INC. and)
NORTH AMERICA AVIATION)
SERVICES INC.)

Defendant.)

Civil Action No. BEL-03-cv-2289

CONSENT DECREE

This action was instituted by Plaintiff, the U.S. Equal Employment Opportunity Commission (the "EEOC" or the "Commission"), against Defendants, North America Aviation Services BA, Inc., and North America Aviation Services, Inc., (hereinafter Defendants), alleging that Defendants violated Sections 102(a) and 102(b)(5)(A) of Title I of the Americans with Disabilities Act ("ADA"), 42 U.S.C. §§ 12112(a), 12112(b)(5)(A), and Section 503(a) of Title V of the ADA, 42 U.S.C. § 12203(a), by terminating Robert Berchini because of his disability, Hepatitis C, and interferon treatment for Hepatitis C, and because he opposed actions made unlawful by the ADA, and by failing to provide a necessary reasonable accommodation to Mr. Berchini.

Both the Commission and Defendants desire to resolve the Commission's action without the time and expense of continued litigation, and they desire to formulate a plan to be embodied in a Decree which will promote and effectuate the purposes of the ADA.

This Decree shall not constitute an adjudication on the merits of the Commission's case

and shall not be construed as an admission by Defendants of any discriminatory practice or as a waiver by the Commission of any contentions of discrimination. The Court has examined this Decree and finds that it is reasonable and just and in accordance with the Federal Rules of Civil Procedure and the ADA. Therefore, upon due consideration of the record herein and being fully advised in the premises, it is ORDERED, ADJUDGED AND DECREED:

1. This Decree resolves all issues and claims alleged in the Complaint filed by the Commission in this ADA action which emanated from the Charge of Discrimination filed by Robert Berchini.

2. This Decree shall be in effect for a period of three years from the date it is entered by the Court. If Defendants have failed to meet the established terms at the end of three years, the duration of the decree may be extended.

3. Defendants, their officers, agents, servants, employees and all persons acting or claiming to act in their behalf and interest hereby are enjoined from unlawfully discharging and otherwise denying employment opportunities to individuals with Hepatitis C, and violating the provisions of Title I of the ADA, including the following provision:

No covered entity shall discriminate against a qualified individual with a disability because of the disability of such individual in regard to . . . the hiring ... or discharge of employees.

42 U.S.C. § 12112(a). Defendants, their officers, agents, servants, employees and all persons acting or claiming to act in their behalf and interest hereby are further enjoined from retaliating against any employee or former employee for challenging Defendants' employment practices under the ADA, as set forth in the following provision:

No person shall discriminate against any individual because such individual has

opposed any act or practice made unlawful by this chapter or because such individual made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this chapter.

42 U.S.C. § 12203(a). The injunction is intended to survive the life of the consent decree.

4. In full settlement of damages alleged by the Commission in this case, Defendants will pay Robert Berchini \$30,000, in six installments of \$5,000, minus all lawful deductions and withholdings. Within ten days after entry of this Consent Decree, Defendants will pay Robert Berchini the first installment of \$5,000, minus all lawful deductions and withholdings. The second payment will be made within 40 days of the entry of this Consent Decree. The third payment will be made within 70 days of the entry of this Consent Decree. The fourth payment will be made within 100 days of the entry of this Consent Decree. The fifth payment will be made within 130 days of the entry of this Consent Decree. The sixth payment will be made within 160 days of the entry of this Consent Decree. Contemporaneously with making each payment to Mr. Berchini, Defendants will also send a copy of the check to Trial Attorney Maria Morocco at the following address: EEOC Baltimore District Office, 10 S. Howard Street, 3rd Floor, Baltimore, Maryland 21201. Defendants will issue an I.R.S. 1099 form to Mr. Berchini for the 2004 tax year.

5. Upon approval of this Decree, Defendants will post immediately in all places where notices to employees customarily are posted at its Baltimore, Maryland, facility, the Notice attached hereto and made a part hereof. Said Notice shall be posted and maintained until the expiration date of this decree and shall be signed by a responsible official of Defendants with the date of actual posting shown thereon. Should the Notice become defaced, marred, or otherwise made unreadable, Defendants will ensure that new readable copies of the Notice are

posted in the same manner as heretofore specified. Within 30 days of the entry of this Decree, Defendants shall forward to Trial Attorney Maria Morocco, at the address contained in the preceding paragraph, a copy of the signed Notice attached hereto and written certification that the Notice referenced herein has been posted and a statement of the location(s) and date of posting.

6. Within 30 days of the entry of this order, all persons with managerial authority for the Baltimore facility, including but not limited to the Manager, the President, and the Secretary-Treasurer, and all persons who provide human resources services to the Baltimore facility, shall read the EEOC publication entitled "The Americans with Disabilities Act: A Primer for Small Business," which is available on the EEOC's website, www.eeoc.gov. Within 45 days of the entry of this order, Defendants shall forward to Trial Attorney Maria Morocco, at the address contained in paragraph 4, written certification stating that the Primer has been read in its entirety by the persons identified above. The certification shall be signed by each person who read the primer, with their names and titles typed under each signature.

7. The Commission and Defendants shall bear their own costs and attorneys' fees. The undersigned counsel of record in the above-captioned action hereby consent, on behalf of their respective clients, to the entry of the foregoing Consent Decree.

FOR DEFENDANTS:

/s/*
George Lane
Federal Bar No. 14518
1200 Late Harvest Dr.
Gambrills, MD 21054
Attorney for Defendants

FOR PLAINTIFF:

/s/*
Gerald S. Kiel
Regional Attorney

North America Aviation Services BA, Inc.,
and North America Aviation Services, Inc.

_____/s/*_____
Debra M. Lawrence
Supervisory Trial Attorney

_____/s/*_____
Maria Luisa Morocco
Trial Attorney
Federal Bar No. 24357

U.S. EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION
Baltimore District Office
10 S. Howard Street, 3d Floor
Baltimore, Maryland 21201
(410) 962-4260_____
(410) 962-4270 (fax)

*Signed copy of the consent decree bearing the signatures of George Lane, Gerald S. Kiel, Debra M. Lawrence, and Maria Luisa Morocco is being maintained at the EEOC Baltimore District Office by Maria Luisa Morocco.

SO ORDERED AND DISMISSED WITH PREJUDICE.

Signed and entered this ^{29TH} day of March, 2004.



Benson E. Legg
United States District Court Judge

NOTICE TO EMPLOYEES POSTED PURSUANT TO A CONSENT
DECREE BETWEEN THE UNITED STATES EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION AND NORTH AMERICA AVIATION SERVICES BA, INC., AND NORTH
AMERICA AVIATION SERVICES, INC.

Under Section 102 of Title I of the Americans with Disabilities Act ("ADA"),

No covered entity shall discriminate against a qualified individual with a disability because of the disability of such individual in regard to job application procedures, the hiring, advancement, or discharge of employees, employee compensation, job training, and other terms, conditions, and privileges of employment.

42 U.S.C. § 12112(a).

Under Section 503(a) of Title V of the ADA,

No person shall discriminate against any individual because such individual has opposed any act or practice made unlawful by this chapter or because such individual made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this chapter.

WE WILL NOT engage in any acts or practices made unlawful by the above sections.

WE WILL NOT discriminate or retaliate in any manner against any person because of opposition to any practice declared unlawful under Title I of the ADA or because of the filing of a charge, the giving of testimony or assistance, or the participation in any investigation, proceeding, or hearing under the statute.

Any employee who believes that he or she has suffered discrimination or retaliation in violation of the provisions noted above should immediately contact President Edward A. Silva, telephone number (718) 323-3978, ext. 103; fax number (718) 323-4023; and mailing address, North America Aviation Services, Inc., 117-01 127th St., South Ozone Park, NY, 11420, so that the company can perform a thorough and impartial investigation and make a good-faith effort to resolve the problem.

North America Aviation Services BA, Inc.
North America Aviation Services, Inc.

Dated: _____

By: _____
Edward A. Silva
President