

ORIGINAL

U.S. DISTRICTS

THE HONORABLE EDWARD J. LODGE

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U.S. DISTRICT COURT  
DISTRICT OF IDAHO

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UNITED STATES DISTRICT COURT  
DISTRICT OF IDAHO

EQUAL EMPLOYMENT OPPORTUNITY  
COMMISSION,

Plaintiff,

v.

LARRY H. MILLER CORP.

Defendant.

)  
) CASE NO. 01-301-S-EJL  
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)

) CONSENT DECREE AND ORDER  
) DISMISSING ACTION  
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I. INTRODUCTION

1. This action originated with a charge of discrimination Mona Russell filed with the Equal Employment Opportunity Commission ("EEOC"). The charge alleged that the defendant, Larry H. Miller Corp., dba Larry Miller Ford ("Larry Miller Ford"), engaged in unlawful employment practices at its Caldwell, Idaho facility in violation of §§ 703(a) of Title VII, 42 U.S.C. §§ 2000e-2 (Title "VII") when it sexually harassed Ms.

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1 Russell, causing her constructive discharge.

2 2. The EEOC sent the defendant a Letter of Determination with a finding  
3 there was reasonable cause to believe that Ms. Russell's allegations were true.

4 3. The Commission filed this lawsuit on June 29, 2001 in the United  
5 States District Court for the District of Idaho.

6 4. The parties want to conclude the claims arising out of Ms. Russell's  
7 charge, the EEOC's determination, and this action without expending further resources  
8 in contested litigation.

9 **II. NONADMISSION OF LIABILITY AND**  
10 **NONDETERMINATION BY THE COURT**

11 5. This consent decree is not an adjudication or finding on the merits of  
12 this case and shall not be construed as an admission by the defendant of a violation of  
13 Title VII.

14 **III. SETTLEMENT SCOPE**

15 6. This consent decree is the final and complete resolution of all  
16 allegations of unlawful employment practices contained in Mona Russell's sex  
17 discrimination charge, in the EEOC's Letter of Determination, and in the complaint filed  
18 in this action, including all claims by the parties for attorney fees and costs.

19 **IV. MONETARY RELIEF**

20 7. In settlement of this suit, the defendant agreed to pay Mona Russell the  
21 lump sum amount of \$30,000.00 for compensatory damages in settlement and  
22 satisfaction of all claims for monetary relief in this action. In return, Ms. Russell  
23 released defendant from all claims arising out of this lawsuit.  
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**V. INJUNCTIVE RELIEF**

**A. General Provisions**

8. The defendant reaffirms its commitment to comply with the provisions of Title VII and all other federal laws against discrimination in its employment decisions. In furtherance of this commitment, it will monitor the affirmative obligations of this consent decree.

9. The defendant will not retaliate against any current or former employee for opposing any practice made unlawful by Title VII. Nor will the defendant retaliate against any current or former employee for making a charge or for testifying, assisting, or participating in any investigation, proceeding, or hearing associated with this action.

10. In recognition of its obligations under Title VII, the defendant will institute the policies and practices set forth below.

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

11. Defendant will maintain a written equal employment opportunity policy which sets forth the requirements of federal laws against employment discrimination and specifically those provisions which make sexual harassment discrimination unlawful.

12. The policy includes a statement of defendant's commitment to ensuring that the practices and the conduct of its employees will comply with the requirements of federal laws against employment discrimination. It includes a provision stating that those who violate the policy will be subject to appropriate discipline, up to and including termination.

13. The policy includes an internal complaint procedure for employees to report suspected incidents of discrimination so that the defendant can investigate and take appropriate action if it determines that any employee has violated its EEO policy.

1           14. The internal complaint procedure includes the following provisions:

2           a. A list of the appropriate persons to whom an individual should  
3 report allegations of discrimination in the workplace.

4           b. An explanation of how to make a complaint and what an  
5 investigation will involve, including informing the affected individuals of the outcome of  
6 the investigation.

7           15. The defendant will submit a copy of its policy and procedures for the  
8 EEOC within forty-five days of the date of entry of this decree. The defendant will  
9 distribute the policy to all present and future employees, both management and non-  
10 management.

11           **C. Posting Notice**

12           16. The defendant will post the notice attached as Exhibit 1 to this consent  
13 decree. The notice shall be posted on a centrally located bulletin board in defendant's  
14 Caldwell, Idaho area facilities where notices to employees are normally posted or where  
15 employees will see the notice for the duration of the consent decree. The defendant  
16 will also post in the same location a copy of the EEO policy referenced in paragraph 11.

17           **D. Expunging Records**

18           17. Defendant will not disclose any information or make references to any  
19 charge of discrimination or this lawsuit in responding to employment reference requests  
20 for information about Ms. Russell.

21           18. Defendant will expunge from the personnel file of Ms. Russell, and any  
22 other records where such information is kept by defendant, any references to a charge  
23 of discrimination against defendant and this lawsuit. If Ms. Russell wishes to do so,  
24 defendant will permit her to review her personnel file within thirty (30) days after the  
25 entry of this Consent Decree to insure that all such reference have been expunged.

1 Defendant will not add any information or references to Ms. Russell's personnel file or  
2 records regarding her charge of discrimination and this lawsuit after such references  
3 have been expunged.

4 **E. Training**

5 19. During the term of this consent decree, Larry Miller Ford will provide at  
6 least six hours of employment discrimination training annually for its managers in  
7 Caldwell, Idaho area facilities, specifically including topics related to sexual harassment.  
8 The first training will take place within sixty days of entry of this consent decree. The  
9 second training will take place within sixty days after the one-year period following entry  
10 of this consent decree. The form, and content of the training events will be subject to  
11 prior review by the EEOC and the cost of training shall be borne by defendant.

12 20. The defendant will provide to the EEOC a list of attendees of the  
13 training provided pursuant to paragraph 19, an evaluation form filled out and signed by  
14 each attendee, and a copy of the training materials and handouts with the reports  
15 required in paragraph 19.

16 **F. Reporting**

17 21. Six months after entry of this decree, and every six months thereafter  
18 for the term of the decree, the defendant will provide a report to the Commission with  
19 the following information:

20 a. Defendant Larry Miller Ford will provide a summary of any  
21 complaints of employment discrimination consisting of any allegation of conduct  
22 constituting a violation of laws against discrimination on the basis of age, sex, race,  
23 national origin, religion, disability, color or pay disparity under the Equal Pay Act.

24 b. The report will also include copies of the attendee lists, evaluations,  
25 and materials generated by the training required by paragraphs 19-20.

1 c. The defendant will also include in the report a statement listing the  
2 other provisions of this decree that it is required to perform during the preceding period  
3 and certifying that it has complied with the terms of the decree. If the defendant has  
4 not complied with any term of the decree, the statement will specify the areas of  
5 noncompliance, the reason for the noncompliance, and the steps taken to bring the  
6 defendant into compliance.

7 **VI. ENFORCEMENT**

8 22. The United States District Court for the District of Idaho shall retain  
9 jurisdiction over this matter for the duration of the decree. If the EEOC concludes that  
10 the defendant has breached any of the above provisions, it may bring an action to  
11 enforce this consent decree no sooner than thirty days after providing the defendant  
12 written notification of the alleged breach. The period following the written notice will be  
13 used by the parties for good faith efforts to reach agreement on how to bring the  
14 defendant into compliance with the decree.

15 **VII. TERMINATION OF DECREE**

16 23. This decree shall be in effect for (2) two years commencing with the  
17 date the decree is entered by the court. If the EEOC petitions the court and the court  
18 finds the defendant to have violated the terms of this consent decree, it may  
19 extend the period of this consent decree and award the Commission its costs in  
20 bringing an enforcement action.

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23  
24 DATED this 13<sup>th</sup> day of May, 2002.  
25

1 Respectfully submitted,

2 A. LUIS LUCERO, JR.  
Regional Attorney

GWENDOLYN REAMS  
Associate General Counsel

3 JOHN F. STANLEY  
4 Acting Supervisory Trial Attorney

5 CARMEN FLORES  
Senior Trial Attorney

6  
7 BY: *A. Luis Lucero Jr*

8 EQUAL EMPLOYMENT OPPORTUNITY  
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11 Telephone (206) 220-6892

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12 Attorneys for Plaintiff

13 Candy W. Dale  
14 Tamsen L. Leachman

15 BY: \_\_\_\_\_

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17 P.O. Box 1271  
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18  
19 Attorneys for Defendant

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04-30-02

08:52am From: EEOC SEBO

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P.008/010

F-838

1 Respectfully submitted,

2 A. LUIS LUCERO, JR.  
Regional Attorney

GWENDOLYN REAMS  
Associate General Counsel

3 JOHN F. STANLEY  
4 Acting Supervisory Trial Attorney

5 CARMEN FLORES  
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16 HALL FARLEY OBERRECHT & BLANTON  
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18 Boise, ID 83701-1271

19 Attorneys for Defendant

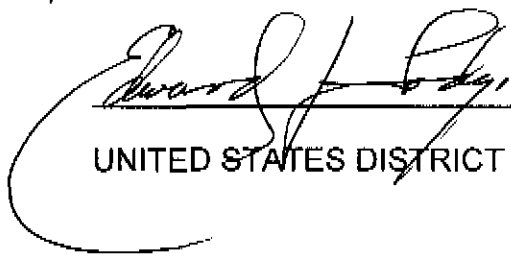


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ORDER

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<sup>th</sup> day of May, 200<sup>2</sup>. *ELR*

  
UNITED STATES DISTRICT JUDGE

**NOTICE TO ALL EMPLOYEES**

This notice is being posted pursuant to an agreement between LARRY H. MILLER CORP., dba LARRY MILLER FORD and the Equal Employment Opportunity Commission.

Title VII of the Civil Rights Act of 1964, as amended, the Age Discrimination in Employment Act of 1967, the Equal Pay Act of 1963, and the Americans with Disabilities Act of 1990 are enforced by the EEOC and require the following:

That there be no discrimination against any employee or applicant for employment because of the employee's race, sex, color, religion, national origin, age (over age 40), or disability with respect to hiring, firing, compensation, or other terms, conditions or privileges of employment.

It is an unlawful employment practice for an employer to retaliate against any employees or applicants for employment because they have opposed a practice or because they have made a charge, testified, assisted, or participated in any manner in an investigation, proceeding or hearing under these statutes.

Larry H. Miller Corp., dba Larry Miller Ford will continue their training program to train managers and employees regarding the requirements of the above statutes, with particular emphasis on sexual harassment discrimination.

Larry H. Miller Corp., dba Larry Miller Ford have posted this notice because the company supports and will comply with these federal laws in all respects and will not take any retaliatory action against employees because they have exercised their rights under the law.

DATED: \_\_\_\_\_

LARRY H. MILLER CORP.,  
dba LARRY MILLER FORD

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United States District Court  
for the  
District of Idaho  
May 21, 2002

\* \* CLERK'S CERTIFICATE OF MAILING \* \*

Re: 1:01-cv-00301

I certify that a copy of the attached document was mailed or faxed to the following named persons:

A Luis Lucero Jr, Esq.  
US EQUAL EMPLOYMENT OPPORTUNITY COMMISSION  
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909 First Ave #400  
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       Chief Judge B. Lynn Winmill  
  ✓   Judge Edward J. Lodge  
  ✓   Chief Magistrate Judge Larry M. Boyle  
       Magistrate Judge Mikel H. Williams

Cameron S. Burke, Clerk

Date: 5-21-02

BY: WJM  
(Deputy Clerk)