

participating in protected activities and to provide appropriate relief to Francisco Acosta and Sergio Castro, who the EEOC maintains were adversely affected by these alleged practices. The EEOC alleges that Defendant, Excel Corporation, discriminated against Francisco Acosta and Sergio Castro when it disciplined them and terminated their employment for engaging in protected activity under Section 704(a) of Title VII, 42 U.S.C. § 2000e-3(a).

The EEOC, Plaintiff-Intervenors, Francisco Acosta and Sergio Castro, and Defendant, Excel Corporation, wish to settle this action, without the necessity of further litigation, pursuant to the terms delineated in this Decree.

THEREFORE IT IS ORDERED, ADJUDGED AND DECREED as follows:

1. This Court has jurisdiction of the subject matter of this action and the parties; venue is proper, and all administrative prerequisites to the EEOC's filing of this action have been met.
2. This Decree resolves those claims against Excel Corporation raised in EEOC's Complaint in this case, and includes the claims of the Intervenors.
3. This Court retains jurisdiction of this action for a period of one year and may enter such other and further relief as it deems appropriate to ensure implementation and enforcement of the provisions of this Decree.
4. Defendant Excel Corporation denies all allegations in the EEOC's Complaint and the Intervenors' Complaint and makes no admissions of liability.

5. Defendant Excel Corporation will not retaliate in any manner against Francisco Acosta and Sergio Castro, or any other past, present, or future employee for opposing any employment practice made unlawful by Title VII, or for filing a discrimination charge, giving testimony or assistance, or participating in any manner in any investigation, proceeding, hearing or action under Title VII.

6. Within 90 days of the date of this Decree, Defendant Excel Corporation shall distribute copies of the Notice, attached as Exhibit "A," to all supervisory and managerial employees of Defendant Excel Corporation at its Friona, Texas facility. Each supervisory and managerial employee will sign an acknowledgement form, indicating that he/she has read and understands the terms of the Notice. The EEOC recognizes that Defendant Excel currently provides EEO training to its employees on a regular basis. Defendant agrees to continue providing such training to include, but not limited to, the law relating to retaliation-based discrimination.

7. Within ten (10) days after the date of this Decree, Defendant Excel Corporation, in settlement of this dispute, shall pay a total sum of \$20,000 (TWENTY THOUSAND AND 00/100 DOLLARS) apportioned and delivered as follows:

- (a) TWELVE THOUSAND DOLLARS (\$12,000) to Francisco Acosta, and EIGHT THOUSAND DOLLARS (\$8,000.00) to Sergio Castro.
- (b) Such payments shall be made by separate checks and mailed to Donald E. Cummings, Esq., P.O. Box 47, Lubbock, Texas 79408, attorney for Francisco Acosta and Sergio Castro.

8. A copy of the settlement checks, and any accompanying transmittal documents shall be forwarded to: Robert B. Harwin, Regional Attorney, San Antonio District Office, United States Equal Employment Opportunity Commission, 5410 Fredericksburg Road, Suite 200, San Antonio, Texas 78229.

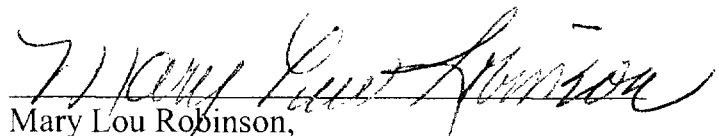
9. The terms of this Decree shall be binding upon the EEOC, the Intervenors and Defendant Excel Corporation, its agents, officers, employees, servants, successors, and assigns, as to the issues resolved herein.

10. The parties to this Decree shall bear their own costs and attorney's fees incurred in this action. The parties agree that pursuant to Section 706(k) of Title VII, 42 U.S.C. § 2000e-5(k), there is no "prevailing party" in this action or proceeding, and all relief not expressly granted is denied.

The Clerk shall furnish a copy hereof to each attorney of record.

IT IS SO ORDERED.

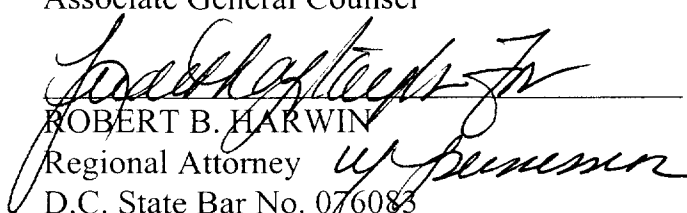
SIGNED this 17th day of June, 2002.


Mary Lou Robinson,
United States District Judge

APPROVED:

GWENDOLYN YOUNG REAMS

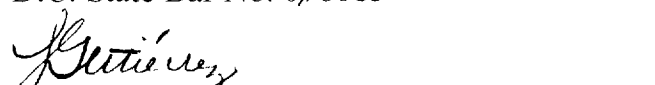
Associate General Counsel



ROBERT B. HARWIN

Regional Attorney

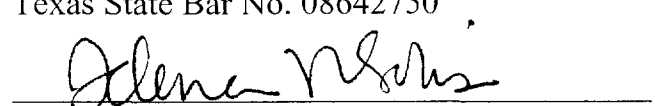
D.C. State Bar No. 076083



LINDA GUTIERREZ

Supervisory Trial Attorney

Texas State Bar No. 08642750



SELENA N. SOLIS

Texas State Bar No. 00797471

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

San Antonio District Office

5410 Fredericksburg Road, Suite 200

San Antonio, Texas 78229-3555

Telephone: (210) 281-7679

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ATTORNEYS FOR PLAINTIFF



DONALD E. CUMMINGS

Texas State Bar No. 05225000

LAW OFFICE OF DONALD E. CUMMINGS

2435 20th Street

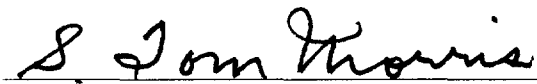
P.O. Box 47

Lubbock, Texas 79408

Telephone: (806) 762-8503

Telecopier: (806) 762-8564

ATTORNEY FOR PLAINTIFF-INTERVENORS

A handwritten signature in black ink, reading "S. Tom Morris", is written over a horizontal line.

S. Tom Morris

Texas Bar No. 14501000

GIBSON, OCHSNER & ADKINS, LLP

701 South Taylor, Suite 500

Amarillo, Texas 79101-2400

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ATTORNEY FOR DEFENDANT

NOTICE TO ALL EMPLOYEES

EXCEL CORPORATION SUPPORTS FEDERAL LAW REQUIRING THERE BE NO DISCRIMINATION AGAINST ANY APPLICANT OR EMPLOYEE BECAUSE OF HIS OR HER RACE, COLOR, SEX, NATIONAL ORIGIN, RELIGION, AGE OR DISABILITY AND REAFFIRMS ITS COMMITMENT NOT TO DISCRIMINATE AGAINST ANY APPLICANT OR EMPLOYEE ON ANY TERM OR CONDITION OF EMPLOYMENT. THIS POLICY APPLIES TO ALL EMPLOYMENT DECISIONS, INCLUDING HIRING OR REHIRING, RECRUITMENT, RETENTION, PROMOTION, TRANSFER, LAYOFF AND/OR TERMINATION, AND ALL OTHER TERMS AND CONDITIONS OF EMPLOYMENT.

EXCEL CORPORATION WILL NOT DISCRIMINATE AGAINST ANY EMPLOYEE FOR OPPOSING EMPLOYMENT DISCRIMINATION OR FOR FILING OR PARTICIPATING IN A CHARGE OF EMPLOYMENT DISCRIMINATION.

IF YOU BELIEVE YOU ARE BEING DISCRIMINATED AGAINST IN ANY TERM OR CONDITION OF YOUR EMPLOYMENT BECAUSE OF YOUR RACE, RELIGION, COLOR, NATIONAL ORIGIN, SEX, AGE, OR DISABILITY, OR THAT YOU ARE BEING SUBJECTED TO HARASSMENT BECAUSE OF YOUR GENDER OR HAVING ENGAGED IN TITLE VII-PROTECTED ACTIVITY, YOU ARE ENCOURAGED TO SEEK ASSISTANCE FROM SUPERVISORY PERSONNEL, THE PERSONNEL DEPARTMENT, OR FROM THE UNITED STATES EQUAL EMPLOYMENT OPPORTUNITY COMMISSION, 5410 FREDERICKSBURG ROAD, SUITE 200, SAN ANTONIO, TEXAS 78229-3550, (210) 281-7600 OR 1-800-669-4000.

NO RETALIATORY ACTION MAY BE TAKEN AGAINST YOU FOR SEEKING ASSISTANCE, FILING A CHARGE, OR COMMUNICATING WITH THE UNITED STATES EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

EEOC ENFORCES TITLE VII OF THE CIVIL RIGHTS ACT OF 1964, WHICH PROHIBITS EMPLOYMENT DISCRIMINATION BASED ON RACE, COLOR, RELIGION, SEX OR NATIONAL ORIGIN; THE AGE DISCRIMINATION IN EMPLOYMENT ACT; THE EQUAL PAY ACT; PROHIBITIONS AGAINST DISCRIMINATION AFFECTING INDIVIDUALS WITH DISABILITIES; SECTIONS OF THE CIVIL RIGHTS ACT OF 1991, AND TITLE I OF THE AMERICANS WITH DISABILITIES ACT, WHICH PROHIBITS DISCRIMINATION AGAINST PEOPLE WITH DISABILITIES IN THE PRIVATE SECTOR AND STATE AND LOCAL GOVERNMENTS.

EXHIBIT "A"