

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

FILED

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,

JAN 14 2004

Plaintiff,

R. S. Brisco
CLERK

vs.

No. CV02-1212 BB/LAM
and No. CV02-1213 BB/LAM

BELL GAS INC., CORTEZ GAS
COMPANY, AND ABC PROPANE,
INC., d/b/a-AWC PROPANE,

Defendants.

**CONSENT DECREE PERTAINING
TO CLAIMANT CHERI BRISCO ONLY**

This matter came before the Court upon the agreement of the parties to enter into a consent decree for the purposes of settling the claims of Cheri Brisco against the Defendants as asserted by the Plaintiff. The Court finds that the parties have agreed as follows:

1. The United States Equal Employment Opportunity Commission (the "Commission" or "EEOC") filed this action against Bell Gas Incorporated and Ballew Distributing of Roswell, New Mexico ("Defendants", "Employers", or "Ballew") to enforce Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §2000e et seq. ("Title VII"). In the Complaint, the Commission alleged that the Defendants discriminated against Cheri Brisco because of her sex, female. Specifically, the Commission alleged the Defendants sexually harassed Ms. Brisco by subjecting her to severe and/or pervasive sexual harassment by her Managers, which created a hostile work environment. The Commission further alleged that Defendants did not exercise reasonable care to prevent and promptly correct the sexual harassment.

2. The Defendants denied all allegations of the Plaintiff and affirmatively stated that Ms. Brisco was not subjected to a hostile work environment and that the Defendants exercised reasonable care to prevent and promptly correct any sexual harassment. Defendant Bell Gas also asserted that it is not Ms. Brisco's employer and is an improper defendant. Ballew Distributing further asserted that it is not subject to Title VII because it lacked the requisite number of employees.

3. The parties do not object to the jurisdiction of the Court over this action and waive their rights to a hearing and the Entry of Findings of Fact and Conclusions of Law with respect to Cheri Brisco's claim only.

4. The parties have agreed to settle any claims for injury or damages sustained by Ms. Brisco in connection with her employment with the Defendants. This includes all claims brought by the EEOC for the benefit of Ms. Brisco in this action as well as claims of any kind that were or could have been asserted by Ms. Brisco, including but not limited to those claims asserted in Brisco's EEOC charge No. 390 A11210.

5. The amount of the settlement is Twenty Thousand Dollars (\$20,000). Within five (5) days of the entry of the Consent Decree, the Defendants will pay the full settlement amount via business check. The check will be made payable to Cheri Brisco and will be mailed directly via certified mail to Ms. Brisco at the address provided by the EEOC. Within five days of issuance of the check, the Defendants will submit a copy of the check and related correspondence to the Regional Attorney, Equal Employment Opportunity Commission, Albuquerque District Office, 505 Marquette NW, Suite 900, Albuquerque, New Mexico 87102.

6. Settlement of Ms. Brisco's claims in this action shall not preclude the Commission from prosecuting the remaining claims in this action against the Defendants.

7. Settlement of Ms. Brisco's claims in this action shall not preclude Ms. Brisco from testifying or otherwise participating in the Commission's prosecution of this action with respect to Evelyn Silva's claims against the Defendants.

8. The Defendants will expunge from the personnel file of Cheri Brisco all references to the charge of discrimination file against Defendants.

9. In response to any employment inquiries or reference check concerning Cheri Brisco, the Defendants will provide only the dates of Ms. Brisco's employment, position held, job duties and salary.

10. Upon entry of this Consent Decree, this case, as it relates to Ms. Brisco's claims, shall be dismissed with prejudice. Further, Ms. Brisco releases and discharges Defendants with respect to any claims for damages of any kind related to her alleged employment with Defendants. Each party will bear its own attorneys fees and costs.

It is therefore, **ORDERED, ADJUDGED AND DECREED** as follows:

- A. The settlement between the parties, including Cheri Brisco, is hereby approved.
- B. Each party shall bear its own attorneys fees and costs.
- C. All claims by Plaintiff EEOC on behalf of Cheri Brisco are hereby dismissed with prejudice.

ENTERED AND ORDERED this _____ day of _____, 2003.

BY THE COURT


JAMES A. PARKER
Chief District Judge

APPROVED AND CONSENTED TO:

HERRERA, LONG, POUND & KOMER, P.A.
Attorneys for Defendants

*Telephonic approval
on 01-9-05*

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Cheri Brisco 1-7-04
CHERI BRISCO
Claimant