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CHARLOTTE, N.C.

AUG 5 2003

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION

Clerk, U. S. Dist. Court  
W. Dist of N. C.

FILED  
U.S. DISTRICT COURT  
03 AUG -8 AM 11:48  
W. DIST. OF N.C.

EQUAL EMPLOYMENT )  
OPPORTUNITY COMMISSION, )  
Plaintiff, )  
 )  
and )  
 )  
DEBRA A. BENSON, )  
Plaintiff-Intervenor, )  
 )  
v. )  
 )  
BLUE MAX TRUCKING, INC., )  
Defendant. )  
\_\_\_\_\_ )

CIVIL ACTION NO. 3:02CV273-MU

CONSENT DECREE

The Equal Employment Opportunity Commission ("EEOC" or "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's Complaint alleges that Defendant Blue Max Trucking, Inc. ("Blue Max") discriminated against Debra A. Benson by subjecting her to a sexually hostile work environment. Debra A. Benson intervened in this action, also alleging Defendant Blue Max discriminated against her by subjecting her to a sexually hostile work environment. Intervenor Benson further alleged Defendant Blue Max discriminated against her by subjecting her to a racially hostile work environment and by discharging her.

The parties hereby stipulate to 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 17 below.

It is therefore ORDERED, ADJUDGED AND DECREED as follows:

1. Defendant shall not discriminate against or harass individuals on the basis of sex or race within the meaning of Title VII of the Civil Rights Act of 1964, and specifically shall not subject employees to unlawful sexual harassment or unlawful racial harassment.

2. Defendant 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 the foregoing statute.

3. Defendant shall pay Debra A. Benson the sum of Ten Thousand Dollars (\$10,000.00) in past lost earnings and the sum of Forty-Seven Thousand Five Hundred Dollars (\$47,500.00) as personal injury damages in this action, for a total payment of Fifty-Seven Thousand Five Hundred Dollars (\$57,500.00). Defendant shall make payment by issuing the following: (1) a check in the amount of Ten Thousand Dollars (\$10,000.00) payable to Debra A. Benson; and (2) a check in the amount of Forty-Seven Thousand Five Hundred Dollars (\$47,500.00) jointly payable to Debra A. Benson and Tamara W. Brooks, Esq. Payment shall be made within thirty (30) days of July 9, 2003. Defendant shall mail the checks to Tamara W. Brooks, Esq., 222 N. Sharon Amity Road, Charlotte, North Carolina 28211. Within ten (10) days after the checks have been sent to Ms. Brooks, Defendant shall mail to Mindy E. Weinstein, Regional Attorney, Equal Employment Opportunity Commission, 129 West Trade Street, Suite 400, Charlotte, NC 28202, a copy of each check and

proof of its delivery to Ms. Brooks.

4. Defendant shall pay the costs of the mediation in this case in accordance with the invoice to be provided by the mediator.

5. Defendant agrees to eliminate from the employment records of Debra A. Benson any and all documents and entries relating to the facts and circumstances which led to the filing of the EEOC charge of discrimination and the related events that occurred thereafter, including the filing of this lawsuit.

6. Defendant agrees to provide Debra A. Benson with a positive letter of reference signed by Defendant's President, a copy of which is attached hereto. In addition, if Defendant receives any inquiries regarding the employment of Ms. Benson, Defendant shall provide a positive reference for Ms. Benson, which shall recite the same information contained in the aforementioned letter.

7. Within 90 days of the entry of this decree by the Court, Defendant shall adopt, implement and distribute a formal, written anti-discrimination policy, which 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 and race discrimination in the workplace, including sexual harassment and racial harassment, and a procedure for complaining about discrimination. Defendant shall distribute to each current employee a copy of the policy within the aforementioned 90 day time period. During the term of this Decree, Defendant shall distribute the policy to all new employees at the time of hire.

8. During the term of this Decree, Defendant shall provide an annual training program on Title VII to all personnel. Said training program shall be a minimum of four (4) hours in length and shall be conducted by an individual who is not an employee of Defendant or any of its affiliates. If the program is to be conducted by someone other than Defendant's attorney of record herein, then

at least sixty (60) days prior to each program, Defendant shall provide the Commission with the name and qualifications of the individual(s) who will conduct the training program. At least fifteen (15) days prior to each program, Defendant shall provide the Commission with an agenda for the training program. The individual(s) conducting the training and the agenda for the training will be subject to the Commission's approval. Defendant's attorney of record herein is approved by the Commission as qualified to conduct the aforementioned training programs for Defendant.

Each 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 and race discrimination in the workplace, including sexual harassment and racial harassment. Each training program shall also cover Defendant's harassment policy and an explanation of the rights and responsibilities of employees and managers under the policy.

9. The first training program shall be completed within ninety (90) days after entry of the decree by the Court. Each subsequent training program shall be conducted at approximately one-year intervals. 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.

10. Defendants agree to include training for all employees on Title VII in new hire orientation and other appropriate forums, including Defendant's obligations under Title VII and employee rights under Title VII.

11. During the term of this Decree, Defendant shall conspicuously post the attached Employee Notice, marked Appendix A, hereby made a part of this Decree, in each place of business, in a place where it is visible to employees. If the Notice becomes defaced or unreadable, Defendant shall replace it by posting another copy of the Notice.

12. Defendant agrees to provide the Commission with semi-annual reports during the term of this Decree. The reports shall include the following information: the identities of all of the Defendant's employees who have complained of or reported sexual harassment, including by way of identification each individual's full name, home address, home telephone number, social security number, and gender; a statement of the individual's complaint; and a description of what action was taken in response to the individual's complaint. Defendant shall submit the first report to the Commission four (4) months after the date of entry of this Consent Decree and shall submit subsequent reports every six (6) months thereafter during the term of this Decree.

13. Defendant agrees that the Commission may review compliance with this Decree. As part of such review, the Commission, upon five days notice to the Defendant, may inspect the premises, interview employees and examine and copy documents.

14. If at any time during the term of this Decree, the Commission believes that Defendant is in violation of this Decree, the Commission shall give written notice of the alleged violation to Defendant. Defendant then shall have twenty-one (21) days in which to investigate and respond to the allegations. Thereafter, the parties shall have a period of twenty (20) 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.

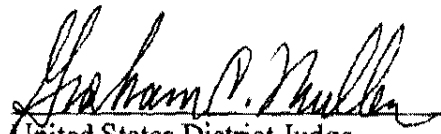
15. Except as otherwise provided herein, each party shall bear its own costs and fees.

16. The term of this Decree shall be for thirty (30) months from its entry by the Court.

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

Date

8 Aug 83


  
United States District Judge  
Western District of North Carolina


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

This the 23<sup>rd</sup> day of July 2003.

**EQUAL EMPLOYMENT  
OPPORTUNITY COMMISSION,  
Plaintiff**

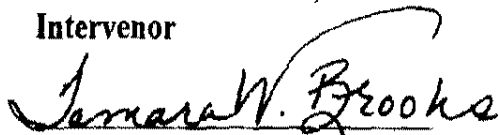
GWENDOLYN YOUNG REAMS  
Associate General Counsel

  
MINDY E. WEINSTEIN  
Regional Attorney

  
KARA GIBBON HADEN  
Senior Trial Attorney  
EQUAL EMPLOYMENT OPPORTUNITY  
COMMISSION  
Charlotte District Office  
129 West Trade Street, Suite 400  
Charlotte, North Carolina 28202  
Telephone: 704.344.6885  
Facsimile: 704.344.6870

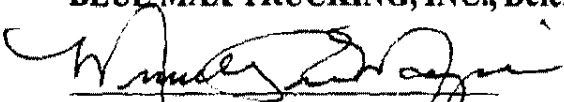
This the \_\_\_ day of July 2003.

**DEBRA A. BENSON, Plaintiff-  
Intervenor**

  
TAMARA W. BROOKS, ESQ.  
(NC Bar 24139)  
WIDIS & BROOKS, PLLC  
222 N. Sharon Amity Road  
Charlotte, North Carolina 28211  
Telephone: 704.365.0277  
Facsimile: 704.365.8734

This the 23<sup>rd</sup> day of July 2003.

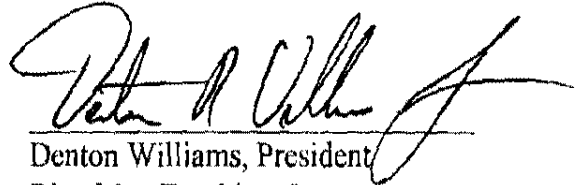
**BLUE MAX TRUCKING, INC., Defendant**

  
ROBERT C. DORTCH, ESQ.  
(NC Bar 10857)  
MICHELLE P. MASSINGALE, ESQ.  
(NC Bar 29628)  
SELLERS, HINSHAW, AYERS,  
DORTCH & LYONS, P.A.  
Cameron Brown Building  
301 S. McDowell Street, Suite 410  
Charlotte, North Carolina 28204  
Telephone: 704.377.5050  
Facsimile: 704.339.0172

TO WHOM IT MAY CONCERN:

Debra Benson was employed by Blue Max Trucking from October of 1999 to July of 2001. She was employed in the capacity of a dump truck driver. She did not have any accidents on the job while employed, was in compliance with all of the DOT requirements and consistently arrived to work on time. While employed at Blue Max Trucking, Ms. Benson got along with her co-workers and was an asset to the company.

Date: 7-22-03

A handwritten signature in black ink, appearing to read "Denton Williams", written over a horizontal line.

Denton Williams, President  
Blue Max Trucking, Inc.

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION**

**EQUAL EMPLOYMENT  
OPPORTUNITY COMMISSION,**  
Plaintiff,

v.

**BLUE MAX TRUCKING, INC.,**  
Defendant.

CIVIL ACTION NO. 3:02CV273-MU

**EMPLOYEE  
NOTICE**

1. This Notice is posted pursuant to a settlement between the U.S. Equal Employment Opportunity Commission ("EEOC") and Blue Max Trucking, Inc. in a case of discrimination based on gender. Specifically, the EEOC alleged that Blue Max Trucking subjected Debra A. Benson to a sexually hostile work environment, in violation of Title VII of the Civil Rights Act of 1964, as amended ("Title VII"). Blue Max Trucking, Inc. denied all of the EEOC's allegations, and the settlement entered into with the EEOC is not an admission of wrongdoing.
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. Federal law also 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. In settlement of this lawsuit, Blue Max Trucking, Inc. agreed to do the following: make a payment to Ms. Benson; adopt new formal, written anti-harassment/discrimination policies; and provide annual training regarding Blue Max Trucking's obligations under Title VII.
4. 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 arises when a workplace is permeated with sexually discriminatory intimidation, ridicule, and insult that is sufficiently severe or pervasive to alter the conditions of the victim's employment and create an abusive working environment. Sexual harassment may include, but is not limited to, sexual comments, jokes or gestures, requests for sexual favors, inappropriate touching, or sexual advances.
5. Blue Max Trucking, Inc. supports and will comply with such federal law in all respects. Specifically, Blue Max Trucking, Inc. confirms its policy of not subjecting employees to sexual harassment or a sexually hostile work environment. Blue Max Trucking also confirms its policy that it 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 EEOC.

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  
1801 L Street, N.W.  
Washington, DC 20507  
TEL: 1-800-669-4000



United States District Court  
for the  
Western District of North Carolina  
August 14, 2003

\* \* MAILING CERTIFICATE OF CLERK \* \*

Re: 3:02-cv-00273

True and correct copies of the attached were mailed by the clerk to the following:

Gwendolyn Young Reams, Esq.  
Equal Employment Opportunity Commission  
1801 L Street, N.W.  
7th Floor  
Washington, DC 20507

Kara Gibbon Haden, Esq.  
Equal Employment Opportunity Commission  
Charlotte District Office  
129 West Trade Street  
Suite 400  
Charlotte, NC 28202

Bobby C. Simpson, Esq.  
Equal Employment Opportunity Commission  
129 W. Trade St.  
Suite 400  
Charlotte, NC 28202-2799

Robert C. Dortch Jr., Esq.  
Sellers, Hinshaw, Ayers, Dortch & Lyons, P.A.  
301 So. McDowell St.  
Suite 410 Cameron-Brown Bldg.  
Charlotte, NC 28204-2686

Michelle Price Massingale, Esq.  
Sellers, Hinshaw, Ayers, Dortch & Lyons, P.A.  
301 So. McDowell St.  
Suite 410 Cameron-Brown Bldg.  
Charlotte, NC 28204-2686

Tamara W. Brooks, Esq.  
Widis & Brooks  
222 N. Sharon Amity Road  
Charlotte, NC 28211

cc:  
Judge ( )  
Magistrate Judge ( )  
U.S. Marshal ( )  
Probation ( )  
U.S. Attorney ( )  
Atty. for Deft. ( )  
Defendant ( )  
Warden ( )  
Bureau of Prisons ( )  
Court Reporter ( )  
Courtroom Deputy ( )  
Orig-Security ( )  
Bankruptcy Clerk's Ofc. ( )  
Other \_\_\_\_\_ ( )

Date: 8/14/03

Frank G. Johns Clerk  
By: [Signature]  
Deputy Clerk