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AT SEATTLE
CLERK U.S. DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
DEPUTY

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION,

Plaintiff,

and

JILL HARP

Plaintiff Intervenor,

v.

UNION PACIFIC RAILROAD CO.,

Defendant.

Case No. C04-866 MJP

PROPOSED CONSENT DECREE
AND ORDER DISMISSING ACTION



04-CV-00866-ORD

I. INTRODUCTION

1. This action originated with a charge of employment discrimination filed with the EEOC by Jill Harp ("Charge"). The Charge alleged that Union Pacific Railroad ("the Company" or "UPRR") subjected Harp to sexual harassment because of her gender in violation of Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e ("Title

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VII"). EEOC found reasonable cause to believe the Charge to be true. The Company denies that it discriminated against Ms. Harp.

2. Following the issuance of a Letter of Determination and the failure of conciliation efforts, the Commission filed a lawsuit under Title VII against the Company on April 15, 2004.

3. The parties want to conclude the claims arising out of the charge, the Commission's determination with regard to the charge, and the lawsuit arising from the charge, without expending further resources in contested litigation.

II. NONADMISSION OF LIABILITY AND

NONDETERMINATION BY THE COURT

4. This Consent Decree is not an adjudication or finding on the merits of this case and shall not be construed as an admission by the Company of a violation of any law.

III. SETTLEMENT SCOPE

5. This Consent Decree is the final and complete resolution of all allegations of unlawful employment practices included in the Charge, in the Commission's Letter of Determination and in the Commission's complaint filed in the case, as well as claims by the parties and/or class members for attorney fees and costs. The injunctive relief provisions of this Consent Decree apply to all of the Company's intermodal facilities in the State of Washington and is final and binding as to all such issues and claims.

IV. MONETARY RELIEF

6. In settlement of this suit, the Company agrees to pay \$260,000 to Ms. Harp in settlement and satisfaction of all claims for monetary relief which were or could

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1 have been asserted in the case by her. Ms. Harp and UPRR have executed a separate
2 settlement agreement and release of claims to which the EEOC is not a party.

3 **V. INJUNCTIVE RELIEF**

4 **A. General Provisions**

5 7. The Company reaffirms its commitment to continue to comply with the
6 requirements of Title VII and all other federal laws against discrimination in its
7 employment decisions. To further this commitment, it shall monitor its affirmative
8 obligations under this Consent Decree.

9 8. The Company shall not retaliate against any current or former employee
10 for opposing any practice made unlawful by Title VII. Nor shall the Company retaliate
11 against any current or former employee for making a charge or for testifying, assisting,
12 or participating in any investigation, proceeding, or hearing associated with the case.

13 9. The Company will expunge from Jill Harp's records all references to her
14 charge of discrimination or to its outcome. The Company will confirm dates of
15 employment for Ms. Harp if requested by a potential employer and will not refer to Ms.
16 Harp's charge of discrimination.

17 **B. Establishment of Policy and Procedures to Prevent Discrimination**

18 10. Within thirty (30) days after entry of this Decree by the Court, the
19 Company shall reissue to all intermodal employees in the state of Washington, its anti-
20 discrimination policy prohibiting discrimination on the basis of race, sex, national origin,
21 color, religion, pregnancy, age, and disability, including a policy prohibiting sexual
22 harassment, and shall post a copy of the policy on a centrally located bulletin board to
23 which all staff at a particular location have access.

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C. Training

11. The Company will ensure at least three (3) hours of employment discrimination training, including training on sexual harassment, is provided annually each year of the decree for managers and employees in the Company's locations covered by this Consent Decree. As part of this provision, individuals responsible for enforcing UPRR's antidiscrimination policy shall receive instruction on appropriate procedures for responding to employee complaints of discrimination.

D. Reporting

12. Six (6) months after entry of this Consent Decree and every six (6) months for the term of this Consent Decree, the Company shall provide a report to the Commission on the Company's compliance with the Consent Decree. The Compliance Report shall include the following:

(a) a summary of complaints of sexual harassment and retaliation, if any, in any facility covered by this Decree and any resulting internal investigations conducted pursuant to the Company's anti-discrimination policies during the preceding six-month period. The report will describe the resolution of each complaint.

(b) copies of the attendee lists, evaluations, and materials for all training required by this Decree.

If the Company has not complied with any term of the Consent Decree, the Company shall provide a statement specifying the areas of noncompliance, the reason(s) for the noncompliance, and the steps taken to bring the Company into compliance.

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VI. ENFORCEMENT

13. The United States District Court for the Western District of Washington shall retain jurisdiction over this matter for the duration of the Consent Decree. If the Commission concludes that the Company has breached any of the above provisions, it shall promptly notify the Company providing a written statement of the alleged breach. The parties shall attempt to resolve the dispute for a period not to exceed thirty (30) days after the Commission's notification of the alleged breach. If the Commission is unable to resolve the dispute to its satisfaction, the Commission may bring an action to enforce this Decree.

VII. TERMINATION OF DECREE

14. This Consent Decree shall be in effect for three (3) years commencing with the date the Consent Decree is entered by the Court. If the Commission petitions the Court and the Court finds the Company to have violated the terms of the Consent Decree, the Court may extend the period of the Consent Decree and award the Commission its costs in bringing an enforcement action.

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DATED this 6th day of April, 2005.

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BY: /s/ A. Luis Lucero, Jr.
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Attorneys for Plaintiff EEOC

Dated: April 4, 2005

BY: /s/ Ralph C. Pond
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ORDER

The Court having considered the foregoing stipulated agreement of the parties,
IT IS HEREBY ORDERED THAT the foregoing consent decree be, and the same
hereby is, approved as the final decree of this Court in full settlement of this action.
This lawsuit is hereby dismissed with prejudice and without costs or attorneys' fees to
any party. The Court retains jurisdiction of this matter for purposes of enforcing the
consent decree approved herein.

DATED this 20 day of April, 2005.



HON. MARSHA J. PECHMAN
UNITED STATES DISTRICT JUDGE

PRESENTED BY:

/s/ Lisa Cox
LISA COX
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