

UNITED STATES DISTRICT COURT
DISTRICT OF KANSAS

EQUAL EMPLOYMENT OPPORTUNITY)	
COMMISSION)	
)	
Plaintiff,)	
And)	
)	Case No: 03-2489-KHV
HOLLY DAWSON,)	
)	
Plaintiff/Intervenor,)	
)	
Vs.)	
)	
GMRI, INC. d/b/a Red Lobster,)	
)	
Defendant.)	

CONSENT DECREE

Plaintiff, Equal Employment Opportunity Commission (hereinafter the "Commission"), has instituted this action alleging that Defendant, GMRI, Inc. d/b/a Red Lobster, violated Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. Section 2000e et seq. (hereinafter "Title VII") by sexually harassing and constructively discharging Holly Dawson because of her sex. Holly Dawson has intervened in this lawsuit, alleging violations of Title VII. For purposes of settlement and compromise only, the parties have advised the Court that they wish to resolve the instant controversy without the expense, delay, and burden of further litigation;

THEREFORE, it is the finding of this Court, made on the pleadings and on the record as a whole and upon agreement of the parties, that: (i) this Court has jurisdiction over the parties to and the subject matter of this action, (ii) the requirements of Title VII will be carried out by the implementation of this Decree, (iii) this Decree is intended to

and does resolve all matters in controversy in this lawsuit among the parties, and (iv) the terms of this Decree constitute a fair and equitable settlement of all issues in this lawsuit.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED as follows:

I. General Provisions

1. This Decree, being entered with the consent of the parties for purposes of settlement, shall not constitute an adjudication on the merits of this lawsuit and shall not be construed as an admission by Defendant of any violation of Title VII or any executive order, law, rule or regulation dealing with or in connection with sex discrimination in employment.

2. Defendant shall not discriminate or retaliate against any person because he or she has opposed any practices alleged in this action as unlawful under Title VII, has participated in an investigation conducted under Title VII with respect to this complaint, or because he or she has participated in this lawsuit or has benefited in any way as a result of this Consent Decree.

II. Relief for Charging Party

3. Within fifteen (15) days of the entry of this Decree, Defendant shall pay a total of \$60,0000 as settlement for all claims, including for alleged lost wages, compensatory damages, costs, and attorneys' fees. Payment shall be made as follows:

- a. A check made payable to Holly Dawson in the gross amount of \$17,850.80 for compensatory damages;
- b. A check made payable to Holly Dawson in the gross amount of \$1,000, as and for back pay, less the employee's share of any

applicable deductions for FICA, Medicare, and federal and state income tax withholdings;

- c. A check made payable to Davis, Ketchmark, & McCreight in the gross amount of \$41,149.20 for attorney fees and costs.

4. Within thirty (30) days of the entry of this Decree, Defendant will prepare a letter for Holly Dawson in the form shown in Exhibit A on appropriate GMRI, Inc. d/b/a Red Lobster letterhead, and will make a signed copy of the resulting letter part of the permanent employment records of Holly Dawson. Moreover, Defendant will send the original signed Exhibit A to Michael Ketchmark, attorney for Holly Dawson. In the case of any inquiries by a prospective employer regarding Holly Dawson, Defendant will limit its response to the information contained in this letter, which shall be available to the prospective employer and a copy provided, if requested.

III. Training

5. Within forty-five (45) days after the Consent Decree is approved by the Court, Defendant shall provide mandatory EEO training for (1) all managerial employees at its facilities the Overland Park, Kansas, Metcalf Avenue and Kansas City, Missouri, Bannister Road facilities, (2) the Directors of Operations responsible for the Overland Park, Kansas, Metcalf Avenue and Kansas City, Missouri, Bannister Road facilities, and (3) the Crew Relations Representatives with primary responsibility for responding to calls made to the Crew Relations 800 number from employees working at Overland Park, Kansas, Metcalf Avenue, and Kansas City, Missouri, Bannister Road facilities. The

content of this training shall include sexual harassment, sex discrimination, and retaliation under Title VII of the Civil Rights Act. This training shall be presented by an outside, third-party consultant who is approved by the Regional Attorney of the EEOC's St. Louis District Office. The training shall include information regarding Title VII's prohibition against the sexual harassment of employees, and shall be at least three (3) hours in duration. Defendant shall submit to the Regional Attorney the names and qualifications of the designated trainers, along with a draft of the training curriculum and materials to be distributed at the training, sufficiently in advance of the training to allow for Commission comment and discussion. The form of the training given may be given by live presentation or by videotape.

6. In the event that the proposed training is not acceptable to the EEOC, the parties will confer in good faith and attempt to reach an agreement no later than fifteen (15) days after receiving the EEOC's objections. In the event that the parties are unable to reach an agreement, they shall submit their dispute to a neutral and mutually agreeable third party for mediation before pursuing remedies with the court. Defendant agrees that, should this dispute be referred to a third party for mediation as described above, Defendant and the EEOC shall split evenly all costs, if any, related thereto. Once the EEOC approves of the contents of the training and the trainers, the EEOC will be notified at least five (5) days before the training occurs. This notification shall contain the training date, time, and location. The EEOC may observe some or all of the Defendant's training to ascertain the trainer's effectiveness. This training shall be completed no later than one year from the date of the Court's approval of this Consent Decree. At the

conclusion of all training, a certificate or other proof of course completion by all employees shall be provided to the EEOC.

7. Within sixty (60) days of providing any EEO training pursuant to this section, Defendant shall send to the EEOC's Regional Attorney in its St. Louis Office a report describing the training and listing the names, addresses, and phone numbers of all Defendant's employees who were trainees, and the names, business addresses and phone numbers of all trainers.

IV. Posting and Policies

8. Defendant shall post and cause to remain posted copies of the notice attached hereto as Exhibit B in locations publicly visible to all employees and applicants in its Overland Park, Kansas, Metcalf Avenue and Kansas City, Missouri Bannister Road facilities for a period of one (1) year starting from the date of entry of this Decree.

9. Within sixty (60) days of the entry of this Decree, Defendant shall cause the policy attached hereto as Exhibit C to be signed by and distributed to every managerial employee working at the Overland Park, Kansas, Metcalf Avenue and Kansas City, Missouri, Bannister Road facilities. Defendant shall also cause all of the aforementioned officials to sign the statement attached hereto as Exhibit D to indicate that they have received and read the policy.

V. Reporting, Record-keeping, and Access

10. Within forty-five (45) days of the entry of this Decree, Defendant shall prepare and submit to the EEOC's Regional Attorney in its St. Louis District Office a letter indicating as follows:

- a. that the notice (Exhibit B) has been posted as required by Paragraph 8, above,
- b. that Exhibit C has been distributed as required by Paragraph 9, above, and
- c. that the training required by Section III has been completed.

The signed copies of Exhibits A, B, C, and D shall be enclosed with the letter.

11. During the effective period of this Decree, Defendant shall, every six (6) months, provide written notification to the EEOC's Regional Attorney in its St. Louis District Office of any internal complaint of sexual harassment made by any employee of its Overland Park, Kansas, Metcalf Avenue and Kansas City, Missouri, Bannister Road facilities, including the name(s) of the employee(s), a description of the investigation of the complaint(s), the finding of the investigation and a description of action taken, or resolution of the complaint(s). In the event there are no complaints of sexual harassment made by any employee of its Red Lobster restaurants during any six (6) month reporting period, Defendant shall provide written notification to the EEOC's Regional Attorney in its St. Louis District Office that no such complaints have been made.

12. For the first report described in Paragraph 11 above, the reporting period shall begin with the date of entry of this Decree and end with the date of the report. For succeeding reports, the reporting period shall begin with the date of the last report and end with the date of the current report.

13. During the term of this Decree, Defendant shall allow representatives of the Commission to review Defendant's compliance with this Decree by inspecting and photocopying relevant documents and records (i.e., non-privileged documents from (1)

personnel files of persons complaining of alleged harassment; (2) personnel files of accused harassers, and (3) files generated during the course of an investigation into a harassment complaint) interviewing employees and management officials on their premises, and inspecting their premises. Such review of compliance shall be initiated by written notice to the Defendant's attorney of record at least seven (7) business days in advance of any inspection of Defendant's documents or premises. Any such compliance review will be conducted in a manner not to unduly interfere with Red Lobster's operations and shall take into account things like, but not limited to, peak volume hours. After the first 12 months of this Decree, any inspections will be done only and specifically in response to information provided in notifications provided to the EEOC pursuant to Paragraph 11 above.

VI. Term and Effect of Decree

14. By entering into this Decree, the parties do not intend to resolve any charges of discrimination before the Commission other than those of Holly Dawson, charge number 281A200983. The Commission warrants that it is not aware of any other charges filed by Holly Dawson against GMRI, Inc. or its affiliates other than the charge identified above.

15. This Decree shall be binding upon the parties hereto, their successors and assigns. Defendant shall affirmatively notify any purchasers of the obligations of this Consent Decree prior to any sale which may take place.

16. This Decree shall be for a period of two years and can only be extended for good cause shown. During the Decree's term the Court shall retain jurisdiction of this cause for purposes of compliance.

17. Each party shall bear its own costs.

DATE:

October 1, 2004

s/ Kathryn H. Vratil
U.S. DISTRICT JUDGE

BY CONSENT:

ATTORNEYS FOR PLAINTIFF EEOC

/s/Robert G. Johnson
ROBERT G. JOHNSON
Regional Attorney

/s/Barbara A. Seely
BARBARA A. SEELY
Supervisor Trial Attorney

/s/Jan Shelly
JAN SHELLEY
Senior Trial Attorney
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ATTORNEYS FOR DEFENDANT GMRI

/s/ Donald L. Prophete

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ATTORNEYS FOR PLAINTIFF-INTERVENOR HOLLY DAWSON

/s/ Michael S. Ketchmark

MICHAEL S. KETCHMARK

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Kansas City, MO 64108

UNITED STATES DISTRICT COURT

DISTRICT OF KANSAS

EXHIBIT A

LETTER OF REFERENCE

GMRI, Inc. Letterhead

To Whom it May Concern:

Holly Dawson was employed at a Red Lobster Restaurant in Kansas City, Kansas in the position of server between June 2001 and April 2002. Her job performance was consistently acceptable, her attendance was regular, and she is eligible for rehire.

Sincerely,

Site Manager

EXHIBIT B

NOTICE TO EMPLOYEES

Federal law prohibits discrimination against any employee or applicant for employment because of the individual's race, national origin, color, religion, sex, or age (forty and over) with respect to hiring, promotion, firing, compensation, or other terms, conditions or privileges of employment. It also prohibits retaliation against employees because they have opposed practices they believe discriminate on the basis of race, national origin, color, religion, sex, or age (forty and over) or because they have filed charges with the EEOC or participated in or cooperated with an EEOC investigation.

In particular, Federal law prohibits harassment of employees on the basis of their sex. GMRI, Inc. and Red Lobster support 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. GMRI, Inc. and Red Lobster will not tolerate harassment of employees based upon sex. Specifically, GMRI, Inc. and Red Lobster will not tolerate language that is demeaning to persons of a particular sex, inappropriate touching, sexual jokes and comments, and unwelcome advances toward persons of a particular sex.

Employees should feel free to report instances of prohibited harassment to any management official at any time. In the event the management official is engaged in the harassment, GMRI, Inc. and Red Lobster provide additional avenues for the employees to use to report instances of sexual harassment. GMRI, Inc. and Red Lobster have established policies and procedures to promptly investigate any such reports and to protect the person making the reports from retaliation.

Employees are also free to make complaints about sexual harassment or about other employment discrimination to the Office of the Regional Attorney, United States Equal Employment Opportunity Commission, Robert A. Young Building, 1222 Spruce Street, Room 8.100, St. Louis, MO 63103, (Attention: Jan Shelly, Senior Trial Attorney) or by telephone at (314)539-7918.

V.P. HUMAN RESOURCES

DATE

EXHIBIT C

POLICY ON HARASSMENT

Pursuant to Title VII of the Civil Rights Act of 1964, as amended, it is unlawful for an employer to subject any employee to acts of harassment based upon the employee's sex, race, color, religion or national origin, or to permit or encourage a work environment in which such conduct occurs.

Sexual harassment is defined as any unwelcome sexual advance, requests for sexual favors, or other verbal or physical conduct of a sexual nature where any one of the three criteria below are met:

- (1) Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
- (2) Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
- (3) Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive work environment.

Harassment based upon sex, race, color, religion or national origin includes any verbal or other conduct that demeans, insults or intimidates an employee or a group of employees because of their sex, race, color, religion or national origin. Prohibited conduct includes, but is not limited to jokes, labels, names, or stories offensive to a particular group of persons.

It is the policy of GMRI, Inc. and Red Lobster to prohibit the harassment described above.

All persons, including all managers, who engage in such conduct, shall be discharged.

Employees also should be aware of the following:

(1) That the harassment described above is unlawful and such conduct will not be tolerated or condoned by this company;

(2) That persons subjected to such harassment may complain to anyone in management and that within 10 (ten) calendar days management shall conduct a full investigation, report back to the complaining individual, and take appropriate action against an offending party;

(3) Every employee has a right to file a charge alleging sexual harassment with the Equal Employment Opportunity Commission, Robert A. Young Building, 1222 Spruce Street, Room 8.100, St. Louis, MO 63103; and

(4) Any employee who files a sexual harassment complaint shall not be fired or otherwise harmed because he or she filed a complaint.

V.P. HUMAN RESOURCES
GMRI, Inc.

EXHIBIT D

The undersigned managers employed by GMRI, Inc., certify that they have received a copy of their employer's policies relating to sex discrimination, and that they have read this policy by the date indicated.

[illegible]

