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STATESVILLE, NC
OCT 14 2003
Clerk, U. S. Dist. Court
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
STATESVILLE DIVISION

FILED
OCT 20 2003
U. S. DIST. CT. N.C.

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
STATESVILLE DIVISION

U.S. EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION,

Plaintiff,

ROBIN W. DRYE,

Plaintiff Intervenor,

v.

FURNITURE DISTRIBUTORS, INC.,
KIMBRELL'S OF STATESVILLE, N.C.,
INC. and
KIMBRELL'S, INCORPORATED,
collectively doing business as
KIMBRELL'S FURNITURE ,

Defendants.

CIVIL ACTION NUMBER

5:02CV101-V

CONSENT DECREE

The Equal Employment Opportunity Commission (the "EEOC" or "Commission") instituted this action seeking relief for Robin W. Drye, pursuant to Section 706(f)(1) and (3) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e-5(f)(1) and (3) ("Title VII") and Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981a. Thereafter, Robin W. Drye ("Drye" or "Plaintiff-Intervenor") intervened alleging, inter alia, violations of Title VII pursuant to her statutory right of intervention.

The Commission, Plaintiff-Intervenor and Defendants (collectively "the Parties") stipulate to jurisdiction of the Court over them and agree that the subject matter of this action is properly before the Court.

JV57-7

18

The parties have advised the Court that they desire to resolve this action without the burden, expense, and delay of contested litigation.

It is therefore the finding of this Court, made on the pleadings and the record as a whole, that: (1) the Court has jurisdiction over the Parties and the subject matter of this action; (2) the purpose and provisions of Title VII will be promoted and effectuated by the entry of the Consent Decree; and (3) this Consent Decree resolves all matters in controversy between the Parties as provided in paragraphs 1 through 14 below.

It is therefore ORDERED, ADJUDGED AND DECREED as follows:

1. Defendants shall not discriminate against any employee on the basis of sex within the meaning of Title VII, and specifically shall not subject employees to sexual harassment in violation of Title VII.

2. Defendants shall not discriminate or retaliate against any person because of opposition to any practice made unlawful under Title VII of the Civil Rights Act of 1964 or because of the filing of a charge, the giving of testimony or assistance, or the participation in any investigation, proceeding or hearing under any of the foregoing statutes.

3. Defendants shall pay the sum of Twenty-Five Thousand dollars (\$25,000) to Robin W. Drye, in settlement of the claims raised in the Complaint filed by the EEOC and the Complaint filed by the Plaintiff-Intervenor. Defendant shall make payment by issuing a check payable to Robin W. Drye and her attorney, David P. Parker. Payment shall be made within ten (10) days after entry of this Consent Decree by the Court. Within ten (10) days after the check has been sent, Defendants shall mail to Bobby C. Simpson, Acting Regional Attorney, Equal Employment Opportunity Commission, 129 W. Trade Street, Suite 400, Charlotte N.C., 28202 a copy of the check and proof of the delivery of same.

4. Defendants agree to eliminate from the employment records of Robin W. Drye any and all documents, entries, or references of any kind relating to the facts and circumstances which led to the filing of EEOC Charge Number 140A11107 and the related events that occurred thereafter. Within 20 days of taking this action, Defendants will notify the EEOC that this action has been completed.

5. Defendants shall provide Robin W. Drye with a neutral reference upon request of a potential employer and she will list the Statesville Kimbrell's Furniture Store Manager as her reference for the purposes of obtaining employment.

6. Defendants shall provide a training program to all of its store managers in December 2003, December 2004 and December 2005. Defendants also will provide a training program to supervisors and employees within its organization and at each facility listed in Appendix B hereto between October 1, 2003 and December 31, 2003. The training program shall include an explanation of the requirements of Title VII and its prohibition against sex discrimination in the workplace, including sexual harassment. Each training program shall also cover Defendants' anti-harassment policy and procedure and an explanation of the rights and responsibilities of employees and managers under the policy and procedure. Within twenty (20) days after completion of the training program, Defendants shall certify to the Commission the specific training which was undertaken and shall provide the Commission with a roster of all employees in attendance.

7. For a period of one year, Defendants shall conspicuously post, at the Statesville store, the attached Employee Notice, marked Appendix A, which is hereby made a part of this Consent Decree, in a place where it is visible to all employees. If the Notice becomes defaced or unreadable, Defendants shall replace it by posting another copy of the Notice. For a period of

three years, Defendants shall conspicuously post their anti-harassment policy and procedure at each facility listed in Appendix B, in a location visible to all employees. Within twenty (20) days of the entry of the Consent Decree, Defendants shall certify to the Commission that the Notice and anti-harassment policy and procedure have been posted.

8. Defendants shall provide the Commission with semi-annual reports during the term of this Consent Decree. The reports shall include the following information: (a) the identities of all individuals who have complained of sex discrimination or sexual harassment within Defendants' organization and at any facility listed in Appendix B, including by way of identification each individual's name, sex, address, telephone number, position, supervisor and social security number; (b) a detailed statement of the individual's complaint; (c) the identity of the person who allegedly harassed or discriminated against the individual; and (d) the action taken in response to the individual's complaint. Defendants shall submit the first such report to the Commission four (4) months after the entry of this Consent Decree and every six (6) months thereafter during the term of this Consent Decree.

9. Defendants agree that the Commission may monitor compliance with this Consent Decree. As a part of such agreement, the Commission may, upon twenty (20) days written notice, inspect any of Defendants premises or facilities, including those identified in Appendix B, interview employees and examine and copy documents. This notice will be sent to Mr. Henry L. Johnson, Jr., Kimbrell's Furniture Distributors, Inc., PO Box 11117, Charlotte, NC 28220, and will include the date, time and location of the inspection. If the written notice returns as undeliverable or unclaimed, the Commission will have satisfied this notice provision.

10. If at anytime during the term of this Consent Decree, the Commission believes that Defendants are in violation of the Decree, the Commission shall give notice of the alleged

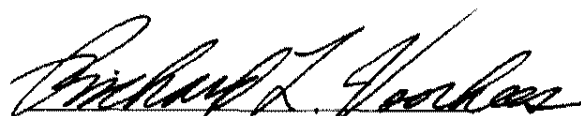
violation to Defendants. Defendants shall then have twenty (20) days in which to investigate and respond to the allegations. Thereafter, the Commission and Defendants shall have a period of five (5) days or such additional period as may be agreed upon by them, in which to engage in negotiation and conciliation regarding such allegations before the Commission exercises any remedy provided by law.

12. The term of this Consent Decree shall be for three (3) years from its entry by the Court.

13. The Parties shall each bear their own costs and attorney's fees.

14. This Court shall retain jurisdiction of this action for purposes of monitoring compliance with this Consent Decree and entry of such further orders as may be necessary or appropriate.

10-15-03
Date


RICHARD L. VOORHEES
Judge, U.S. District Court
Western District of North Carolina

The parties jointly request that the Court approve and enter this Consent Decree:

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION


ERIC S. DREIBAND
General Counsel

JAMES L. LEE
Deputy General Counsel

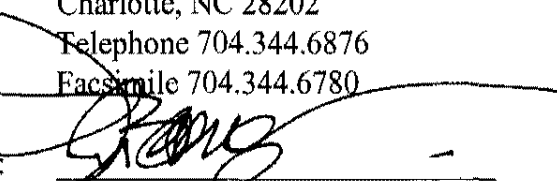
GWENDOLYN YOUNG REAMS
Associate General Counsel

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION
1801 L Street, N.W.
Washington, D.C. 20507


By:


BOBBY C. SIMPSON
Acting Regional Attorney
129 West Trade Street, Suite 400
Charlotte, NC 28202
Telephone 704.344.6876
Facsimile 704.344.6780

By:



LYNETTE A. BARNES
Supervisory Trial Attorney
129 West Trade Street, Suite 400
Charlotte, N.C. 28202
Telephone 704.344.6878
Facsimile 704.344.6780

By:


KIRK J. ANGEL
Trial Attorney
129 West Trade Street, Suite 400
Charlotte, N.C. 28202
Telephone 704.344.6875
Facsimile 704.344.6780

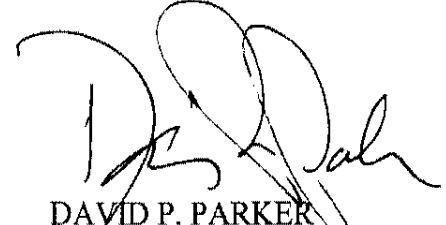
FURNITURE DISTRIBUTORS, INC.,
KIMBRELL'S OF STATESVILLE, N.C.,
INC. and
KIMBRELL'S, INCORPORATED,
collectively doing business as
KIMBRELL'S FURNITURE

By:


WILLIAM H. STURGES, ESQ.
SHUMAKER, LOOP &
KENDRICK, LLP
Suite 1800
128 South Tryon Street
Charlotte, N.C. 28202
Telephone 704.945.2163
Facsimile 704.332.1197

ROBIN W. DRYE
PLAINTIFF-INTERVENOR

By:


DAVID P. PARKER
PARKER & HOWES, L.L.P.
P.O. Box 112
Statesville, NC 28687
Telephone 704.871.0300
Facsimile 704.871.1589

IN THE UNITED STATES DISTRICT COURT

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
STATESVILLE DIVISION**

U.S. EQUAL EMPLOYMENT)	
OPPORTUNITY COMMISSION,)	
)	
Plaintiff,)	
)	
ROBIN W. DRYE,)	CIVIL ACTION NUMBER
)	
Plaintiff Intervenor,)	5:02CV101-V
)	
v.)	
)	
FURNITURE DISTRIBUTORS, INC.,)	
KIMBRELL'S OF STATESVILLE, N.C.,)	
INC. and)	
KIMBRELL'S, INCORPORATED,)	
collectively doing business as)	
KIMBRELL'S FURNITURE ,)	
)	
Defendants.)	
)	

NOTICE TO EMPLOYEES

This Notice is being posted pursuant to a Consent Decree entered in the above-styled case. Federal law prohibits discrimination against any employee or applicant for employment because of the individual's sex, race, color, religion, national origin, disability or age (40 and over) with respect to hiring, promotion, discipline, firing, compensation, or other terms, conditions or privileges of employment. In barring sex discrimination, Federal law prohibits sexual harassment. Sexual harassment includes subjecting employees to sexual comments or conduct that culminates in a tangible job action (such as discharge) or creates a hostile and offensive working environment. Federal law also prohibits retaliation against any employee or applicant for employment because the individual has opposed discriminatory employment practices.

Kimbrell's Furniture supports and will comply with such federal law in all respects and will not take action against employees because they have exercised their rights under the law. Specifically, Kimbrell's Furniture will not discriminate against or harass any employee because of his or her sex.

Kimbrell's Furniture has adopted an equal employment opportunity policy and procedure and will ensure that all management, supervisors, and other employees abide by the requirements of that policy. Kimbrell's Furniture will take all actions required by the United States District Court, including the payment of monetary relief to the aggrieved individual, and the posting of this notice.

If you believe that you have been discriminated against based on your sex or sexually harassed, you should report the discriminatory conduct promptly to Kimbrell's Furniture, or to the U.S. Equal Employment Opportunity Commission.

This Notice will remain posted for at least one (1) year by agreement with the U.S. Equal Employment Opportunity Commission.

DO NOT REMOVE THIS NOTICE UNTIL: _____, **October 1, 2004.**

Date

for Kimbrell's Furniture

Kimbrell's/Farris Bros.
427 E. Trade St., Box 11117
Charlotte, NC 28202 (28220)*

Kimbrell's of Albemarle
175 N. First St., Box 1027
Albemarle, NC 28001

Kimbrell's of Monroe
1950 W. Roosevelt Blvd., Box 1217
Monroe, NC 28110

Kimbrell's, of Forest City
207 E. Main St., Box 488
Forest City, NC 28043

Kimbrell's, Wilk. Blvd.
3525 Wilkinson Blvd., Box 11117
Charlotte, NC 28208 (28220)*

Kimbrell's, North Park
103 Eastway Dr., Box 560125
Charlotte, NC 28213 (28256)*

Kimbrell's of Shelby
300 W. Dixon Blvd., PO Box 2652
Shelby, NC 28152 (28151)

Kimbrell's Furniture Co.
1626 Main St., Box 266
Columbia, SC 29201 (29202)*

Kimbrell's Garner's Ferry
7531 Garner's Ferry Rd.
East Point Plaza
Columbia, SC 29209

Kimbrell's of Lancaster, SC
106 S. Main St.
Lancaster, SC 29720

Kimbrell's of Raleigh, NC
210 Fayetteville St., Box 2130
Raleigh, NC 27601 (27602)*

Kimbrell's Raleigh Tower
3665 Newbern Ave. (Hwy. 64 E)
Raleigh, NC 27610

Kimbrell's Tryon Hills
331-103 B Tryon Rd.
Tryon Hills Shopping Center
Raleigh, NC 27603

Kimbrell's of West Columbia
1008 Meeting St.
West Columbia, SC 29169

Kimbrell's of Orangeburg
1159 Broughton St., S.W., Box 2145
Orangeburg, SC 29115 (29116)*

Kimbrell's of Elberton, GA
234 Heard St., PO Box 388
Elberton, GA 30635

Kimbrell's of Sumter, SC
49 S. Main St., Box 1605
Sumter, SC 29150 (29151)*

Kimbrell's Broad Street
1070 Broad St.
Sumter, SC 29150

Kimbrell's of Spartanburg, SC
125 W. Main St., Box 1130
Spartanburg, SC 29306 (29304)*

Kimbrell's Asheville Hwy.
1280 Ashvl. Hwy., Box 1130
Spartanburg, SC 29303 (29304)*

Kimbrell's of Greenville, SC
113 S. Main St., Box 10165
Greenville, SC 29601 (29603)*

Kimbrell's Fountain Inn, SC
129 N. Main St.
Fountain Inn, SC 29644

Kimbrell's of Lumberton, NC
302 N. Chestnut St., Box 1127
Lumberton, NC 28358 (28359)*

Kimbrell's of Laurinburg, NC
234 E. Church St., Box 1006
Laurinburg, NC 28352 (28353)*

Kimbrell's of Statesville
146 E. Broad St.
Statesville, NC 28677

Kimbrell's Home Furn., Inc. (Kannapolis)
1034 Cloverleaf Plaza
Kannapolis, NC 28083

APPENDIX B

Kimbrell's of Sanford, NC
126 S. Moore St., Box 1110
Sanford, NC 27330 (27331)*

Kimbrell's of Durham, NC
101 W. Chapel Hill St., Box 408
Durham, NC 27701 (27702)*

Kimbrell's Raeford Rd.
3141 Raeford Rd., Box 44053
Fayetteville, NC 28303 (28309)*

Kimbrell's Fayetteville Mart
328 Person St., Box 1419
Fayetteville, NC 28301 (28302)*

Kimbrell's Furniture City
4524-A South Blvd., Box 11117
Charlotte, NC 28209 (28220)*

Kimbrell's of Lexington, NC
201 S. Main St., Drawer G
Lexington, NC 27292 (27293)*

Kimbrell's of Gastonia, NC
250 E. Main St., Box 776
Gastonia, NC 28052 (28053)*

Kimbrell's Home Supplies
232 Main St., Drawer 9
Fort Mill, SC 29715 (29731)

Kimbrell's of Rock Hill, SC
172 W. Black St., Box 995
Rock Hill, SC 29730 (29731)*

Kimbrell's of Florence, SC
135 S. Dargan St., Box 1868
Florence, SC 29506 (29503)*

Kimbrell's of Hartsville, SC
130 E. Carolina Ave., Box 939
Hartsville, SC 29550 (29551)*

Kimbrell & Sons
2300 Marshall St.
Columbia, SC 29203

Kimbrell's of Chester, SC
115 Main St., Box 267
Chester, SC 29706

Kimbrell's of Anderson, SC
509 N. Main St., Box 1011
Anderson, SC 29621 (29622)*

Kimbrell's Exchange
18 Cabarrus Ave., Box 1242
Concord, NC 28025 (28026)*

Kimbrell's of Morganton, NC
200 W. Union St., Box 94
Morganton, NC 28655 (28680)*

Kimbrell's of Lenoir, NC
1001 West Ave., N.W., Box 2273
Lenoir, NC 28645

Kimbrell's of Belmont, NC
10 E. Catawba St., Box 88
Belmont, NC 28102

Kimbrell's of Mount Holly, NC
125 N. Main St., Box 446
Mount. Holly, NC 28120

Kimbrell's of Camden, SC
1000 Broad St., Box 650
Camden, SC 29020

Kimbrell's of Gaffney, SC
502 N. Limestone St., Box 939
Gaffney, SC 29340 (29342)*

Kimbrell's of Union, SC
300 E. Main St., Box 190
Union, SC 29379

Kimbrell's of Cheraw, SC
159 Market St.
Cheraw, SC 29520

Kimbrell's of Belton, SC
414 S. Main St., PO Box 705
Belton, SC 29627

Kimbrell's Of Asheboro, NC
608 N. Fayetteville St.
Asheboro, NC 27203

Kimbrell's of Seneca, SC
221 Main St., Box 1201
Seneca, SC 29678 (29679)*

Kimbrell's of Siler City, NC
129 S. Second Ave., Box 626
Siler City, NC 27344

United States District Court
for the
Western District of North Carolina
October 20, 2003

* * MAILING CERTIFICATE OF CLERK * *

Re: 5:02-cv-00101

True and correct copies of the attached were mailed by the clerk to the following:

Kirk J. Angel, Esq.
Equal Employment Opportunity Commission
129 West Trade St.
Suite 400
Charlotte, NC 28202-2799

Lynette A. Barnes, Esq.
Equal Employment Opportunity Commission
129 W. Trade St.
Suite 400
Charlotte, NC 28202-2799

Bobby C. Simpson, Esq.
Equal Employment Opportunity Commission
129 W. Trade St.
Suite 400
Charlotte, NC 28202-2799

William H. Sturges, Esq.
Shumaker, Loop & Kendrick
128 S. Tryon St.
Suite 1800
Charlotte, NC 28202

David P. Parker, Esq.
P. O. Box 112
Statesville, NC 28687

cc:
Judge ()
Magistrate Judge ()
U.S. Marshal ()
Probation ()
U.S. Attorney ()
Atty. for Deft. ()
Defendant ()
Warden ()
Bureau of Prisons ()
Court Reporter ()
Courtroom Deputy ()
Orig-Security ()
Bankruptcy Clerk's Ofc. ()
Other _____ ()

Date: 10-20-03

Frank G. Johns, Clerk

By: Carolyn B Bouchard
Deputy Clerk