

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,

Plaintiff,

and

MANUELA ANCHONDO,

Plaintiff-Intervenor

v.

MOORE & COWART
CONTRACTORS, INC.,

Defendant.

Civil Action No. EP-03-CA-0121-KC

CONSENT DECREE

The parties to this Consent Decree are the Plaintiff, United States Equal Employment Opportunity Commission ("EEOC"), Plaintiff-Intervenor, Manuela Anchondo, and Defendant, Moore & Cowart Contractors, Inc. ("Moore & Cowart"). This Consent Decree resolves the above-referenced Civil Action No. EP-03-CA-0121-KC. The EEOC initiated this lawsuit under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §§2000e, *et seq.* ("Title VII") and Title I of the Civil Rights Act of 1991, 42 U.S.C. § 1981a.

Plaintiff's Complaint in this lawsuit asserts unlawful employment practices on the basis of gender, and seeks to provide relief to Manuela Anchondo. Ms. Anchondo is female, and Plaintiff EEOC alleges, in the Complaint, that she was subjected to discrimination, in violation of Title VII, when she was sexually harassed and subjected to an illegally hostile working environment, because of her gender.

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Manuela Anchondo had previously filed suit against Defendant Moore & Cowart in state court raising various state law claims. After Ms. Anchondo's state court lawsuit was removed to federal court, it was consolidated with this lawsuit.

In Manuela Anchondo's Original Petition, in her state court lawsuit, she alleges that she was discharged in retaliation for her protests against what she reasonably believed to be sexual harassment, in violation of the Texas Commission on Human Rights Act, and that, as a result of the sexual harassment to which she was subjected, Defendant Moore & Cowart acted negligently towards her, invaded her privacy, intentionally inflicted emotional distress upon her, subjected her to battery, assaulted her, and acted grossly negligently towards her.

The EEOC, Manuela Anchondo, and Moore & Cowart wish to settle this Action, without the necessity of further litigation, pursuant to the terms delineated in this Decree.

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 filing of this action have been met. The Complaint and the Original Petition state claims on behalf of Manuela Anchondo which, if proved, would authorize this Court to grant relief against Moore & Cowart, pursuant to Title VII, and the Texas Commission on Human Rights Act.

2. This Consent Decree resolves all issues raised in EEOC's Complaint in this case, and all the issues raised in Manuela Anchondo's Original Petition. EEOC waives further litigation of all issues raised in the above-referenced Complaint and Manuela Anchondo waives further litigation of all issues raised in the above-referenced Original Petition. EEOC expressly reserves its right, however, to process and litigate any other charges which may now be pending

or may in the future be filed against Moore & Cowart.

3. The duration of this Consent Decree shall be three years from the date of its filing with the Court. This Court shall retain jurisdiction of this action during the period of this Consent Decree and may enter such other and further relief as it deems appropriate to ensure implementation and enforcement of its provisions. Any violation of the Consent Decree by Moore & Cowart, or its agents or assigns, shall toll the running of this three-year period as of the date of the violation. If the Court subsequently determines this Consent Decree was violated, the three-year period shall recommence and continue from the date of entry of an Order setting out such a violation or until such time as ordered by the Court. Should the Court find this Consent Decree was not violated, the three-year period shall recommence, retroactive to the date of the filing of the pleading alleging that a violation had occurred.

4. Moore & Cowart, in settlement of this dispute, shall pay to Manuela Anchondo the sum total of \$35,000. The payment to Ms. Anchondo shall be sent directly to counsel for Ms. Anchondo, Hector Phillips, of Hector Phillips, P.C., 1017 Montana Ave., El Paso, TX 79902. A copy of any settlement check and any accompanying transmittal documents shall be forwarded to the EEOC to the attention of Robert B. Harwin, Regional Attorney, 5410 Fredericksburg Road, Suite 200, San Antonio, TX 78229.

5. In providing employment references regarding Manuela Anchondo, Moore & Cowart shall make no mention of the filing of the Complaint, the Original Petition, or the underlying charges filed by Ms. Anchondo.

6. Moore & Cowart shall expunge the personnel files of Manuela Anchondo of any and all documents relating to the EEOC charge filed by Manuela Anchondo, Plaintiff's

Complaint, and/or Manuela Anchondo's Original Petition.

7. Moore & Cowart, its agents, officers, employees, servants, successors, and assigns, are enjoined, during the term of this Consent Decree, from discriminating against any employee on the basis of gender. The conduct enjoined includes allowing any of its employees to be subjected to a sexually hostile work environment.

8. Moore & Cowart, its agents, officers, employees, servants, successors, and assigns, are also enjoined, during the term of this Consent Decree, from retaliating in any manner whatsoever against Manuela Anchondo and/or any other past, present, or future employee, who opposes any employment practice which she reasonably believes to be unlawful, pursuant to Title VII, or who files a discrimination charge, gives testimony or assistance, or participates in any manner in any investigation, proceeding, hearing or action under Title VII.

9. Moore & Cowart, its agents, officers, employees, servants, successors, and assigns, shall provide its employees with a place of employment free of discrimination on the basis of gender, and free of retaliation.

10. Moore & Cowart, its agents, officers, employees, servants, successors, and assigns, shall post a notice regarding their practices, policies, and intent not to discriminate or retaliate against any employee in violation of Title VII. Such notice shall be as set forth in Exhibit "A", which is attached to this Consent Decree. A copy of Exhibit "A" shall be posted on all employee bulletin boards, and other areas where employees are likely to congregate. The notice shall be posted within 10 days of the filing date of the Consent Decree, and shall remain posted for the duration of this Consent Decree.

11. Moore & Cowart shall disseminate a notice to all employees re-affirming its

policy to comply with all EEOC requirements, re-affirming any policy manual provision regarding the Company policy not to discriminate on the basis of gender, or any other protected characteristic, and the Company policy not to retaliate against any employee who protests against discrimination, and including with said notice, a copy of Exhibit "A" requesting that each employee sign and return an acknowledgment that they have received said notice.

12. To further the ends of this Consent Decree, within ninety (90) days of the entry of this Decree, all of Moore & Cowart's staff shall participate in equal employment opportunity compliance training of between two and four hours. This training will be provided by Joseph L. Hood, Jr., William Cooksey, and/or a member of their respective law firms who is knowledgeable in employment discrimination law, and shall: (a) explain the law relating to discrimination in employment based on gender, including but not limited to, sexual harassment and sexually hostile working environments; (b) explain the law relating to retaliation under Title VII, including but not limited to, discharges; (c) explain the damaging effects of discrimination based on gender to victims, their families, their co-workers, and the workplace environment; and (d) explain the damaging effects of retaliation to victims, their families, their co-workers, and the workplace environment. In addition, the training shall teach non-discriminatory work and management techniques when interfacing or interacting with other employees, and the responsibilities of supervisory employees and human resources personnel to provide prompt and effective relief to individuals who complain of discrimination based on gender, or who complain of retaliation.

13. The EEOC shall have the right to ensure compliance with the terms of this Consent Decree and may: (a) conduct inspections of any of Moore & Cowart's facilities; (b)

interview employees of Moore & Cowart; and (c) examine and copy relevant documents.

14. The terms of this Consent Decree shall be binding upon the EEOC, Manuela Anchondo, and Moore & Cowart, their agents, officers, employees, servants, successors, and assigns, as to the issues resolved herein.

15. Each party shall bear its own costs, including attorney's fees incurred in this action.

16. The parties agree that there is no prevailing party in this action or proceeding.
The Clerk shall furnish a copy hereof to each attorney of record.

SO ORDERED.

Signed this 17th day of May, 2004.

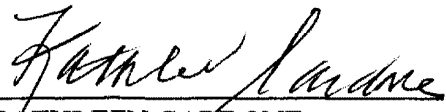

KATHLEEN CARDONE
UNITED STATES DISTRICT JUDGE

EXHIBIT A


NOTICE TO ALL EMPLOYEES

MOORE & COWART CONTRACTORS, INC. IS FIRMLY COMMITTED TO TREATING EMPLOYEES ACCORDING TO MERIT WITHOUT REGARD TO THEIR RACE, RELIGION, COLOR, NATIONAL ORIGIN, SEX, AGE, DISABILITY, OR THEIR HAVING ENGAGED IN ACTIVITY PROTECTED BY TITLE VII OF THE CIVIL RIGHTS ACT OF 1964, AS AMENDED. THIS POLICY APPLIES TO ALL EMPLOYMENT DECISIONS, AND ALL OTHER TERMS AND CONDITIONS OF EMPLOYMENT. MOORE & COWART WILL SPECIFICALLY NOT TOLERATE GENDER DISCRIMINATION, INCLUDING BUT NOT LIMITED TO, SEXUAL HARASSMENT AND/OR SEXUALLY HOSTILE WORK ENVIRONMENTS. MOORE & COWART WILL ALSO SPECIFICALLY NOT TOLERATE RETALIATION AGAINST ANY EMPLOYEE WHO PROTESTS AGAINST WHAT THEY REASONABLY BELIEVE TO BE GENDER DISCRIMINATION, SEXUAL HARASSMENT AND/OR A SEXUALLY HOSTILE WORK ENVIRONMENT.

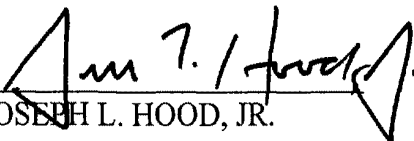
IF YOU BELIEVE YOU ARE BEING DISCRIMINATED AGAINST IN ANY TERM OR CONDITION OF YOUR EMPLOYMENT BECAUSE OF YOUR RACE, RELIGION, COLOR, SEX, AGE, DISABILITY, OR NATIONAL ORIGIN, INCLUDING BEING SEXUALLY HARASSED, DISCHARGED, OR THREATENED WITH DISCHARGE IN RETALIATION FOR YOUR OPPOSITION TO WHAT YOU PERCEIVE AS GENDER DISCRIMINATION, SEXUAL HARASSMENT AND/OR A SEXUALLY HOSTILE WORK ENVIRONMENT, YOU ARE ENCOURAGED TO SEEK ASSISTANCE FROM SUPERVISORY PERSONNEL, OR FROM THE UNITED STATES EQUAL EMPLOYMENT OPPORTUNITY COMMISSION, WHICH IS ALSO KNOWN AS THE EEOC, 300 E. MAIN, SUITE 500, EL PASO, TEXAS 79901, (915) 534-6700 OR 1-800-669-4000. NO RETALIATORY ACTION MAY BE TAKEN AGAINST YOU FOR SEEKING ASSISTANCE, FILING A CHARGE, OR COMMUNICATING WITH THE EEOC.

THE 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, 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 WORKPLACE.

Dated: 4/16/2004


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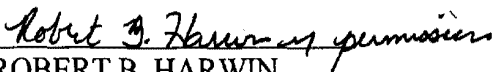
ATTORNEYS FOR DEFENDANT

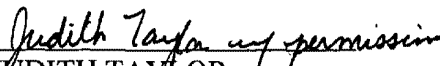
Respectfully submitted,

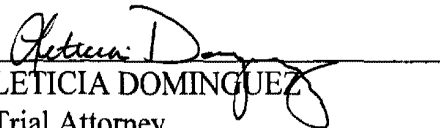
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