

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION CIVIL ACTION NO. C06-5492-RBL

[PROPOSED] CONSENT DECREE

Plaintiff,
v.

HOWARD S. WRIGHT CONSTRUCTION
CO.

Defendant.

I. INTRODUCTION

1. This action originated when Cecil Cheek a filed a charge of discrimination with the Equal Employment Opportunity Commission ("EEOC" or "Commission"). Mr. Cheeka alleged that Howard S. Wright Construction Co. ("HSWCC" or "Defendant" or "the Company") discriminated against him based on his age (then 60 years old), in violation of the Age Discrimination in Employment Act ("ADEA") when he was terminated by HS WCC in December 2004.

2. On May 15, 2006, the EEOC issued a letter of determination with a finding of reasonable cause to believe that HSWCC violated the ADEA. Thereafter, EEOC attempted to conciliate the charge and conciliation was unsuccessful.

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1 3. The Commission filed its Com plaint on August 28, 2006, i n the United States
2 District Court for the Western District of W ashington at Tacoma. The Com plaint alleges that
3 HSWCC discharged Mr. Cheeka in violation of the ADEA.

4 4. The parties want to conclude fully and finally all claims arising out of the EEOC's
5 Complaint and Mr. Cheeka's charge of disc rimination filed with EEOC. The EEOC and
6 HSWCC enter in to this Consent Decree to further the objectives of equal em ployment
7 opportunity as set forth in the ADEA.

8 II. NON-ADMISSION OF LIABILITY AND NON-DETERMINATION BY THE COURT

9 5. This Consent Decree is not an adju dication or finding on the m erits of this case
10 and shall not be construed as an admission by HSWCC of a violation of the ADEA.

11 III. SETTLEMENT SCOPE

12 6. This Consent Decree is the f inal and com plete resolution of all alleg ations of
13 unlawful employment practices contained in Mr. Cheeka's disc rimination charge, in the EEOC's
14 administrative determination, and in the Com plaint filed herein, including all claim s by the
15 parties for attorney fees and costs.

16 IV. MONETARY RELIEF

17 7. HSWCC agrees to (a) pay Mr. Cheeka \$6,560.40, which amount is characterized
18 as wages from which lawful deductions will be made and on which amount HSWCC will pay
19 lawfully required taxes, (b) to make benefit contributions on Mr. Cheeka's behalf totaling
20 \$2,928.20, and (c) to pay Mr. Cheeka \$9,488.60, which is characterized as liquidated damages.

21 V. AFFIRMATIVE AND OTHER RELIEF

22 A. General Provisions

23 8. HSWCC, its officers, agents, and employees will not engage in practices which
24 unlawfully discriminate against applicants and/or employees on the basis of age. In recognition
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1 of its obligations under the ADEA, HSWCC will institute the policies and practices set forth
2 below.

3 B. Anti-Discrimination Policies and Procedures

4 9. Defendant shall carry out anti-discrimination policies, procedures and training for
5 management personnel, supervisors, including foremen, and staff employees. The affirmative
6 relief requirements outlined throughout this Consent Decree are limited to the State of
7 Washington.

8 10. HSWCC will submit an equal employment opportunity (“EEO”) policy that
9 prohibits discrimination against applicants and/or employees on the basis of age with respect to
10 any term, condition or privilege of employment, and addresses HSWCC’s obligation to provide a
11 discrimination-free work environment for its employees. Not later than sixty (60) days after
12 entry of this Consent Decree, HSWCC will distribute a written copy of its EEO policy to all its
13 employees, both management and non-management, in the State of Washington.

14 C. Equal Employment Opportunity Training

15 11. HSWCC will provide an annual EEO training seminar to all of its managers,
16 supervisors, including foremen, and staff employees. This anti-discrimination training will
17 include, at a minimum, a discussion of federal law prohibiting employment discrimination,
18 including the ADEA, and a review of HSWCC’s EEO policies. The training will be aimed at
19 helping attendees understand how to define and identify employment discrimination, and provide
20 information as to avenues of addressing suspected employment discrimination.

21 12. Not later than One hundred and twenty (120) days after entry of this Consent
22 Decree, HSWCC will provide the EEO training noted in Paragraph 11 to all of its managers and
23 supervisors, including foremen and those responsible for hiring and discharge decisions.

24 13. Not later than one hundred and eighty days (180) after entry of this Consent
25 Decree, HSWCC will provide the EEO training noted in Paragraph 11 to staff employees

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1 employed at the time the EEO training seminar is scheduled. Thereafter, HSWCC will provide
2 an annual EEO training seminar(s) for managers, supervisors, including foremen, and staff
3 employees in the State of Washington during the duration of the Consent Decree.

4 14. For the duration of this Consent Decree, HSWCC will notify the EEOC of the
5 completion of the training seminars and will specify the names and job titles of the managers,
6 supervisors and employees who participated in and completed the training. This information will
7 be provided as part of the annual report HSWCC submits to the EEOC.

8 D. Non-Disclosure of Information

9 15. HSWCC will not disclose any information or make reference to any charge of
10 discrimination or this lawsuit in responding to reference requests concerning Mr. Cheeka.

11 E. Policies Designed to Promote Accountability

12 16. HSWCC shall impose discipline, up to and including termination of employment,
13 upon any supervisor or manager who discriminates against any applicant and/or employee on the
14 basis of age, or who retaliates against any person who complains about or participates in any
15 investigation or proceeding concerning any allegation of age based discrimination. HSWCC
16 shall communicate this policy to all of its managers and supervisors, including foremen.

17 17. HSWCC shall continue to advise all managers and supervisors of the duty to
18 ensure compliance with anti-discrimination laws and the Company's EEO policy. To the extent
19 HSWCC conducts performance reviews, the Company will hold managers and supervisors,
20 including foremen, accountable for EEO enforcement and compliance.

21 F. Reporting

22 18. HSWCC will report to the EEOC for a period of two (2) years. The reports shall
23 be in writing and submitted on an annual basis during the two year reporting period. The
24 reporting period will run from the date of the entry of this Consent Decree by the United States
25 District Court for the Western District of Washington.

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1 19. These annual reports shall contain the following information and attachments:

2 a. Certification that HSWCC has:

- 3 1. Continued to maintain its written EEO policies and procedures and
4 annually distributed copies of its EEO policy to all current and newly
5 hired employees and as described in Paragraph 10;
6 2. Complied with the training provisions enumerated in this Consent Decree,
7 as provided in Paragraphs 11-14;
8 4. Continued to promote policies and procedures to promote EEO
9 accountability by managers and supervisors, as required by Paragraph 16-
10 17.
11 5. Complied with all other provisions of this Consent Decree.

12 b. Copies of the following documents will be included with each annual report
13 submitted to the Seattle office of the EEOC:

- 14 1. A copy of the Company's EEO policy and procedures developed and
15 implemented in accordance with the provisions of this Consent Decree;
16 2. Copies of the EEO training materials utilized during the applicable
17 reporting period;
18 3. A sign-in sheet or list of the HSWCC names and job titles of the
19 managers, supervisors and employees who completed EEO training and
20 the dates the training was conducted during the previous reporting period.

21 20. If applicable, HSWCC will submit a statement with its report to the EEOC
22 specifying the areas of noncompliance, the reason for the noncompliance, and the steps that will
23 be taken to bring HSWCC into compliance.
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1 G. Posting

2 21. HSWCC will post a Notice to All E mployees. This Notice is attached as Exhibit
3 1 to this Consent Decree. The Notice shall be posted on a centrally located bulletin board at all
4 HSWCC facilities for six months, which will run from the date of the entry of this Consent
5 Decree by the United States District Court for the Western District of Washington.

6 VI. ENFORCEMENT

7 22. If the EEOC determ ines that HSWCC has not complied with the term s of this
8 Consent Decree, the EEOC will provide written notification of the alleged breach to HSWCC.
9 The EEOC will not petition the Court for enforcement of this Consent Decree for at least thirty
10 (30) days after providing written notification of the alleged breach. The 30-day period following
11 the written notice shall be used by the EEOC a nd HSWCC for good faith e fforts to resolve the
12 dispute.

13 VII. RETENTION OF JURISDICTION

14 23. The United States District Court for th e Western District of W ashington shall
15 retain jurisdiction over this matter for the duration of this Consent Decree.

16 VIII. DURATION AND TERMINATION

17 24. This Consent Decree shall be in effect fo r two (2) years from the date of entry of
18 the Decree. If the EEOC petiti ons the Court for breach of this Consent Decree, and the Court
19 finds HSWCC to be in violation of the terms of the Consent Decree, the Court m ay extend the
20 duration of this Consent Decree.

21 Dated this 20th day of April, 2007.

22
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25 U.S. EQUAL EMPLOYMENT
26 OPPORTUNITY COMMISSION
27 SAN FRANCISCO DISTRICT OFFICE

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1 EXHIBIT 1

2 NOTICE TO ALL EMPLOYEES

3 This notice is being posted pursuant to an agreement between Howard S. Wright Construction
4 Co. ("HSWCC") and the U.S. Equal Employment Opportunity Commission ("EEOC"), entered
5 as the result of a resolution of a lawsuit in the United States District Court, EEOC v. Howard S.
6 Wright Construction Company, CIVIL ACTION NO. 03-5492-RBL.

7 Title VII of the Civil Rights Act of 1964, as amended, the Age Discrimination in
8 Employment Act of 1967, the Equal Pay Act of 1963, and the Americans with Disabilities Act of
9 1990 are enforced by the EEOC and require the following:

10 That there be no discrimination against any employee or applicant for
11 employment because of the employee's race, sex, color, religion, national origin,
12 age (40 and above), or disability with respect to hiring, firing, compensation, or
13 other terms, conditions or privileges of employment.

14 It is an unlawful employment practice for an employer to retaliate against any
15 employees or applicants for employment because they have opposed a practice or
16 because they have made a charge, testified, assisted, or participated in any manner
17 in an investigation, proceeding, or hearing under these statutes.

18 HSWCC has posted this notice because the company supports and will comply
19 with these federal laws in all respects. HSWCC has instituted a training program to train
20 its managers, supervisors and employees regarding the requirements of the above
21 statutes.
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