

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

United States District Court
Southern District of Texas
ENTERED

12. AUG 20 1997

Michael N. Milby
Clerk of Court

EQUAL EMPLOYMENT OPPORTUNITY)
COMMISSION,)
Plaintiff,)
v.)
BILL MILLER BAR-B-Q)
ENTERPRISES, INC.,)
Defendant.)

Civil Action No. C-96-665

CONSENT DECREE

The parties to this Consent Decree are the Plaintiff, United States Equal Employment Opportunity Commission ("EEOC"), and Defendant, Bill Miller Bar-B-Q Enterprises, Inc. ("Miller"). This Consent Decree resolves the above-referenced Civil Action No. C-96-665. The EEOC initiated this lawsuit under Section 7 (b) of the Age Discrimination in Employment Act (the "ADEA") of 1967, as amended, 29 U.S.C. §621 et seq., which incorporates by references sections 16(c) and 17 of the Fair Labor Standards Act of 1938, as amended, 29 U.S.C. §216(c) and 217. The Complaint was filed to correct unlawful employment practices on the basis of age and to provide appropriate relief to Bill F. Goodson, who was adversely affected by such practices.

The EEOC and Miller 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 the action and the parties, venue is proper, and all administrative

prerequisites to the filing of this action have been met. The Complaint states a claim that Miller failed to hire Bill F. Goodson because of his age, which, if proved, would authorize this Court to grant relief against Miller, pursuant to the ADEA.

2. This Decree resolves those claims against Miller raised in EEOC's Complaint in this case. EEOC expressly reserves its right to process and litigate any other charges which may now be pending or may in the future be filed against Defendant Miller.

3. The duration of this 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 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 Defendant or its officers, directors, employees, agents, or assigns shall toll the running of this three-year period as of the date of violation. If the Court subsequently determines this 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 the 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. Defendant Miller and its officers, directors, employees, agents or assigns are enjoined from failing to hire and discriminating against Bill F. Goodson, or any other employee, past, present, or future, because of their age.

5. During the term of this Decree, the EEOC shall have the right to inspect Miller's facilities in Corpus Christi, Texas and interview then-current employees at any of its Corpus Christi, Texas facilities at any time during normal working hours except between 11:00 A.M. and 2:00 P.M. and between 5:00 P.M. and 8:00 P.M.

6. Defendant Miller shall make no mention of the filing of this Complaint or the underlying charge to Bill F. Goodson's prospective employers. Defendant Miller shall, within 10 days of the filing date of this Decree, remove from its records and files any notations, remarks or other indications evidencing that Bill F. Goodson filed a discrimination charge, gave testimony or assistance, or participated in any manner in any investigation, proceeding, or hearing under the ADEA.

7. To further the ends of this Consent Decree, within ninety (90) days of the date of entry of this Decree, all of Miller's district/area supervisors, managers, assistant managers and those individuals who have the authority to make employment decisions and who are assigned to work at any of Miller's facilities located in Corpus Christi, Texas, shall participate in ADEA training of not less than two hours. This training shall explain the law relating to the ADEA and explain the damaging effects that age discrimination can have on its victims, their families, and their co-workers. Within 10 days prior to the date scheduled for this training, Miller shall furnish to the EEOC a written report describing: (a) the subject matter and topics which will be covered

during the ADEA training; (b) the name, title, and position of each person who will attend the training; and (c) the name of the instructor(s) and his/her/their qualifications to conduct such training. The EEOC shall have the right to object to the training or the instructor and require Bill Miller to select another instructor. After the ADEA training is completed, Miller shall provide the EEOC with written notice certifying that the training was conducted and that those individuals identified as attendees completed the training. This notice will be sent to Robert B. Harwin, Regional Attorney, Equal Employment Opportunity Commission, Mockingbird Plaza, 5410 Fredericksburg Road, Suite 200, San Antonio, Texas 78229.

8. Defendant Miller, in settlement of this dispute, shall pay to Bill F. Goodson the sum of \$7,500.00 in certified funds or by cashiers check, within 10 days of the filing date of this Consent Decree. Such payment shall be mailed directly to Bill F. Goodson at P.O. Box 2234, Port Aransas, Texas, 78373.

A copy of this check and accompanying transmittal papers shall be contemporaneously forwarded to Robert B. Harwin, Regional Attorney, Equal Employment Opportunity Commission, Mockingbird Plaza II, 5410 Fredericksburg Road, Suite 200, San Antonio, Texas 78229.

9. Defendant Miller shall post a notice, for at least the duration of this Decree, of its intent to comply with the ADEA. Such notice shall be as set forth in Exhibit "A," which is attached to this Decree. A copy of Exhibit "A" shall be posted in a

conspicuous place at all of Miller's facilities in Corpus Christi, Texas within ten days of the filing date of this Decree.

10. The terms of this Decree shall be binding upon the EEOC and Defendant Miller and its officers, directors, employees, agents, as to those issues resolved herein.

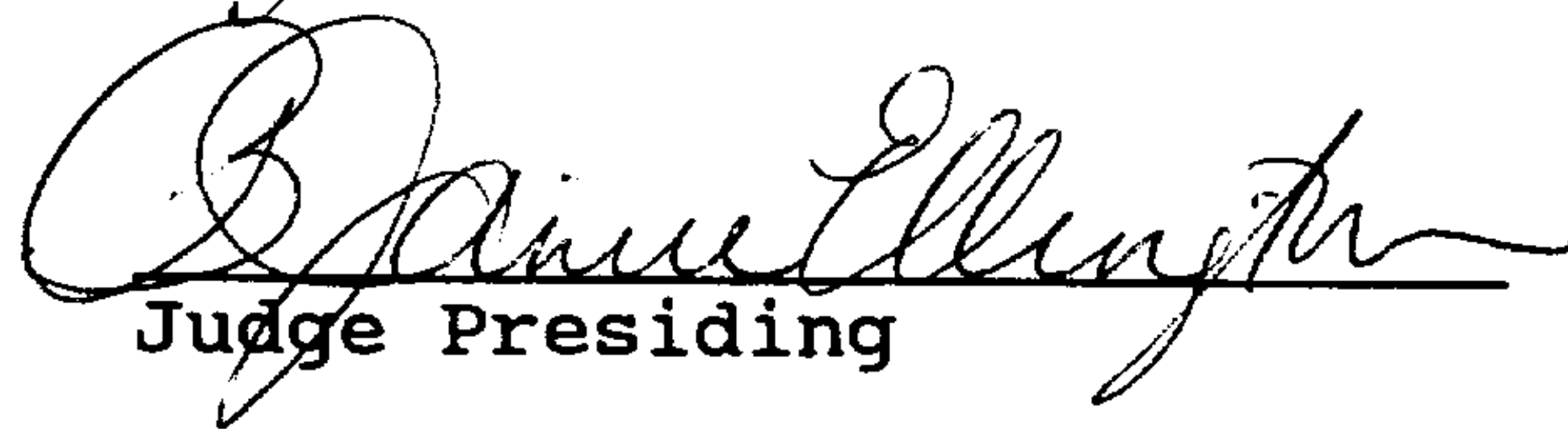
11. Each party shall bear its own costs, including attorney's fees, incurred in this action.

12. 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.

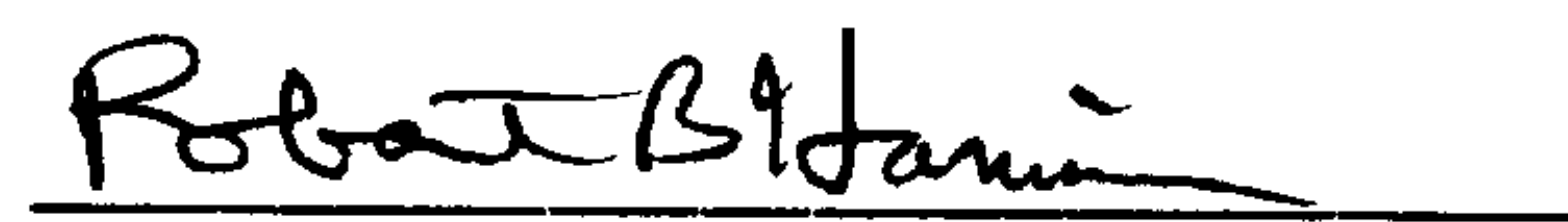
SO ORDERED.


Signed this 19 day of August, 1997.



Judge Presiding

Respectfully submitted,

C. GREGORY STEWART
General Counsel

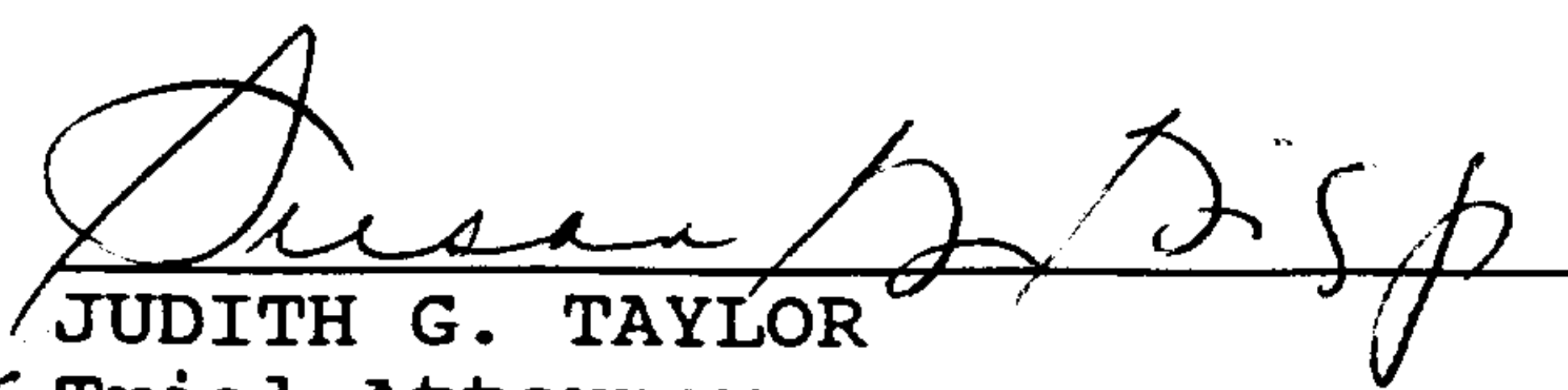

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(210) 229-4838
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ATTORNEY FOR PLAINTIFF

NOTICE TO ALL EMPLOYEES

BILL MILLER BAR-B-Q ENTERPRISES, INC. IS FIRMLY COMMITTED TO TREATING EMPLOYEES AND APPLICANTS FOR EMPLOYMENT ACCORDING TO MERIT WITHOUT REGARD TO THEIR AGE. THIS POLICY APPLIES TO ALL EMPLOYMENT DECISIONS, INCLUDING RECRUITMENT, HIRING, RETENTION, PROMOTION, TRANSFER, LAYOFF AND/OR TERMINATION, AND ALL OTHER TERMS AND CONDITIONS OF EMPLOYMENT.

IF YOU BELIEVE YOU ARE BEING DISCRIMINATED AGAINST IN ANY TERM OR CONDITION OF YOUR EMPLOYMENT BECAUSE OF YOUR AGE, YOU ARE ENCOURAGED TO SEEK ASSISTANCE FROM SUPERVISORY PERSONNEL, OR FROM THE UNITED STATES EQUAL EMPLOYMENT OPPORTUNITY COMMISSION, 5410 FREDERICKSBURG ROAD, SUITE 200, SAN ANTONIO, TEXAS 78229-3550, (210) 229-4810 OR 1-800-669-4000.

NO RETALIATORY ACTION MAY BE TAKEN AGAINST YOU FOR SEEKING ASSISTANCE, FILING A CHARGE, OR COMMUNICATING WITH THE UNITED STATES EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

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; PROHIBITIONS AGAINST DISCRIMINATION AFFECTING INDIVIDUALS WITH DISABILITIES IN THE FEDERAL SECTOR; 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 PRIVATE SECTOR AND STATE AND LOCAL GOVERNMENTS.

EXHIBIT "A"