

AUG 15 2003

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF ARKANSAS
PINE BLUFF DIVISION

AS JAMES W. McCORMACK, CLERK
By: [Signature]
DEP CLERK

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,

Plaintiff,

v.

FRED'S STORES OF TENNESSEE, INC.

Defendant.

CIVIL ACTION NO
5:02CV0153SWW

CONSENT DECREE

The Equal Employment Opportunity Commission (hereinafter referred to as the "EEOC") initiated the above-referenced Cause on April 26, 2002, against Fred's Stores of Tennessee, Inc. (the "Defendant") to enforce the provisions of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e et seq. (Title VII), and the Civil Rights Act of 1991, 42 U.S.C. §1981a. The EEOC alleged that the Defendant engaged in unlawful employment practices by subjecting Lasonia Beathea and other female employees, as a class, to sexual harassment caused by the inappropriate sexual actions, overtures, and behavior of Elroy Compton, one of Defendant's store managers, and that Ms. Beathea and other female employees, as a class, were either discharged or constructively discharged.

This Consent Decree does not constitute an admission by the Defendant of the allegations of the Complaint. Defendant specifically denies the allegations contained in the Complaint. However, all parties to this action desire to avoid the additional expense and delay in the litigation of this case.

In the event this proposed Consent Decree is not approved or does not become final, then it shall not be admissible in evidence in any subsequent proceeding in this action.

The Court has reviewed the terms of the proposed Consent Decree in light of the applicable laws and regulations, the statements and representations of counsel for all parties, and hereby approves the Consent Decree.

NOW, THEREFORE, the Court being fully advised in the premises, it is hereby ORDERED, ADJUDGED AND DECREED:

I. JURISDICTION

The United States District Court for the Eastern District of Arkansas, Pine Bluff Division, has jurisdiction over the parties and subject matter of this litigation.

II. SCOPE AND DURATION OF DECREE

A. This Consent Decree resolves all issues and claims arising out of Plaintiff's Complaint in this cause alleging unlawful employment policies and practices maintained by the Defendant and arising out of Charge No. 251-A1-0413 filed by Lasonia Beathea with the EEOC. This Consent Decree resolves the

claims of Lasonia Beathea, as well as the class of females who allege they were adversely affected by sexual harassment in Defendant's workplace as alleged in Charge No. 251-A1-0413 and in Plaintiff's Complaint. Notwithstanding any provisions contained in this Decree, this agreement shall not be considered in any manner to be dispositive of any charge now pending before any office of the EEOC other than Charge No. 251-A1-0413.

B. The provisions of this Consent Decree shall continue to be effective and binding upon the parties to this action for a period of two years from the date of the entry of this Decree except for Section VI.C. (neutral reference) which will be in effect permanently.

III. NON-DISCRIMINATION PROVISIONS

A. Defendant, its officers, agents, employees, and all persons acting in concert with the Defendant are hereby enjoined from engaging in any employment practice which has the purpose or effect of discriminating against any employee because of sex. Defendant is enjoined from permitting its employees to be subjected to a sexually hostile work environment.

B. Defendant, its officers, agents, employees, and all persons acting in concert with the Defendant are hereby enjoined from retaliating against any employee for opposing discriminatory employment practices made unlawful under Title VII of the Civil Rights Act of 1964, as amended.

C. Defendant agrees to train its supervisors and managers in its Lake Village Store in the requirements of Title VII of the Civil Rights Act of 1964, as amended, regarding the prevention of sexual harassment and retaliation.

D. Defendant will provide a copy of its sexual harassment policy to all of its employees at the Lake Village facility within ninety (90) days of the entry of this Decree to all employees who have not already been provided a copy.

E. Defendant agrees to conduct a training session on the prevention of sexual harassment for all the employees at its Lake Village facility. This training session will be conducted within ninety (90) days of the entry of this Decree. A list of the employees that attend the training session, a copy of the syllabus, and a copy of the training materials will be provided to EEOC within thirty (30) days of the training session.

F. Defendant agrees that all reports of sexual harassment in its Lake Village Store will immediately be conveyed to its Human Resources office in Memphis, Tennessee.

G. Defendant agrees that Mr. Elroy Compton is not eligible for rehire by Defendant.

IV. NON-RETALIATION PROVISION

Defendant, its officers, agents, employees, and all persons acting in concert with Defendant shall not take any retaliatory measure against any employee for opposing practices made unlawful

under Title VII of the Civil Rights Act of 1964, as amended, or for making a charge or complaint to the EEOC, testifying, assisting, or participating in any manner in any investigation, proceeding, or hearing under Title VII of the Civil Rights Act of 1964, as amended.

V. NOTICE

Defendant shall continue to conspicuously post at its Lake Village facility the notice (poster) required to be posted pursuant to Title VII of the Civil Rights Act of 1964, as amended. Furthermore, Defendant shall conspicuously post the notice at Appendix A of this Decree at its Lake Village facility for a one year period commencing within ten (10) days after entry of this Decree by the Court. The notice will be signed by Charles Vail, General Counsel.

VI. INDIVIDUAL RELIEF

A. Defendant shall not include any reference to the charge of discrimination filed by Lasonia Beathea or this litigation in the personnel files of Lasonia Beathea, Latoya Bowman, Cassandra Burke, April Garcia, Amanda Tolliver, or Kendria Palmer.

B. Defendant shall deliver to Lasonia Beathea, a business check made payable to "Lasonia Beathea and Terry Wynne" in the amount of \$25,000 at the following address within fourteen (14) days after entry of this Decree by the Court and upon execution by Lasonia Beathea and Mr. Wynne of an appropriate release:

Bridges, Young, Matthews & Drake, PLC
P.O. Box 7808
Pine Bluff, Arkansas 71611

C. Defendant shall deliver to Latoya Bowman, a business check made payable to "Latoya Bowman" in the amount of \$6,250 at the following address within fourteen (14) days after entry of this Decree by the Court and upon execution by Latoya Bowman of an appropriate release:

919 Cheryl Lane
Lake Village, Arkansas 71653

D. Defendant shall deliver to Cassandra Burke, a business check made payable to "Cassandra Burke and Terry Wynne" in the amount of \$8,000 at the following address within fourteen (14) days after entry of this Decree by the Court and upon execution by Cassandra Burke and Mr. Wynne of an appropriate release:

Bridges, Young, Matthews & Drake, PLC
P.O. Box 7808
Pine Bluff, Arkansas 71611

E. Defendant shall deliver to April Garcia, a business check made payable to "April Garcia" in the amount of \$6,250 at the following address within fourteen (14) days after entry of this Decree by the Court and upon execution by April Garcia of an appropriate release:

8701 I-30, Apt. 77
Little Rock, AR 72209

F. Defendant shall deliver to Amanda Tolliver, a business check made payable to "Amanda Tolliver and Terry Wynne" in the

amount of \$9,000 at the following address within fourteen (14) days after entry of this Decree by the Court and upon execution by Amanda Tolliver and Mr. Wynne of an appropriate release:

Bridges, Young, Matthews & Drake, PLC
P.O. Box 7808
Pine Bluff, Arkansas 71611

G. Defendant shall deliver to Kendria Palmer, a business check made payable to "Kendria Palmer" in the amount of \$8,000 at the following address within fourteen (14) days after entry of this Decree by the Court and upon execution by Kendria Palmer of an appropriate release:

150 Highway 144 West
Lake Village, Arkansas 71653

H. Defendant agrees to provide a neutral reference to any potential employers who request a job reference for Lasonia Beathea, Latoya Bowman, Cassandra Burke, April Garcia, Amanda Tolliver, and Kendria Palmer. Any such neutral reference shall be identical to the form demonstrated in Appendix B. No mention of Lasonia Beathea's charge of discrimination or this action will be made as part of the neutral reference.


VII. COSTS

Each of the parties shall bear its own costs, including attorneys' fees.

VIII. ENFORCEMENT

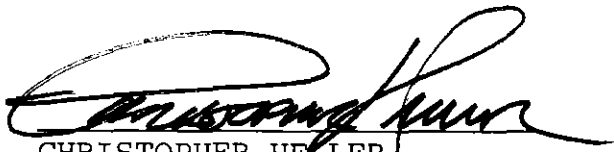
A. If at any time during the duration of this Consent Decree it is alleged that a violation of its terms has occurred, or a dispute arises over its interpretation, either party may seek by motion to enforce compliance with its terms: provided, however, that prior to seeking judicial relief to enforce or resolve any dispute over compliance with the terms of this Consent Decree, the party claiming any alleged failure to comply will notify the other party in writing of the alleged failure, will afford at least thirty (30) days within which to respond to and/or cure any alleged non-compliance, and will attempt in good faith to informally resolve those concerns.

SO ORDERED THIS 15th DAY OF August, 2003.


SUSAN WEBBER WRIGHT
UNITED STATES DISTRICT JUDGE

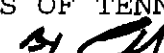
FILED
CLERK OF COURT
U.S. DISTRICT COURT
N.D. CALIF.
8/18/03 BY R Jones

FOR DEFENDANT:



CHRISTOPHER HELLER
Friday, Eldredge & Clark
2000 Regions Center
400 West Capitol
Little Rock, Arkansas 72201
501-370-1506



FRED'S STORES OF TENNESSEE, INC.
Charles Vail 

FOR PLAINTIFF INTERVENORS



TERRY WYNNE
Bridges, Young, Matthews, &
Drake PLC
315 East Eighth Ave.
Pine Bluff, Arkansas 71611
(870) 534-5532

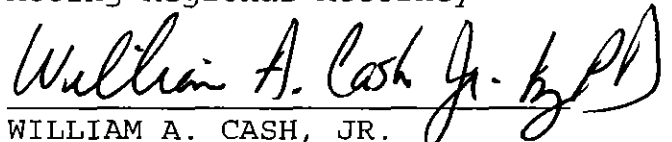
FOR THE COMMISSION:

JAMES LEE
Deputy General Counsel

GWENDOLYN YOUNG REAMS
Associate General Counsel

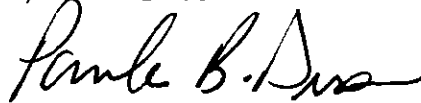


TERRY BECK
Acting Regional Attorney



WILLIAM A. CASH, JR.
Senior Trial Attorney
EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION

820 Louisiana, Ste. 200
Little Rock, AR 72201
501) 324-5539



PAMELA B. DIXON
Senior Trial Attorney
(501) 324-5065

APPENDIX A

NOTICE

NOTICE

1. Federal law prohibits an employer from taking retaliatory action against any employee for opposing practices made unlawful under Title VII of the Civil Rights Act of 1964, as amended.
2. Federal law prohibits sexual harassment in the workplace. Sexual harassment includes unwelcome sexual comments, sexual jokes and touching of a sexual nature. If you believe that you have been subjected to sexual harassment, you should immediately contact the Human Resources Department of Fred's in Memphis, Tennessee. The telephone number is _____.
3. FRED'S supports and will comply with such Federal law in all respects and will not take any action against employees because they have exercised their rights under the law by filing charges with the Equal Employment Opportunity Commission and/or testifying, assisting, or participating in any manner in any investigation, proceeding, or hearing under Title VII of the Civil Rights Act of 1964, as amended.

CHARLES VAIL
GENERAL COUNSEL

DATE

APPENDIX B

NEUTRAL REFERENCE

Dear _____,

This letter is in response to your inquiry regarding the employment of _____ while employed at FRED'S.

Ms. _____ worked at FRED'S from _____ through _____.

I am sure Ms. _____ can provide you with the details concerning her tenure at FRED'S. I hope this information is helpful and that it satisfactorily answers your inquiry.

Very truly yours,

FRED'S STORES OF TENNESSEE, INC.

F I L E C O P Y

loj

UNITED STATES DISTRICT COURT
Eastern District of Arkansas
U.S. Court House
600 West Capitol, Suite 402
Little Rock, Arkansas 72201-3325

August 18, 2003

* * MAILING CERTIFICATE OF CLERK * *

Re: 5:02-cv-00153.

True and correct copies of the attached were mailed by the clerk to the following: press, file, post

Terry F. Wynne, Esq.
Bridges, Young, Matthews & Drake
315 East Eighth Avenue
Post Office Box 7808
Pine Bluff, AR 71611-7808

Christopher J. Heller, Esq.
Friday, Eldredge & Clark
Regions Center
400 West Capitol Avenue
Suite 2000
Little Rock, AR 72201-3493

Pamela B. Dixon, Esq.
Equal Employment Opportunity Commission
820 South Louisiana
Suite 200
Little Rock, AR 72201

William A. Cash Jr., Esq.
Equal Employment Opportunity Commission
820 South Louisiana
Suite 200
Little Rock, AR 72201

Terry Beck, Esq.
Equal Employment Opportunity Commission
1407 Union Avenue
Suite 621
Memphis, TN 38104

Katharine W. Kores, Esq.
Equal Employment Opportunity Commission
1407 Union Avenue
Suite 621

Memphis, TN 38104

James W. McCormack, Clerk

Date: 8/18/03 _____

BY: Lorna Jones _____