

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

EQUAL EMPLOYMENT OPPORTUNITY )  
COMMISSION, )  
 )  
Plaintiff, )  
 ) CIV- 06-0496 JH/WDS  
v. )  
 )  
VICTORY ROYAL EXPRESS, INC., )  
 ) **CONSENT DECREE**  
 )  
Defendant. )  
\_\_\_\_\_ )

The United States Equal Employment Opportunity Commission (the “Commission” or “EEOC”) filed this action against Victory Royal Express, Inc. (“Defendant”), to enforce Title VII of the Civil Rights Act of 1964, as amended by the Pregnancy Discrimination Act of 1978 and the Civil Rights Act of 1991, 42 U.S.C. § 1981a. In the Complaint, the Commission alleged Defendant imposed a mandatory leave of absence on Melissa M. Roybal (“Charging Party”) because of her pregnancy, effectively discharging Ms. Roybal due to sex, female, and pregnancy.

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. This decree does not constitute an adjudication on the merits of the allegations of the complaint. Defendant denies Plaintiff’s allegations.

It is hereby **ORDERED, ADJUDGED AND DECREED:**

1. This decree resolves all claims asserted by the Commission against Defendant and

all claims the Commission could have asserted against it in this action. The Claims resolved include all claims for discrimination, back pay, front pay, compensatory and punitive damages, interest, injunctive relief, attorney's fees and costs arising from or related to the issues raised in this lawsuit or Charging Party's underlying charge of discrimination.

### **INJUNCTION**

2. Defendant, its managers, employees, principals, agents, officers, successors and assigns and all persons in active concert or participation with it, agree that for the duration of the decree Defendant will not discriminate against any employee because of her sex, including pregnancy. This injunction will remain in effect for the duration of the decree at any facility owned or operated by Defendant. In addition, Defendant, its managers, agents, officers, employees, successors and assigns and all persons in active concert or participation with it, are enjoined for the duration of the decree from retaliating against any employee who: (a) opposes practices made unlawful by Title VII or a state equal employment opportunity statute; (b) makes a charge of discrimination or assists or participates in an investigation or proceeding under Title VII or a state equal employment opportunity statute; or (c) files an internal complaint of discrimination. This injunction will remain in effect for the duration of the decree at any facility owned or operated by Defendant.

### **RELIEF TO THE CHARGING PARTY**

3. In accordance with this decree, Defendant shall pay Melissa M. Roybal back pay in the amount of nine thousand one hundred forty-four dollars and zero cents (\$9,144.00), and seventy thousand eight hundred fifty six dollars and zero cents (\$70,856.00) in compensatory damages, for a total gross payment of eighty thousand dollars (\$80,000.00), which shall be paid as

follows:

- A. Thirty five thousand dollars (\$35,000.00) paid to Melissa M. Roybal within thirty (30) days of entry of the Decree;
- B. Thirty thousand dollars (\$30,000.00) paid to Melissa M. Roybal within ninety (90) days of entry of the Decree;
- C. Ten thousand dollars (\$10,000.00) paid to Melissa M. Roybal within one hundred and twenty (120) days of entry of the Decree; and
- D. Five thousand dollars (\$5,000.00) paid to Melissa M. Roybal within one hundred and fifty (150) days of entry of the Decree.

For amounts designated as back pay, Defendant shall be responsible for paying the employer's share of FUTA and FICA and will not be taken from the settlement amount. For the amount designated as compensatory damages, Defendant will issue a United States Internal Revenue Service Form 1099 to Ms. Roybal as required by law.

4. Defendant will not condition the relief of the Charging Party upon a waiver of legal claims other than those asserted in the Commission's complaint, or upon an agreement to refrain from seeking future employment with the defendant, or upon an agreement to keep the terms of the recovery or the allegations raised in this lawsuit confidential.

5. Defendant shall mail the checks, via certified mail, to Melissa M. Roybal, in the amounts and within the time frames specified in Paragraph 3, to the address provided by EEOC. Within five days of the issuance of the checks, Defendant will submit a copy of the checks and related correspondence to the Regional Attorney, Equal Employment Opportunity Commission, 505 Marquette NW, Suite 900, Albuquerque, New Mexico 87102-2189.

6. If Defendant fails to make the payments in the amounts and within the time frames specified in Paragraph 3, then Defendant shall pay a late fee of one hundred fifty dollars (\$150.00) in addition to the payment. The accrual of late fees shall not be a bar to the Commission seeking Court enforcement of the Decree.

7. Consistent with Defendant's practice, in response to any employment inquiries or reference checks concerning the Charging Party, Defendant shall provide a neutral reference, which shall consist of Charging Party's dates of employment, each position held, and job duties. This provision shall remain in force for so long as Charging Party uses Defendant as a reference and is not limited to the duration of this decree.

8. Defendant shall convert the Charging Party's termination to a voluntary resignation and shall expunge from the personnel file of Charging Party all references to the charge of discrimination filed against Defendant and to any involuntary termination.

9. Defendant shall not take any action against Charging Party or any witness in retaliation for filing a charge of employment discrimination or for participating, assisting or testifying in this action.

#### **DEFENDANT'S CORRECTIVE POLICIES AND PRACTICES**

10. Defendant shall implement and carry out policies and practices at all facilities operated by Defendant that promote a work environment free from sex discrimination, including policies and practices to prevent pregnancy discrimination of its female employees, and that allow employees and other individuals to raise concerns or complaints about matters made unlawful by Title VII, whether alleged, perceived or actual without retaliation. To assist Defendant in its effort to promote a work environment free of sex or pregnancy discrimination and retaliation,

defendant shall take the actions provided for in Paragraphs 11 through 14.

11. Within ten (10) days of entry of the Decree, Defendant shall review its existing policies on sex and pregnancy discrimination, and make any changes necessary so that its policies comply with Title VII and the Pregnancy Discrimination Act. Within fifteen days of reviewing and making any necessary revisions to its policies, defendant shall distribute a copy of its policy(s) to each of its current full and part-time employees, and to each new employee hired for the duration of this decree. Defendant shall distribute a copy of its policy(s) to each new employee hired within ten days of hire.

12. Defendant shall provide its employees at all facilities operated by Defendant with written policy statements and procedures regarding reporting and prevention of sex and pregnancy discrimination. The policy and procedure statements that are provided to Defendant's employees should be designed to present easily understood, convenient, confidential and reliable procedures for reporting incidents of sex and pregnancy discrimination in all of Defendant's facilities existing as of the execution by the parties of this Consent Decree.

13. Defendant shall post within ten (10) days of the entry of this Consent Decree, and continuously for a period of thirty (36) months, in prominent places frequented by employees in all of Defendant's facilities, the Notice attached to this decree as Exhibit A. This Notice shall be the same type, style and size as in Exhibit A.

14. Defendant shall provide training on sex and pregnancy discrimination and retaliation according to the following terms:

A. Defendant shall provide six training sessions during the term of this decree. All managers, supervisors and employees at all of Defendant's facilities will attend the

training. Duplicative sessions may be held to accommodate staffing needs.

Defendant shall be responsible for all costs associated with this training.

- B. The first training session shall be conducted within three months of the entry of this decree and the second training session shall be conducted within nine months of the entry of this decree. During the second year of the decree, the third training sessions shall be conducted within six months of the second training session, and the fourth training session shall be conducted within six months of the third training session. During the third year of the decree, the fifth training session shall be conducted within six months of the fourth training session, and the sixth training session shall be conducted within six months of the fifth training session.
- C. Defendant shall select a qualified trainer and shall submit the trainer's name, resume, training agenda and the date(s) of the proposed training to the Regional Attorney of the Albuquerque Area Office of the Equal Employment Opportunity Commission within forty-five days of the entry of this decree for the first session of the first year and 45 days prior to the second session of the first year. During the second year of the decree, the above information shall be submitted to the Regional Attorney at least ninety days prior to the seminar-training session. The Commission shall have thirty days from the date of receipt of the information described above to accept or reject the proposed consultant/lecturer and/or the contents of the seminar. In the event the Commission does not approve Defendant's designated consultant/lecturer, the Commission shall designate the consultant/lecturer at a cost not to exceed \$2,000.00 per seminar-training session

which shall be paid by Defendant.

- D. Each training session shall include a minimum of three hours of instruction. All personnel designated in Paragraph A shall both register and attend the training. The registry of attendance shall be retained by Defendant at least for the duration of the decree.
- E. The training, at a minimum, shall include the subjects of: what constitutes sex and pregnancy discrimination and retaliation; that sex and pregnancy discrimination in the hiring, firing, compensation, assignment or other terms, conditions or privileges of employment and retaliation violates Title VII and the Pregnancy Discrimination Act; how to prevent sex and pregnancy discrimination and retaliation; how to provide a work environment free from sex and pregnancy discrimination and retaliation; and to whom and by what means employees may complain, including complaining to the EEOC, if they feel they have been subjected to sex and pregnancy discrimination and retaliation.
- F. Immediately following the training sessions, Defendant's highest ranking managerial official shall speak to the employees about: (1) potential discipline that can be taken against supervisors, managers and employees who commit acts of sex and pregnancy discrimination or retaliation, or who allow sex and pregnancy discrimination or retaliation to occur in the workplace; (2) the importance of maintaining an environment free of sex and pregnancy discrimination and retaliation; and (3) the employer's policies regarding sex and pregnancy discrimination and retaliation. This time shall not be counted toward the training

required in paragraph 14.D.

- G. For the duration of this decree, at or around the time of hire, employees hired after the training is presented, shall view a video tape of the training and/or a professional training tape which covers the topics set forth in paragraph 14.E. and shall be given any written material disseminated at the training.

15. The Commission, at its discretion, may designate Commission representatives to attend and participate in the training sessions described above.

**REPORTING BY DEFENDANTS AND ACCESS BY EEOC**

16. Defendants shall report in affidavit form to the Regional Attorney of the Commission's Albuquerque Area Office at 505 Marquette NW, Suite 900, Albuquerque, New Mexico 87102-2189 beginning six months from the date of the entry of this decree, and thereafter every six months for the duration of the decree the following information:

- A. Any changes, modifications, revocations, or revisions to its policies and procedures which concern or affect the subject of sex and pregnancy discrimination and retaliation.
- B. The registry of persons attending each of the seminar-training sessions required in paragraph 14 of this decree and a list of current employees on the day of the seminar-training session.
- D. An affidavit by Defendant stating the Notice required in paragraph 13 of this decree was posted and the locations where it was posted.
- E. An affidavit by Defendant stating the training required in paragraph 14 of this decree was conducted.



17. The Commission, upon reasonable notice, shall have the right to enter and inspect the premises of Defendant's facilities to ensure compliance with this decree and federal anti-discrimination laws.

**COSTS AND DURATION**


18. Each party shall bear its costs and attorney's fees incurred as a result of this action through the entry of this decree.

19. The duration of this decree shall be three (3) years from its entry. This Court shall retain jurisdiction of this action for the duration of the decree, during which the Commission may petition this Court for compliance with this decree. Should the Court determine that Defendant have not complied with this decree, appropriate relief, including extension of this decree for such period as may be necessary to remedy its non-compliance, may be ordered.

20. This decree shall expire by its own terms at the end of three (3) years after entry, without further action by the parties.

21. The parties agree to entry of this decree and judgment subject to final approval by the Court.

ENTERED AND ORDERED this 30th day of March, 2007.

  
UNITED STATES DISTRICT COURT JUDGE

APPROVED AND CONSENTED TO:

RONALD S. COOPER  
General Counsel

JAMES L. LEE  
Deputy General Counsel

GWENDOLYN YOUNG REAMS  
Associate General Counsel

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/s/ March 27, 2007 Molina for  
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/s/ March 27, 2007 Molina for  
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/s/ March 27, 2007 \_\_\_\_\_  
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/s/ Frederick M. Mowrer, received by  
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Albuquerque, NM 87103

Attorneys for Defendant

/s/ Maria Luis Padilla, received by EEOC  
03/26/07

Maria Luisa Padilla  
For Victory Royal Express, Inc.

**NOTICE TO ALL EMPLOYEES OF  
VICTORY ROYAL EXPRESS, INC.**

This Notice is posted pursuant to a Consent Decree entered into between Victory Royal Express, Inc. and the Equal Employment Opportunity Commission (EEOC).

It is unlawful under the federal law (Title VII of the Civil Rights Act of 1964 and the Pregnancy Discrimination Act) and state law to discriminate against an employee on the basis of sex and pregnancy in hiring, firing, compensation or other terms, and conditions or privileges of employment.

Victory Royal Express, Inc. prohibits all forms of sex and pregnancy discrimination.

Victory Royal Express, Inc. also prohibits any form of harassment of persons because of the condition of pregnancy.

Victory Royal Express, Inc. shall not discriminate on the basis of sex and pregnancy and shall not retaliate against any employee who opposes a practice made unlawful under federal law, files, assists or participates in the filing of a charge of discrimination or participates in any investigation under Title VII, or who files a grievance alleging discrimination.

If you believe you have been discriminated against because of the condition of pregnancy or retaliated against in your workplace, you always have the right to seek assistance from:

**Equal Employment Opportunity Commission (EEOC)**

**505 Marquette, Suite 900**

**Albuquerque, New Mexico 87102**

**1-800-669-4000**

**or**

**New Mexico Department of Labor**

**Human Rights Division**

**1596 Pacheco St., Suite 103**

**Santa Fe, New Mexico 87505**

**(505) 827-6838**

**You have the right to file a charge with the EEOC or the Department of Labor  
if you believe you are being discriminated against.**

**EXHIBIT A**