

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF FLORIDA  
FT. MYERS DIVISION**

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)  
)  
**UNITED STATES EQUAL EMPLOYMENT**  
**OPPORTUNITY COMMISSION,**  
)

**2:04-cv-364-Ft.M-33SPC**

**Plaintiff,**  
)

**Judge John E. Steele**

**and**  
)

**MICHELLE MAUS,**  
)

**Plaintiff-Intervenor**  
)

**v.**  
)

**ACCULAB LABORATORIES, INC., d/b/a ACCULAB.)**  
)

**Defendant.**  
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**CONSENT DECREE**

**THE LITIGATION**

1. Plaintiff Equal Employment Opportunity Commission ("EEOC") filed this action alleging Defendant, Acculab Laboratories, Inc., a Nevada Corporation, ("Defendant"), violated Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e *et. seq.*, ("Title VII") by discriminating against Charging Party Michelle Maus ("Maus") on the basis of sex and by retaliating against her for complaining about the discrimination. Maus intervened on November 29, 2004. Specifically, EEOC and Maus alleged that Defendant violated Title VII by subjecting Maus to a sexually hostile work environment by allowing her supervisor's brother, a non-employee, to sexually harass her on an ongoing basis at its Port Charlotte, Florida facility and by

additionally alleged that Defendant violated the Family Medical Leave Act.

2. In the interest of resolving this matter and avoiding time and future costs of continuing the litigation and as a result of having engaged in comprehensive settlement negotiations, the parties have agreed that this action should be finally resolved by entry of this Consent Decree ("Decree"). This Decree fully and finally resolves any and all issues and claims arising out of the Complaints filed by EEOC and Maus in this action.

### FINDINGS

Having carefully examined the terms and provisions of this Decree, and based on the pleadings, record, and stipulations of the parties, the Court finds the following:

- a. This Court has jurisdiction of the subject matter of this action and of the parties.
- b. No party shall contest the jurisdiction of this Federal Court to enforce this Decree and its terms or the right of the EEOC to bring an enforcement suit upon alleged breach of any term(s) of this Decree.
- c. The terms of this Decree are adequate, fair, reasonable, equitable, and just. The right of the Complainant and the public interest are adequately protected by this Decree.
- d. This Decree conforms with the Federal Rules of Civil Procedure and Title VII and is not in derogation of the rights or privileges of any person. The entry of this Decree will further the objectives of Title VII and will be in the best interests of Michelle Maus, Acculab Laboratories, Inc., EEOC and the public.
- e. The terms of this Decree are and shall be binding upon the present and future representatives, agents, directors, and officers of Acculab Laboratories, Inc.

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

**GENERAL INJUNCTIVE PROVISIONS**

3. Defendant acknowledges its responsibility under Title VII to maintain a sexually hostile-free work environment and accordingly, Acculab Laboratories, Inc., its officers, agents (including management personnel) are hereby enjoined from discriminating on the basis of sex.

4. Acculab Laboratories, Inc., its officers, agents, employees and all persons acting in concert with it are hereby enjoined from engaging in any form of retaliation against any person because such person has opposed any practice made unlawful under Title VII, filed a Charge of Discrimination under Title VII, testified or participated in any manner in any investigation, proceeding, or hearing under Title VII, or asserted any rights under this Decree.

**ADOPTION AND DISTRIBUTION OF NEW POLICY AGAINST SEXUAL**

**HARASSMENT**

5. Acculab Laboratories, Inc. shall create a new anti-discrimination policy ("Policy") to be distributed to all current and future employees within thirty (30) days after entry of this Consent Decree. The Policy shall clearly define prohibited conduct and specifically prohibit suggestive sexual comments, insults, jokes, intimidation, unwelcome touching, and sexually explicit literature. The Policy shall also specify that prohibited behavior will not be tolerated from its employees, customers, clients and any other persons present at any of its facilities. The Policy shall provide that complaints of sexual harassment may be made to any person in the chain of command above an employee or directly to human resources personnel; employees who make complaints of harassment or provide information related to such complaints will be protected against retaliation; employees will not be required to complain of harassment to a person against whom they allege harassment; the employer will protect the

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confidentiality of harassment complaints to the extent possible; the employer will take immediate and appropriate corrective action if and when it determines that harassment has occurred; employees who violate the policy are subject to discipline up to and including discharge.

6. A copy of the Policy shall be forwarded to EEOC within thirty (30) calendar days of entry of this Consent Decree. This and any other submissions, reports, certifications, notices, or other materials that are required to be submitted to EEOC shall be mailed to: Acculab Laboratories, Inc. Settlement, c/o Trial Attorney Lauren Dreilinger, United States Equal Employment Opportunity Commission, 1 Biscayne Tower, 2 South Biscayne Blvd., Suite 2700, Miami, Florida 33131.

7. The Policy shall be distributed to all of Defendant's employees and management staff and shall be included in any relevant policy or employee manuals kept by Defendant's business. The Policy shall also be kept and maintained in a conspicuous and accessible place for all employees at all of Acculab Laboratories, Inc.'s facilities and printed in a font that is easily legible (at least 11 point font).

8. A copy of the Policy shall be distributed to each new regular full-time, part-time, or temporary employee on the day the employee is hired. The manager responsible for distributing the Policy to each new employee shall review the Policy in depth with the employee. Acculab Laboratories, Inc. shall maintain records demonstrating that each new employee discussed the Policy with the responsible manager and illustrating the length of time spent discussing the Policy.

#### **TRAINING**

9. During each of the three (3) years covered by this Decree, Defendant shall provide training to all Acculab Laboratories, Inc. employees, including all management

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personnel, on equal employment opportunity laws (including sexual harassment and retaliation) and the new Policy. The training shall be conducted by Mark Brewer, Esq. or another entity as mutually agreed upon with EEOC. The first training shall take place within sixty (60) calendar days of entry of this Decree. The remainder of the training sessions shall take place annually and no later than March 30<sup>th</sup> of each year throughout the duration of the Decree.

10. Within ten (10) calendar days of the completion of training, Acculab Laboratories; Inc. shall notify EEOC of the dates the training was conducted, the name and job title of the person(s) who conducted the training, and the name and job title of each person who received the training.

11. Acculab Laboratories, Inc. agrees to provide EEOC, upon request, with any and all copies of pamphlets, brochures, outlines or other written materials provided to the participants of the training sessions.

#### **POSTING OF NOTICE**

12. Within five (5) business days after entry of this Decree, Acculab Laboratories, a Nevada Corporation, Inc. shall post an eight and one-half (8.5) by eleven (11) inches laminated copy of the Notice attached as Exhibit A to this Decree at all of its facilities in Florida in a conspicuous location easily accessible to and commonly frequented by employees of Acculab Laboratories, Inc. The Notice shall remain posted for two (2) years from the date of entry of this Decree. Acculab Laboratories, Inc. shall take all reasonable steps to ensure that the posting is not altered, defaced or covered by any other material. Acculab Laboratories, Inc. shall certify to EEOC in writing within ten (10) business days after entry of the Decree that the Notice has been properly posted.

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**RECORD KEEPING**

13. For a period of three (3) years following entry of this Decree, Acculab Laboratories, Inc. shall maintain and make available for inspection and copying by EEOC records (including name, age, social security number, address, telephone number, complaint and resolution of the complaint) of each person complaining about discrimination on the basis of sex and/or retaliation.

14. Acculab Laboratories, Inc. shall make all documents or records referred to in Paragraphs 6, 7 and 11, available for inspection and copying within five (5) business days after EEOC so requests. In addition, Acculab Laboratories, Inc. shall provide the last known home address, home telephone number, and mobile telephone number, if known, for all persons within its employ during the term of the Decree whom EEOC requests and identifies for purposes of verifying compliance with this Decree within five (5) business days of EEOC's request. Moreover, Acculab Laboratories, Inc. shall permit employees whom EEOC requests to interview for the purposes of verifying compliance with this Decree to speak confidentially with EEOC. In the event that EEOC is unable to contact an employee for purposes of verifying compliance with this Decree, it shall notify Acculab Laboratories, Inc. and Acculab Laboratories, Inc. shall, within five (5) business days, provide EEOC with the employee's scheduled hours of work over the next fourteen (14) day period so that EEOC can conduct these interviews at these employees' breaks, at the end of the day, or at some other time convenient to the employee and EEOC. Acculab Laboratories, Inc. agrees that it will not discourage employees from participating in these interviews.

15. Nothing contained in this Decree shall be construed to limit any obligation Acculab Laboratories, Inc. may otherwise have to maintain records under Title VII or any other law or regulation.

### **REPORTING**

16. Acculab Laboratories, Inc. shall furnish to EEOC the following written reports twice annually for a period of three (3) years following entry of this Decree. The first report shall be due six (6) months after entry of the Decree. The final report shall be due 36 (thirty six) months after entry of the Decree. Each such report shall contain:

a. A description of each complaint of sexual harassment, sex discrimination and/or retaliation, including the names of the complaining parties and witnesses and the resolution of such complaint, occurring within the six (6) month period preceding the report. Information identifying Acculab Laboratories, Inc. employees produced pursuant to this Decree will only be used to facilitate compliance with this Decree.

b. A certification by Acculab Laboratories, Inc. that the Notice required to be posted in Paragraph 12, above, remained posted during the entire six (6) month period preceding the report for the first two (2) years of the length of the Decree.

### **MONETARY RELIEF FOR COMPLAINANT**

17. Defendant shall pay a total sum of \$ 25,000 to resolve this litigation.

a. \$12,500 shall be paid within five (5) calendar days of entry of this Decree.

b. \$6,250 shall be paid within thirty (30) calendar days of entry of this Decree.

c. \$6,250 shall be paid within sixty (60) calendar days of entry of this Decree.

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d. \$ 1,360 shall be representative of lost wages, less amounts required to be withheld for federal, state, and local income taxes. Defendant will issue an IRS Form W-2, and shall be responsible for paying the employer's share of any federal, state and local, income taxes, and social security withholdings.

e. \$ 23,640 shall be representative of compensatory and punitive damages. Defendant shall issue an I.R.S. Form 1099 to Maus for this amount.

f. All payments shall issue, by certified mail to Michelle Maus c/o Jason Gunter, Esq. 1617 Hendry Street, Ft. Myers, Florida 33601. Copies of the payments and I.R.S. Form 1099 shall be forwarded to the attention of Lauren G. Dreilinger, Trial Attorney, U.S. Equal Employment Opportunity Commission, One Biscayne Tower, 2 South Biscayne Boulevard, Suite 2700, Miami, Florida 33131.

18. If Defendant fails to tender the payment described in paragraph 17, above, then Defendant shall pay interest on the defaulted payment at the rate calculated pursuant to 26 U.S.C. Section 6621(b) until the same is paid, and bear any additional costs incurred by the EEOC and Plaintiff-Intervenor caused by the non-compliance or delay of the Defendant.

#### **DISPUTE RESOLUTION**

19. In the event that EEOC believes that Defendant has failed to comply with any provision(s) of the Decree, EEOC shall have the right to seek Court intervention. Additionally, no party shall contest the Court's jurisdiction to hear a dispute arising from the Decree nor challenge EEOC's ability to bring an action to enforce the terms of the Decree in this Court.



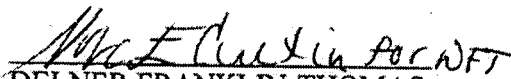
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**DURATION OF THE DECREE AND RETENTION OF JURISDICTION**

20. All provisions of this Decree shall be in effect for a period of three (3) years immediately following entry of the Decree.

21. Each party to this Decree shall bear its own expenses, costs and attorneys' fees.

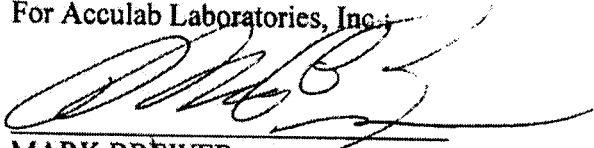
For the EQUAL EMPLOYMENT OPPORTUNITY COMMISSION:

  
DELNER FRANKLIN-THOMAS  
Regional Attorney  
Pennsylvania Bar No. 54205  
1 South Biscayne Blvd., Suite 2700  
Miami, Florida 33131

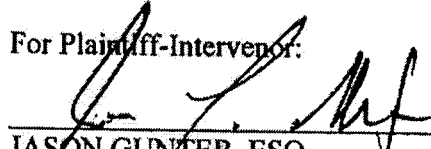
Nora E. Curtin  
Supervisory Trial Attorney  
New York Bar No. 2357697

Lauren G. Dreilinger  
Trial Attorney  
New York Bar No. 75028890

For Acculab Laboratories, Inc.:

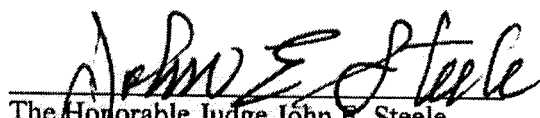
  
MARK BREWER  
General Counsel  
Florida Bar No. 503428  
1734 Northgate Blvd.  
Sarasota, Florida 34234

For Plaintiff-Intervenor:

  
JASON GUNTER, ESQ.  
Attorney for Plaintiff-Intervenor  
Florida Bar No. 0134694  
1617 Hendry Street  
Ft. Myers, Florida 33601

DATE: 6/12/06

SO ORDERED:

  
The Honorable Judge John E. Steele  
United States District Court Judge

**EXHIBIT A****NOTICE TO ALL ACCULAB LABORATORIES, INC. EMPLOYEES**

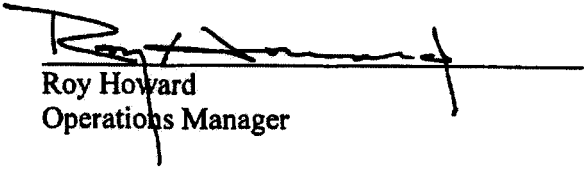
This Notice is being posted pursuant to a Consent Decree entered by the U.S. District Court in EEOC and Maus v. Acculab Laboratories, Inc., d/b/a Acculab, 2:04-cv-364-FtM-33SPC. Acculab Laboratories, Inc., a Nevada Corporation, has adopted a policy that prohibits discrimination against employees based on sex in violation of Title VII of the Civil Rights Act of 1964 ("Title VII"). Title VII protects individuals from employment discrimination because of their race, religion, color, national origin, and/or sex. Title VII also protects individuals from retaliation for having complained of an unlawful employment practice. Acculab Laboratories, Inc. will not condone employment discrimination of any kind as set forth in federal anti-discrimination laws, including, but not limited to, sexual harassment and retaliation.

Acculab Laboratories, Inc. will assure its employees that it supports Title VII and will not take any action against an individual because he/she has exercised his/her rights under the law to oppose discriminatory acts or to file charges with EEOC. Appropriate corrective action, up to and including termination, based upon the circumstances involved, shall be taken against any employee (including management personnel) found to have violated Acculab Laboratories, Inc.'s policy prohibiting discrimination.

EEOC enforces the federal laws against discrimination in employment on the basis of disability, race, color, religion, national origin, sex, and age. If you believe you have been discriminated against, you may contact EEOC at (305) 808-1740. EEOC charges no fees and has employees who speak languages other than English.

This Notice must remain posted for two (2) years from the date below and must not be altered, defaced or covered by any other material. Any questions about this Notice of compliance with its terms may be directed to: Acculab Laboratories, Inc. Settlement, c/o EEOC, 1 Biscayne Tower, 2 South Biscayne Blvd., Suite 2700, Miami, Florida 33131.

Date:



Roy Howard  
Operations Manager