

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

FILED

01 MAR 12 PM 5:20

RECEIVED
CLERK
COURT
WEST OF MICH

BY: 

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,

Plaintiff,

V.

Case No. 1:03-CV-109

Hon. Gordon J. Quist

JOHNSON CONTROLS, INC.,

Defendant.

CONSENT DECREE

1. Plaintiff, the United States Equal Employment Opportunity Commission (the "Commission") commenced this action on February 18, 2003 in the United States District Court for the Western District of Michigan, Southern Division, alleging that the Defendant, Johnson Controls, Inc. ("Johnson Controls") discharged and failed to reasonably accommodate Charging Party Isaac Anaya, in violation of the Americans with Disabilities Act ("ADA"), 42 U.S.C. § 12101 *et seq.* Johnson Controls has denied these allegations.

2. As a result of settlement discussions, the Commission and Johnson Controls have resolved their differences and have agreed that this action should be settled by entry of this Consent Decree. It is the intent of the parties that this Consent Decree be a final and binding settlement in full disposition of any and all claims alleged or which could have been alleged in the Complaint against Johnson Controls or in the Charge of Discrimination filed by Anaya, Charge No. 230-A1-0710.

STIPULATED FACTS

3. The Commission is the agency of the United States government authorized by the ADA to investigate allegations of unlawful employment discrimination based upon disability, to bring civil actions to prohibit unlawful employment practices, and to seek relief for individuals affected by such practices.

4. Johnson Controls is an employer engaged in an industry affecting commerce within the meaning of Section 101(5) of the ADA, 42 U.S.C. § 12111(2), which incorporates by reference Sections 701(g) and (h) of Title VII, 42 U.S.C. § 2000e (g) and (h). Johnson Controls had at least 25 employees for 20 or more calendar weeks during the relevant period of time.

5. Pursuant to the ADA, the parties acknowledge the jurisdiction of the United States District Court for the Western District of Michigan (Southern Division) over the subject matter and parties to this case for the purpose of entering this Decree, and if necessary, enforcing the provisions of this Decree.

6. Venue is appropriate in the Western District of Michigan (Southern Division). For purposes of this Decree and proceedings related to this Decree only, Johnson Controls agrees that all statutory conditions precedent to the institution of this lawsuit against Johnson Controls have been fulfilled.

FINDINGS

7. Having examined the terms and provisions of the Consent Decree and based on the pleadings, records, and stipulations of the parties, the Court finds the following:

- a. The Court has jurisdiction over the subject matter of this action against Johnson Controls;

b. The terms and provisions of this Consent Decree are fair, reasonable and just. The rights of Johnson Controls, the Commission, and those for whom the Commission seeks relief are adequately protected by this Decree;

c. The Consent Decree conforms with the Federal Rules of Civil Procedure and the ADA, and is not in derogation of the rights and privileges of any person. The entry of this Decree will further the objectives of the ADA and will be in the best interests of the parties and those for whom the Commission seeks relief.

NOW, THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED THAT:

NON-ADMISSION

8. This Decree, being entered with the consent of the Commission and Johnson Controls, shall not constitute an adjudication or finding on the merits of this case and shall not be construed as an admission by Johnson Controls of any violation of the ADA or, any other law, rule or regulation dealing with or in connection with equal employment opportunity.

NON-DISCRIMINATION

9. Johnson Controls shall comply with the provisions of the ADA, 42 U.S.C. § 12101 *et seq.*, with regard to disability discrimination.

10. During the term of this Consent Decree, in regard to the Johnson Controls facilities located in Holland, Michigan, Johnson Controls agrees that before it terminates the employment of an employee who is on medical leave because of the expiration of the leave period, Johnson Controls will conduct an individualized assessment of the employee's ability to return to work, the prognosis for when such a return to work would occur, and whether an extension of the leave period would be a reasonable accommodation under the circumstances. If Johnson Controls determines that an extension of the leave would be a reasonable accommodation, the leave will be extended. In order for this provision to apply the employee

must have a disability within the meaning of the Americans with Disabilities Act and the leave must be due to such disability.

NON-RETALIATION

11. Johnson Controls shall not take any action against any person which constitutes intimidation, retaliation, harassment, or interference with the exercise of such person's rights under the ADA because of the filing of the Charge of Discrimination by Isaac Anaya, which forms the basis for the present case, or because such person gave testimony or assistance or participated in any manner in any investigation or proceeding in connection with this case under the ADA.

MONETARY COMPENSATION

12. Johnson Controls shall pay Isaac Anaya wages in the gross amount of \$55,000 (Fifty-Five Thousand Dollars), minus tax withholdings. Johnson Controls shall issue a W-2 form in connection with this payment in the ordinary course of business. This monetary compensation shall be paid in a check made payable to Isaac Anaya, 154 W. 20th Street, Holland, Michigan 49423. Johnson Controls shall mail this payment to Isaac Anaya by overnight mail within ten (10) business days after all the conditions precedent set forth in the separate settlement agreement with Isaac Anaya have been met. Johnson Controls shall mail to Adele Rapport, Regional Attorney, 477 Michigan Avenue, Suite 865, Detroit, Michigan 48226 a copy of the check and the cover letter forwarding the check to Mr. Anaya. The Commission shall have the right to monitor compliance with this paragraph through inspection of all documents relating to said disbursement, including but not limited to a copy of the check, check stub, letters, and any other documents evidencing payment hereunder.

TRAINING AND/OR EDUCATIONAL PROGRAMS

13. Johnson Controls agrees that it will provide a mandatory training program to all management, supervisory and human resources personnel employed at its plant located at 1776 Airport Court, Holland, Michigan, 49423, who participate in return to work decision-making, which will focus on the requirements of the federal equal employment opportunity laws, including the Americans with Disabilities Act of 1990, as amended. The training will include information and discussion regarding the ADA requirement that employers must conduct an individual assessment of a disabled applicant's ability to perform the essential functions of the job, with or without reasonable accommodation, before disqualifying such individuals from employment because of a disability. This training shall also discuss the duty of reasonable accommodation for employees with disabilities and the interactive process. Johnson Controls can decide who will provide this training.

POSTING OF NOTICE

14. Johnson Controls agrees that it shall post a copy of the Notice attached as Exhibit A in a conspicuous location where employee notices are posted in its facility located at 1776 Airport Court, Holland, Michigan, 49423. The notice shall be posted for two (2) years from the date the Consent Decree is entered by the Court. Should the posted notice become defaced, marred or otherwise made unreadable, Johnson Controls agrees to post a readable copy of the notice as soon as reasonably practical after it becomes aware of such situation.

DURATION

15. This Consent Decree shall remain in effect for two (2) years from the date it is entered, and the Court shall retain jurisdiction of this action during the duration of this Decree to enforce compliance with the Decree.

REPORTING

16. Six months after entry of this decree and on each anniversary of the entry of this Decree, the Defendant shall submit to the Commission a report of the steps it has taken to comply with this judgment. The Defendant's report pursuant to this paragraph shall be submitted to: Adele Rapport, Regional Attorney, EEOC, Detroit District Office, 477 Michigan Avenue, Suite 865, Patrick V. McNamara Building, Detroit, Michigan 48226. The reporting obligations under this paragraph shall cease after the Defendant submits the report due on or about the second year anniversary of the entry of this Decree.

DISPUTE RESOLUTION AND COMPLIANCE

17. The Court will have all available equitable powers, including injunctive relief, to enforce this Decree. Upon motion of any party, the Court may schedule a hearing for the purpose of reviewing any party's compliance with this Decree and/or ordering appropriate relief to determine whether the parties have complied with the terms of this Decree. Prior to seeking review by the Court, the parties shall engage in a good faith effort to resolve any dispute concerning compliance with the Decree. Any party seeking court review of a matter shall be required to give thirty (30) days' notice to the other parties before moving for such review.

COURT COSTS AND ATTORNEYS' FEES

18. Each party shall bear its own court costs and attorneys' fees.

MISCELLANEOUS

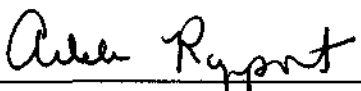
19. If any provision(s) of this Agreement is found to be unlawful, only the specific provision(s) in question shall be affected and the other provisions will remain in full force and effect.

20. The terms of this Decree shall be binding upon the present and future owners, trustees, administrators, successors, and assigns of Johnson Controls.

21. This Agreement constitutes the entire agreement and commitments of the parties. Any modifications to this Decree must be mutually agreed upon and memorialized in a writing signed by Johnson Controls and the Commission.

22. When this Decree requires or permits the submission of any documents by Johnson Controls to the Commission, if not otherwise indicated in the Decree, they shall be mailed to Adele Rapport, Regional Attorney, EEOC, Detroit District Office, Patrick V. McNamara Federal Building, 477 Michigan Avenue, Room 865, Detroit, MI 48226.

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION



Adele Rapport (P44833)
Regional Attorney

Stanley Pitts (P33519)
Supervisory Trial Attorney

Dale Price (P55578)
Trial Attorney

Detroit District Office
Patrick V. McNamara Federal Building
477 Michigan Avenue, Room 865
Detroit, MI 48226

Attorneys for Plaintiff
Equal Employment Opportunity Commission

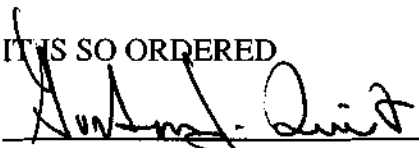
JOHNSON CONTROLS, INC.



Susan R. Maisa

FOLEY & LARDNER LLP
777 East Wisconsin Avenue,
Suite 3800
Milwaukee, WI 53202-5306
(414) 297-5822

Attorney for Defendant
Johnson Controls, Inc.

IT IS SO ORDERED


HONORABLE Gordon J. Quist

MAF: 12 2004

DATE

A

DRAFT

EXHIBIT A

NOTICE TO ALL EMPLOYEES

This Notice is being posted as a result of a Consent Decree entered between the United States Equal Employment Opportunity Commission and Johnson Controls, Inc. in *E.E.O.C. v. Johnson Controls, Inc.*, Civil Case No. 1:03-CV-109, to inform you of your rights guaranteed by federal law under the Americans With Disabilities Act, 42 U.S.C. § 12101 *et seq.* ("ADA"). The ADA prohibits discrimination against any employee on the basis of disability with regard to any term or condition of employment including hiring, layoff, recall, promotion, discharge, pay and fringe benefits or in retaliation for the opposition to unlawful employment practices. This Notice is posted as part of a resolution to a lawsuit filed by the U.S. Equal Employment Opportunity Commission on behalf of a former employee who alleged that he was terminated because of his disability while out on medical leave. Johnson Controls denies that it discriminated in any way against the employee.

The United States Equal Employment Opportunity Commission is the federal agency which investigates charges of unlawful employment discrimination and, if necessary, files lawsuits in federal court to enforce the anti-discrimination provisions of the ADA. Any employee who believes that he/she is the victim of discrimination or retaliation has the legal right to file a charge of discrimination with the U.S. Equal Employment Opportunity Commission.

Johnson Controls supports and will comply with this federal law in all respects. Johnson Controls will not take any action against any employees because they have exercised their rights under the ADA.

Dated _____

Johnson Controls, Inc. _____