

FILED

JUN 21 2004

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LARRY W. PROPPS, CLERK
CHARLESTON, SC

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

EQUAL EMPLOYMENT OPPORTUNITY)
COMMISSION,)

Plaintiff,)

SHAKEENYA COLEY, SHAKETIA FORD,)
ANGELIA GARY, VENETA GREEN,)
MELODY GRIMMAGE,)
MARKETIA KINZER, BEVERLY LEWIS,)
MICHELLE LINEN, WENDY REED, and)
KIA GREEN,)

Plaintiff-Interveners)

v.)

PALMETTO RESTAURANT GROUP, LLC,)
CAROLINA RESTAURANT GROUP, INC.,)
METROLINA RESTAURANT GROUP, LLC,)
FLORIDA RESTAURANT GROUP, LLC,)
and WENDY'S INTERNATIONAL, INC.)

Defendants.)

CIVIL ACTION NO.
2: 03-2577-23BG

ENTERED
6/21/04

CONSENT DECREE

The Equal Employment Opportunity Commission ("EEOC") instituted this action pursuant to Section 706(f)(1) and (3) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e-5(f)(1) and (3) ("Title VII") and Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981a. The above-named Plaintiff-Interveners (hereafter "Claimants") thereafter intervened in this action and named additional Defendants.

Because the issue of all Defendants' (except Palmetto Restaurant Group, LLC's) status as an employer of the Claimants (or any other named or unnamed individuals who could have been members of the purported class in this collective action) remains in dispute, the EEOC,

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the Claimants and the Defendants named above (collectively "Defendants"), hereby stipulate to the jurisdiction of the Court for purposes of this Consent Decree only. The parties further stipulate this Consent Decree shall be enforceable notwithstanding some Defendants' assertion the Court lacks jurisdiction over them. Nothing in this Consent Decree shall be interpreted as an admission contrary to, and their consent to this Consent Decree shall be without prejudice to, the position of all Defendants, except Palmetto Restaurant Group, LLC (hereafter "Company"), that they are not employers of any Claimants, either as the term "employer" is defined under Title VII or for any other purpose.

EEOC agrees that this Consent Decree operates as a final dismissal, with prejudice, of all claims made, or which could have been made, by it or on behalf of any individual against Defendants, which in any way relate to the facts alleged in EEOC's Complaint in this action.

In entering into this agreement, Defendants do not admit to any wrongdoing, violation of law or interference with the rights of any individuals, including the Claimants and other class members; rather, the parties have advised this Court that they desire to resolve the allegations in the Complaints without the burden, expense, and delay of further litigation.

It is therefore the finding of this Court, made on the pleadings and the record as a whole, for the purposes of entering this Consent Decree, that: (1) the Court has jurisdiction over the parties and the subject matter of this action for purposes of this Consent Decree; (2) the purpose and provisions of Title VII will be promoted and effectuated by the entry of the Consent Decree; and (3) this Consent Decree resolves all matters in controversy between the parties as provided in paragraphs 1 through 14 below.

It is therefore ORDERED, ADJUDGED AND DECREED as follows:

1. Company shall not discriminate against employees on the basis of sex by

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denying equal employment opportunities to persons because of their sex and specifically shall not subject employees to sexual harassment.

2. Company shall not discriminate or retaliate against any person because of opposition to any practice made unlawful under Title VII, or because of the filing of a charge, the giving of testimony or assistance, or the participation in any investigation, proceeding or hearing under Title VII.

3. Company shall pay the total sum \$487,500.00 in settlement of any and all claims raised, or which could have been raised, by Claimants; the payment of this sum also represents settlement of all claims made, or which could have been made, in this lawsuit by EEOC on behalf of any individual against Defendants, which in any way relate to the claims alleged in EEOC's Complaint in this action (all claims referenced in the foregoing sentence being hereafter collectively referred to as "Claims"). The entry of this Consent Decree shall effect the dismissal, with prejudice, of all such Claims. This settlement shall be payable as follows:

a. Company shall make the first such payment, in the total amount of \$337,500, by issuing checks payable to the individuals and in the amounts shown in Column 1 ("Payment 1") of Exhibit A. Such payment shall be due on or before June 10, 2004, but in no event before the Court approves, enters and files this Consent Decree, and all Claimants execute a complete and final release of all Claims against all Defendants in a form acceptable to Defendants.

b. Company shall pay the balance of \$150,000.00 in 6 equal quarterly installments of \$25,000 each, the first such quarterly installment being due on August 4, 2004, with subsequent quarterly installments being due on November 4, 2004, February

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4, 2005, May 4, 2005, August 4, 2005 and November 4, 2005. Each such payment to each individual will be in the amount shown in Column 2 ("Payments 2-7") of Exhibit A.

c. Except such payment as is to be made to Attorney Terry Rickson, which will be mailed directly to her at the address shown below, all payments described in sections (a) and (b) of this paragraph 3 shall be made by check payable as follows. The initial payment, described in section (a) of this paragraph 3 and specified in as Payment 1 in Column 1 of Exhibit A, will be by check payable jointly to the individual named "and to her attorney, David L. Hood". As to subsequent payments, as described in section (b) of this paragraph 3 and specified as Payments 2-7 in Column 2 of Exhibit A, these will be by check payable to each individual only. All checks will be sent by first class mail to attorney David L. Hood, Post Office Box 535, Georgetown, SC 29442.

Company shall mail to Lynette A. Barnes, Acting Regional Attorney, Equal Employment Opportunity Commission, 129 West Trade Street, Suite 400, Charlotte, NC 28202, a copy of each Claimants' check and proof of delivery.

4. During the term of this Consent Decree, Company shall provide an annual training program to all its employees. At least 15 days prior to the first such program, Company shall provide the EEOC with an agenda for the training program. The training program shall include an explanation of the requirements of the federal equal employment opportunity laws, including Title VII of the Civil Rights Act of 1964, and its prohibition against sex discrimination in the workplace, and particularly sexual harassment. The first training in accordance with this paragraph shall be completed within 90 days after the date this Consent Decree is filed. Within 10 days after completion of such training, Company shall

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certify to the EEOC the specific training which was undertaken and shall provide the EEOC with a roster of all employees in attendance.

5. Company shall develop written procedures to be followed for reporting complaints, investigating complaints, and redressing complaints of discrimination, particularly sexual harassment complaints. These written procedures shall be implemented no later than 90 days from entry of this Consent Decree. Within 15 days of their implementation, Company shall provide the EEOC with a copy of its written procedures.

6. During the term of this Consent Decree, Company shall conspicuously post the attached Employee Notice, marked Exhibit B and hereby made a part of this Consent Decree, in a place at its store number 205 where it is visible to employees at that facility during the period of the Consent Decree. If the Notice becomes defaced or unreadable, Company shall replace it by posting another copy of the Notice. Within 10 days of posting the Employee Notice, Company shall notify EEOC of the posting.

7. During the term of this Consent Decree, Company shall conspicuously post a copy of its sexual harassment policy, in a place where it is visible to employees, at all facilities it operates during the period of the Consent Decree. If the policy becomes defaced or unreadable, Company shall replace it by posting another copy of the policy. Within 10 days of posting the policy, Company shall notify EEOC of its posting.

8. Company agrees to provide the EEOC with annual reports during the term of this Consent Decree. The first report is due no later than 120 days after the entry of this Consent Decree. Company will provide reports every six months thereafter during the term of this Consent Decree. The reports shall include the following information: (a) the identities of all individuals who have complained of or reported sexual harassment at any of Company's

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facilities, including by way of identification each person's name, home address, home telephone number, social security number, and sex; (b) a brief statement regarding the nature of the individual's complaint; and (c) a description of what action Company took in response to the individual's complaint. If Company receives no such complaints during the reporting period, Company will also report that fact to EEOC.

9. Company agrees that the EEOC may review compliance with this Consent Decree. As part of such review, the EEOC may inspect the Company's premises, interview Company's employees and examine and copy Company's documents upon 2 business days' notice to attorney for the Company, Sue Erwin Harper, either by mail to 1320 Main Street (29201), P. O. Box 11070, Columbia, SC 29211, or by facsimile to 803/255-9034. During the term of this Consent Decree, Company will provide written notice to EEOC of any changes in the identity or contact information for the person designated to receive such notice ("Designee"); in the event there are any such changes which are not reported to EEOC, and as a result EEOC is unable to make contact with the Designee, then EEOC may effectuate notice upon Company by providing same by mail or facsimile to its corporate address.

10. If anytime during the term of this Consent Decree the EEOC believes Company is in violation of this Consent Decree, the EEOC shall give notice of the alleged violation to Company as set out in the preceding paragraph 9. Company shall have 5 days in which to investigate and respond to the allegations. Thereafter, the Company and the EEOC shall have a period of 10 days, or such additional period as may be agreed upon by them, in which to engage in negotiation and conciliation regarding such allegations, before the EEOC pursues any remedy against the Company provided by law.

11. All notices required by this Consent Decree to be given to EEOC shall be by

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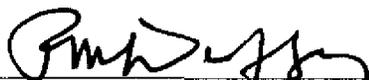
Erwin Harper
Sue Erwin Harper
TOW

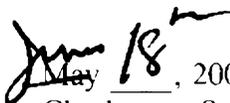
mail to Lynette A. Barnes, Acting Regional Attorney, Equal Employment Opportunity Commission, 129 West Trade Street, Suite 400, Charlotte, NC 28202.

12. The term of this Consent Decree shall be for 3 years after the date this Consent Decree is filed.

13. All parties shall bear their own attorneys' fees and costs.

14. This Court shall retain jurisdiction of this case during the duration of this Consent Decree for purposes of resolving controversies arising under this Consent Decree and for entry of any orders as may be necessary or appropriate to resolve such controversies or to enforce the terms of this Consent Decree.


PATRICK MICHAEL DUFFY
UNITED STATES DISTRICT JUDGE


May 18th, 2004
Charleston, South Carolina

AGREED AND ENTRY REQUESTED:

For Equal Employment Opportunity Commission:

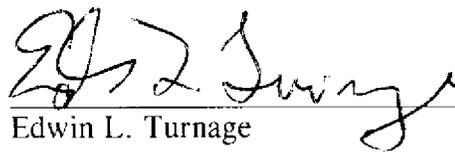
ERIC S. DREIBAND
General Counsel

JAMES L. LEE
Deputy General Counsel

GWENDOLYN YOUNG REAMS
Associate General Counsel

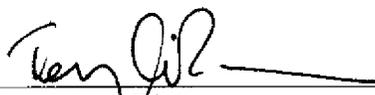
LYNETTE A. BARNES
Acting Regional Attorney





Edwin L. Turnage
Trial Attorney
Federal ID #5189
EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION
301 N. Main Street
Landmark Building, Suite 1402
Greenville, SC 29601
(864) 241-4406

For Plaintiffs-Interveners:

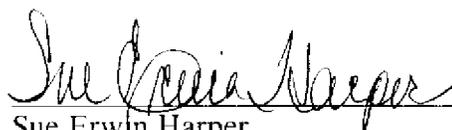


Terry Ann Rickson
Federal ID # 3462
P.O. Box 1065
Charleston, SC 29402



David L. Hood
Federal ID # 6180
P.O. Box 535
Georgetown, SC 29442

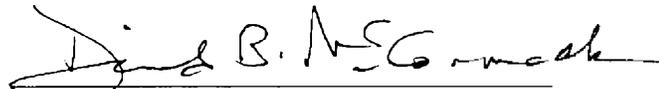
For Palmetto Restaurant Group, LLC



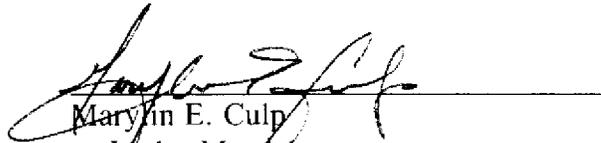
Sue Erwin Harper
Federal ID # 737
Nelson Mullins Riley & Scarborough, LLP
P.O. Box 11070
Columbia, SC 29211

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*For Carolina Restaurant Group, Inc., Metrolina
Restaurant Group, LLC and Florida Restaurant
Group, LLC*

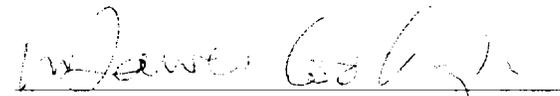


David B. McCormack
Federal ID # 2774
Buist Moore Smythe McGee
P.O. Box 999
Charleston, SC 29402-0999

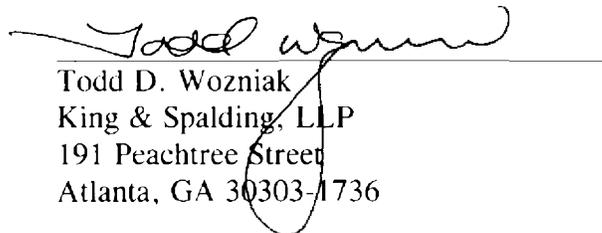


Marilyn E. Culp
Littler Mendelson
TransAmerica Square
401 North Tryon Street, 10th Floor
Charlotte, NC 29202

For Wendy's International, Inc.



M. Dawes Cooke, Jr.
Federal ID # 288
Barnwell Whaley Patterson & Helms, LLC
P.O. Drawer H
Charleston, SC 29402-0197



Todd D. Wozniak
King & Spalding, LLP
191 Peachtree Street
Atlanta, GA 30303-1736

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

EQUAL EMPLOYMENT OPPORTUNITY) COMMISSION,)) Plaintiff,)) SHAKEENYA COLEY, SHAKETIA FORD,) ANGELIA GARY, VENETA GREEN,) MELODY GRIMMAGE,) MARKETIA KINZER, BEVERLY LEWIS,) MICHELLE LINEN, WENDY REED, and) KIA GREEN,)) Plaintiff-Interveners)) v.)) PALMETTO RESTAURANT GROUP, LLC,) CAROLINA RESTAURANT GROUP, INC.,) METROLINA RESTAURANT GROUP, LLC,) FLORIDA RESTAURANT GROUP, LLC, and) WENDY'S INTERNATIONAL, INC.,)) Defendants.)) _____)	CIVIL ACTION NO. 2: 03-2577-23BG
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Claimants:

<i>Last Name</i>	<i>First Name</i>	<i>Payment 1</i>	<i>Payments 2-7</i>
1. Coley	Shakeenya	\$14,250.00	\$2,500 each
2. Ford	Shaketia	\$14,250.00	\$2,500 each
3. Gary	Angelia	\$14,250.00	\$2,500 each
4. Green	Kia	\$14,250.00	\$2,500 each
5. Green	Venata	\$14,250.00	\$2,500 each
6. Grimmage	Melody	\$14,250.00	\$2,500 each
7. Kinzer	Marketia	\$14,250.00	\$2,500 each
8. Lewis	Beverly	\$14,250.00	\$2,500 each
9. Linen	Michelle	\$14,250.00	\$2,500 each
10. Reed	Wendy	\$14,250.00	\$2,500 each

Attorneys:

Hood	David	\$97,500.00	-0-
Rickson	Terry Ann	\$97,500.00	-0-

EXHIBIT A

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

EQUAL EMPLOYMENT OPPORTUNITY) COMMISSION, Plaintiff, and) SHAKEENYA COLEY, <i>et al.</i> , Plaintiff-) Interveners,) v.) PALMETTO RESTAURANT GROUP, LLC,) <i>et al.</i> ,) Defendants.) _____)	CIVIL ACTION NO. 2:03-2577-23BG <u>NOTICE TO EMPLOYEES</u>
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1. This Notice to Employees is posted pursuant to an agreement between Palmetto Restaurant Group, LLC (“Company”) and the United States Equal Employment Opportunity Commission (“EEOC”) arising out of a case alleging discrimination based on sex, female.

2. Federal law requires that there be no discrimination against or harassment of any employee or applicant for employment because of the employee’s race, color, religion, sex, national origin, age (40 or older) or disability. Federal law prohibits retaliation against employees because they have opposed unlawful employment discrimination, participated in employment discrimination proceedings, or otherwise asserted their rights under the laws enforced by the EEOC.

3. Title VII of the Civil Rights Act of 1964 is a federal law which prohibits sex discrimination or retaliation against any employee in all aspects of employment including, but not limited to, hiring, promotion, discharge, pay, job training and fringe benefits. Title VII also prohibits sexual harassment. Sexual harassment is harassment that is so severe or pervasive that it alters the conditions of the victim’s employment and creates an abusive working environment.

4. Company shall comply with such federal law in all respects. Company will not take any actions against employees because they have exercised their rights, reported an alleged violation under the law or have given testimony, assistance or participation in any investigation, proceeding or hearing conducted by the U.S. Equal Employment Opportunity Commission.

An employee has the right to report allegations of employment discrimination, harassment or retaliation in the workplace. An employee may contact the U. S. Equal Employment Opportunity Commission at the following address and telephone number for the purpose of filing a charge of employment discrimination.

Equal Employment Opportunity Commission
Greenville Local Office
301 N. Main Street, Landmark Building, Suite 1402
Greenville, SC 29601
Tel: (864) 241-4400

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EXHIBIT B

mail to Lynette A. Barnes, Acting Regional Attorney, Equal Employment Opportunity Commission, 129 West Trade Street, Suite 400, Charlotte, NC 28202.

12. The term of this Consent Decree shall be for 3 years after the date this Consent Decree is filed.

13. All parties shall bear their own attorneys' fees and costs.

14. This Court shall retain jurisdiction of this case during the duration of this Consent Decree for purposes of resolving controversies arising under this Consent Decree and for entry of any orders as may be necessary or appropriate to resolve such controversies or to enforce the terms of this Consent Decree.



~~GEORGE C. KOSKO~~
UNITED STATES ~~MAGISTRATE~~ JUDGE
District

June 18, 2004
Charleston, South Carolina

AGREED AND ENTRY REQUESTED:

For Equal Employment Opportunity Commission:

ERIC S. DREIBAND
General Counsel

JAMES L. LEE
Deputy General Counsel

GWENDOLYN YOUNG REAMS
Associate General Counsel

LYNETTE A. BARNES
Acting Regional Attorney

12