

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
SOUTHERN DIVISION

EQUAL EMPLOYMENT)	
OPPORTUNITY COMMISSION,)	
)	
Plaintiff,)	CIVIL ACTION NO. 7:10-cv-187
)	
v.)	CONSENT DECREE
)	
SKMATCH, INC., d/b/a SUBWAY,)	
)	
Defendant.)	
)	

The Equal Employment Opportunity Commission (the "Commission") 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. Section 2000e-5(f)(1) and (3) ("Title VII"), and Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981a.

The Commission and the Defendant, SKMATCH, Inc., d/b/a Subway (the "Defendant"), hereby stipulate to the jurisdiction of the Court over the parties and agree that the subject matter of this action is properly before the Court.

The parties have advised this Court that they desire to resolve the allegations in the Complaint 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, that: (1) the Court has jurisdiction over the parties and the subject matter of this action; (2) the purpose and provisions of Title VII will be promoted and effectuated by the entry of the Consent Decree; and (3) this Decree resolves all matters in controversy between the parties as provided in paragraphs 1 through 16 below.

It is therefore ORDERED, ADJUDGED AND DECREED as follows:

1. Defendant shall not discriminate against any person on the basis of sex, including by subjecting them to a sexually hostile work environment, or any other protected category within the meaning of Title VII.

2. Defendant shall not discriminate or retaliate against any person because of his or her opposition to any practice made unlawful under Title VII of the Civil Rights Act of 1964 or because of the filing of a charge, the giving of testimony or assistance, or the participation in any investigation, proceeding or hearing under that statute.

3. Defendant shall pay the sum of Fifty-Five Thousand and no 100s dollars (\$55,000.00) in settlement of the claims raised in this action. Payments shall be made to the following individuals in amounts determined by the Commission: Helena Miller and Erica LaCouture (the "Individual Claimants"). Within five (5) days of the entry of this decree, the Commission will provide Defendant with a schedule showing the amount to be paid to each Individual Claimant as well as the address to which payment shall be mailed. Defendant shall make payment pursuant to the schedule provided by the Commission within ten (10) days after the Commission provides Defendant with the payment schedules or within fifteen (15) days after the Court approves this Consent Decree, whichever is later. Within ten (10) days after payment has been mailed, Defendant shall mail to Lynette A. Barnes, Regional Attorney, at the Equal Employment Opportunity Commission, 129 W. Trade Street, Suite 400, Charlotte N.C., 28202, a copy of each check and proof of each check's delivery to each Individual Claimant.

4. Within ten (10) days of the entry of this decree by the Court, Defendant shall eliminate from the employment records of the Individual Claimants any and all documents, entries, or references of any kind relating to the facts and circumstances which led to the filing of EEOC Charge Number 433-2009-01729 and the related events that occurred thereafter. Within

fifteen (15) days of the entry of this decree by the Court, Defendant shall report compliance with this provision to the EEOC.

5. Reference Inquiries. Defendant agrees that any information it provides in response to a request for a reference from a prospective employer of the Individual Claimants will not exceed the following: the dates of the Individual Claimants' employment with Defendant, the Individual Claimants' rate of pay while working for Defendant, and the positions held by the Individual Claimants with Defendant. Reference requests shall be directed to Defendant's owner and/or general manager.

6. Sexual Harassment Policy. Within ninety (90) days of the entry of this decree by the Court, Defendant shall revise its sexual harassment policy to include the following: (1) clearly described procedures for reporting sexual harassment, including a contact number for Defendant's Human Resources department; (2) assurance that Defendant will protect the confidentiality of harassment complaints to the extent possible; (3) a procedure for the prompt, thorough, and impartial investigation of employee complaints of harassment; and (4) assurance that Defendant will take immediate and appropriate corrective action when it determines that sexual harassment has occurred. Defendant shall distribute to each current employee a copy of the policy within the aforementioned 90 day time period. Within one hundred (100) days of the entry of this decree, Defendant shall report compliance to the Commission. During the term of this Decree, Defendant shall distribute the policy to all new employees and review it with them at the time of hire.

7. During the term of this decree, Defendant shall post a copy of the policy described in paragraph 6, *supra*, in all of its facilities in a place where it is visible to employees. If the policy becomes defaced or unreadable, Defendant will replace it by posting another copy

of the policy. Within one hundred (100) days after the Consent Decree is entered, Defendant will post the policy and notify the EEOC that it has been posted.

8. During the term of this Decree, Defendant shall provide an annual training program to all of its managers, supervisors and employees. Each training program shall include an explanation of the requirements of Title VII of the Civil Rights Act of 1964, and its prohibition against sexual harassment and retaliation in the workplace. Each training program shall also include an explanation of Defendant's policy referenced in paragraph 6 above, and an explanation of the rights and responsibilities of employees and managers under the policy.

The first training program shall be completed within one hundred (100) days after entry of the decree by the Court. Each subsequent training program shall be conducted at approximately one-year intervals. At least fifteen (15) days prior to each program, Defendant shall provide the Commission with an agenda for the training program. Within ten (10) days after completion of each training program, Defendant shall certify to the Commission the specific training which was undertaken and shall provide the Commission with a roster of all employees in attendance.

9. Beginning within thirty (30) days after the entry of this Decree by the Court, and continuing throughout the term of this Decree, Defendant shall conspicuously post the attached Employee Notice, marked Exhibit A, hereby made a part of this Decree, in a place where it is visible to employees at its facilities. If the Notice becomes defaced or unreadable, Defendant shall replace it by posting another copy of the Notice.

10. During the term of this Consent Decree, Defendant shall provide the Commission with reports at six (6) month intervals, with the first being due four (4) months after approval by the Court of this Decree. The reports will include the following information:

- A. the identities of all individuals who, during the previous six (6) months, (i) have made any complaints about sexual comments, sexual conduct, or any conduct that the complainant deems sexual in nature; (ii) have made any complaints about conduct that could be construed as sexual harassment under Defendant's sexual harassment policy; and (iii) have complained about sexual harassment, including by way of identification each person's name, address, telephone number, position, and social security number; and
- B. a brief description of the individual's complaint; and
- C. a description of all actions taken by Defendant in response to the individual's complaint; and
- D. for each individual identified in 10.A above, explain whether the individual's employment status has changed in any respect (for example, including but not limited to termination, firing, demotion, promotion or from full-time to part-time and vice versa); and
- E. for each individual whose employment status has changed as identified in 10.D above, a detailed status explaining why the individual's employment status has changed.

11. The Commission may review compliance with this Decree. As part of such review, the Commission may inspect Defendant's facilities, interview employees and examine and copy documents.

12. If anytime during the term of this Decree, the Commission believes that Defendant is in violation of the Decree, the Commission shall give notice of the alleged violation to Defendant. Defendant shall have ten (10) days in which to investigate and respond to the allegations. Thereafter, the parties shall then have a period of ten (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 Commission exercises any remedy provided by law.

13. The term of this Decree shall be for five (5) years from its entry by the Court.

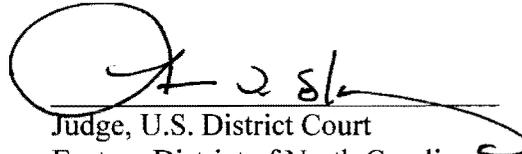
14. All reports or other documents sent to the Commission by Defendant pursuant to this Decree shall be sent to: Lynette A. Barnes, Regional Attorney, at the Equal Employment

Opportunity Commission, 129 W. Trade Street, Suite 400, Charlotte N.C., 28202.

15. Each party shall bear its own costs and attorney's fees.

16. This Court shall retain jurisdiction of this cause for purposes of monitoring compliance with this Decree and entry of such further orders as may be necessary or appropriate.

December 27, 2010
Date



Judge, U.S. District Court
Eastern District of North Carolina

The parties jointly request that the Court approve and enter the Consent Decree:

**EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION,
Plaintiff**

P. DAVID LOPEZ
General Counsel

JAMES L. LEE
Deputy General Counsel

GWENDOLYN YOUNG REAMS
Associate General Counsel

/s/ Lynette A. Barnes
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**SKMATCH, INC. d/b/a Subway,
Defendant**

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EXHIBIT A

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
SOUTHERN DIVISION

EQUAL EMPLOYMENT OPPORTUNITY)
COMMISSION,)
Plaintiff,)
) CIVIL ACTION NO. 7:10-cv-187
v.)
)
SKMATCH, INC., d/b/a SUBWAY,)
)
Defendant.)
_____)

NOTICE

1. This Notice is posted pursuant to a settlement between the U.S. Equal Employment Opportunity Commission and SKMATCH, Inc., in a case of discrimination based on sex. Specifically, the EEOC alleged that SKMATCH, Inc. subjected a class of female employees to sexual harassment in violation of Title VII of the Civil Rights Act of 1964. As part of the settlement, SKMATCH, Inc. agreed to pay monetary damages to the aggrieved parties and to take other action set out in the Consent Decree resolving this matter. By entering into this settlement, SKMATCH, Inc. does not admit to any liability.
2. Federal law requires that employers not discriminate against any employee or applicant for employment because of the individual's race, color, religion, sex, national origin, age (40 or older) or disability. Title VII specifically prohibits discrimination based on sex, including sexual harassment.
3. SKMATCH, Inc. will comply with such federal law in all respects. Furthermore, SKMATCH, Inc. will not take any actions against employees because they have exercised their rights, reported an alleged violation under the law or 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, and is encouraged to exercise that right, to report allegations of employment discrimination in the workplace. An employee may contact their local U. S. Equal Employment Opportunity Commission field office for the purpose of filing a charge of employment discrimination. To locate the nearest field office, contact:

Equal Employment Opportunity Commission
131 M Street, N.E.
Washington, DC 20507
TEL: 1-800-669-4000
TTY: 1-800-669-6820

This Notice will remain posted for at least five (5) years by agreement with the U.S. Equal Employment Opportunity Commission. DO NOT REMOVE THIS NOTICE UNTIL: _____, 201__.