

WY

IN THE UNITED STATES DISTRICT COURT
FOR THE
EASTERN DISTRICT OF PENNSYLVANIA

22

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,

Plaintiff,

v.

MID ATLANTIC MEDICAL SERVICES, INC.,
d/b/a MAMSI,

Defendant.

CIVIL ACTION NO. 03-2200

FILED

MAR 02 2004

MICHAEL E. KUNZ, Clerk
By Dep. Clerk

CONSENT DECREE

INTRODUCTION

A. This action was instituted by the United States Equal Employment Opportunity Commission ("the EEOC" or "the Commission") on April 8, 2003, against Mid-Atlantic Medical Services, Inc., d/b/a MAMSI ("MAMSI"). The EEOC alleged that MAMSI failed to reasonably accommodate the disability of Sandra DiLaura, in violation of the Americans with Disabilities Act of 1990, 42 U.S.C. §12101, *et seq.*, ("ADA"). The EEOC also alleged that MAMSI terminated Ms. DiLaura on September 6, 2000, based on her disability, in violation of the ADA.

B. This Consent Decree is entered into by the EEOC and Defendant, MAMSI. This Consent Decree shall be final and binding between the EEOC and Defendant, MAMSI, its directors, officers, agents, employees, successors or assigns and all persons in active concert or participation with it, (hereinafter collectively referred to as "Defendant" or "MAMSI").

C. The EEOC and Defendant, MAMSI, do hereby agree to the entry of this Consent Decree, which shall fully and finally resolve all claims which were raised by the EEOC in its Complaint in Civil Action No. 03-2200. This Consent Decree shall not constitute an adjudication of or finding on the merits of the case and shall not be construed as an admission by Defendant of any violation of the ADA.

CONSENT DECREE

Upon consent of the parties to this action, it is hereby ORDERED, ADJUDGED, and DECREED that:

NON-DISCRIMINATION AND NON-RETALIATION

1. This Court has jurisdiction over the parties and the subject matter of this action.
2. Defendant, MAMSI, is enjoined from engaging in any employment practice which constitutes unlawful discrimination under the ADA.
3. Defendant, MAMSI, is enjoined from engaging in any employment practices which retaliate in any manner against any person, including but not limited to, Sandra DiLaura, because of that person's opposition to any practice alleged or believed to be unlawful under the ADA, or because of the filing of a charge, the giving of testimony or assistance, or the participation in any manner in any investigation, hearing or proceeding under the ADA.
4. MAMSI shall not divulge, directly or indirectly, to any employer or potential employer of Sandra DiLaura, any of the facts or circumstances related to the charge of discrimination against MAMSI, or any of the events relating to Sandra DiLaura's participation in the litigation of this matter.
5. MAMSI shall comply fully with all provisions of the ADA. Nothing in this Consent Decree, either by inclusion or exclusion, shall be construed to limit the obligations of Defendant, MAMSI, under the ADA or the EEOC's authority to process or litigate any charge of discrimination which may be filed against Defendant in the future.

POSTING OF NOTICE

6. Within ten (10) business days after entry of this Decree, MAMSI shall post same-sized copies of the Notice attached as Exhibit 1 to this Decree on all bulletin boards usually used by MAMSI for communicating with employees at its Fort Washington, Pennsylvania location. The Notice shall remain posted for ninety (90) days from the date of entry of this Decree. Counsel for MAMSI shall provide a copy of the Notice, and an indication of the date and location of its posting, to the EEOC's Philadelphia District Office, attention, Mary M. Tiernan, Senior Trial Attorney, within ten (10) days of the posting. MAMSI shall take all reasonable steps to ensure that the posting

is not altered, defaced or covered by any other material. Should the posted copies become defaced, removed, marred, or otherwise illegible, Defendant agrees to immediately post a readable copy in the same manner as heretofore specified.

REPORTING

7. MAMSI shall provide one report to the EEOC two weeks prior to the expiration of this Consent Decree regarding: any internal ADA complaints asserted by any employee of MAMSI in Pennsylvania; the name of the complainant; the allegation of the complaint; and the action taken by Defendant in response to the complaint.

TRAINING

8. Within ninety (90) days of the docketing of this Consent Decree, MAMSI shall provide one training session to all of its managers and exempt Human Resources personnel working in Pennsylvania on an employee's rights and the employer's obligations under the ADA.

9. MAMSI shall certify to the EEOC in writing with five (5) business days after the training session required by Paragraph 8 above has occurred that the training has taken place and that the required personnel have attended. Such certification shall include: (i) the dates, location and duration of the training session; (ii) a copy of the registry of attendance, which shall include the name and position of each person in attendance.

10. MAMSI agrees to provide the EEOC with copies of all pamphlets, brochures, outlines or other written materials provided to the participants of the training session.

DISPUTE RESOLUTION

11. In the event that either party to this Decree believes that the other party has failed to comply with any provision(s) of the Decree, the complaining party shall notify the other party of the alleged non-compliance within ten (10) days of the alleged non-compliance and shall afford the alleged non-complying party ten (10) business days to remedy the non-compliance or to satisfy the complaining party that the alleged non-complying party has complied. If the alleged non-complying party has not remedied the alleged non-compliance or satisfied the complaining party that it has complied within ten (10) business days, the complaining party may apply to the Court for

appropriate relief.

MISCELLANEOUS PROVISIONS

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

13. The terms of this Decree are and shall be binding upon the present and future representatives, agents, directors, officers, assigns, and successors of MAMSI in their capacities as representatives, agents, directors and officers of MAMSI, and not in their individual capacities. This paragraph shall not be construed as placing any limit on remedies available to the Court in the event that any individual is found to be in contempt for a violation of this Decree.

14. This Consent Decree shall fully and finally resolve all claims which were raised by the EEOC in its Complaint in Civil Action No. 03-2200. This Consent Decree is not binding on Sandra DiLaura and shall not affect any claims asserted by Sandra DiLaura as alleged in her Complaint and First Amended Complaint against MAMSI.

15. This Consent Decree shall be filed in the United States District Court for the Eastern District of Pennsylvania and shall continue to be in effect for a period of six months. Any application by any party to modify or vacate this Consent Decree during such period shall be made by motion to the Court on no less than twenty (20) days notice to the other party.

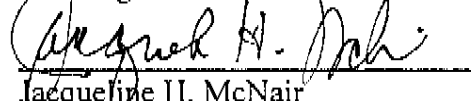
16. The Court retains jurisdiction over this case in order to enforce the terms of the Consent Decree.

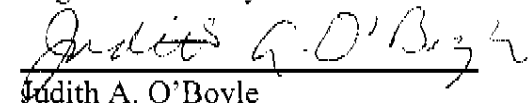
17. The Clerk of the District Court is hereby directed to send a file-stamped copy of this Consent Decree to counsel of record.

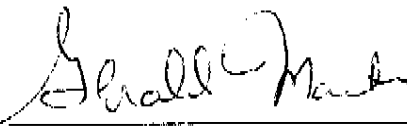
Eric S. Dreiband
General Counsel

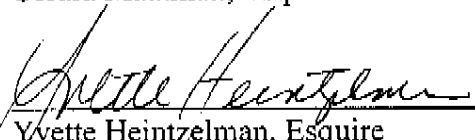
James L. Lee
Deputy General Counsel


Gwendolyn Young Reams
Associate General Counsel
U.S. EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION
1901 L Street, NW
Washington DC 20507


Jacqueline H. McNair
Regional Attorney


Judith A. O'Boyle
Supervisory Trial Attorney


Gerald Maatman, Esquire


Yvette Heintzelman, Esquire
Scyfarth Shaw
55 East Monroe Street
Suite 4200
Chicago, Ill. 60603
312-346-8000


Mary M. Tierman
Senior Trial Attorney
U.S. EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION
Philadelphia District Office
21 S. 5th Street, Suite 400
Philadelphia, PA 19106
215-440-2828

IT IS SO ORDERED:

except that TP 16 is limited to a maximum of 180 days from this date.

BY THE COURT:


WILLIAM H. YOHN, JR.
UNITED STATES DISTRICT JUDGE

DATE: 3/2/04

Handwritten notes:
KRM 3/2/04
TIERMAN
O'Boyle
McNair
Rey
Dreiband
Mogul
Radcliffe
Friedman
Maatman
Heintzelman

EXHIBIT 1

NOTICE TO ALL MAMSI EMPLOYEES

This Notice is being posted pursuant to a Consent Decree entered by the federal court in EEOC v. Mid Atlantic Medical Services, Inc., Civil Action Number 03-2200 (E.D.PA.), resolving a lawsuit filed by the Equal Employment Opportunity Commission ("EEOC") against Mid Atlantic Medical Services, Inc. ("MAMSI").

The Americans with Disabilities Act of 1990 ("the ADA") prohibits discrimination against employees and applicants for employment based on disability. The ADA also prohibits retaliation against employees or applicants who avail themselves of the rights under the ADA by engaging in protected activities, such as filing a charge of discrimination and/or testifying or participating in a Commission investigation.

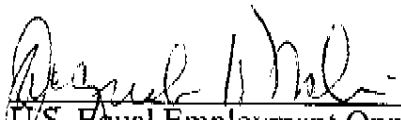
The EEOC is the federal agency which investigates charges of unlawful employment discrimination. The EEOC has the authority to bring lawsuits in federal court to enforce the ADA.

In its lawsuit, the EEOC alleged that MAMSI failed to accommodate the disability of an employee and terminated her based on her disability, in violation of the ADA. MAMSI denied these allegations. To resolve the case, MAMSI and the EEOC have entered in to a Consent Decree which provided, among other things, that: (1) MAMSI will not discriminate on the basis of disability; (2) MAMSI will not retaliate against any person because he or she opposed any practice made unlawful by the ADA, filed an ADA charge of discrimination, participated in any ADA proceeding, or asserted any rights under the Consent Decree; and (3) MAMSI will provide training regarding the ADA.

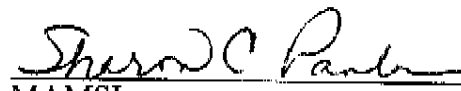
If you believe you have been discriminated against, you may contact the EEOC at (215) 440-2600. The EEOC charges no fees and has employees who speak languages other than English.

THIS IS AN OFFICIAL NOTICE AND MUST NOT BE DEFACED BY ANYONE

This Notice must remain posted for ninety (90) days from the date below and must not be altered, defaced or covered by any other material. Any questions about this Notice or compliance with its terms may be directed to the: Regional Attorney, EEOC Philadelphia District Office, 21 South 5th Street, Philadelphia, PA 19106.


U.S. Equal Employment Opportunity
Commission

DATED: 2/26/04


MAMSI

DATED: 2/4/04