

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF INDIANA  
SOUTH BEND DIVISION

EQUAL EMPLOYMENT OPPORTUNITY )  
COMMISSION, )  
 )  
 )  
*Plaintiff* )  
 )  
 )  
v. ) ) CAUSE NO. 3:04-CV-233 RM  
 )  
MASHIANA PARADISE PLAZA, INC., )  
d/b/a PARADISE PLAZA TRUCK STOP, )  
 )  
 )  
 )  
 )  
 )  
*Defendant* )

CONSENT DECREE

This action was instituted by the Equal Employment Opportunity Commission ("Commission") under the authority granted to it under Section 706(f)(1) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e-5(f)(1). The Commission's action was brought to correct alleged unlawful employment practices on the basis of sex. Specifically, the Commission alleged in its Complaint that Mashiana Paradise Plaza, Inc., d/b/a Paradise Plaza Truck Stop ("Paradise Plaza"), discharged Daysha Jungels because she was pregnant. Paradise Plaza alleges the discharge was justified and denies any wrongdoing or violation of the law.

The Commission and Paradise Plaza hereby stipulate to the jurisdiction of the Court over the parties and the subject matter of this action.

The parties have advised the Court that they desire to resolve the remaining allegations in the Complaint without the burden, expense, and delay of further 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 this Consent Decree; and (3) this Consent Decree resolves all the matters in controversy between the parties as provided in paragraphs 1 through 13 below.

It is therefore ORDERED, ADJUDGED AND DECREED as follows:

1. Without admitting any failure to comply with Title VII in the past or any of the allegations of the Commission, Paradise Plaza agrees that:
  - a. it will not discriminate against employees because they are pregnant;
  - b. it will not engage in any act, policy or practice that has the purpose or effect of discriminating against employees or applicants for employment on the basis of sex; and
  - c. it will not discriminate or retaliate in any way against any person because of opposition to a practice made unlawful under Title VII or because of the filing of a charge, the giving of testimony, assistance or participation in any manner in an investigation, proceeding or hearing under Title VII.
2. To resolve this matter without the burden and expense of further litigation, Paradise Plaza agrees to pay \$5,000.00 to Daysha Jungels in settlement of this cause of action. Of this amount, \$2,500.00 shall be paid to Ms. Jungels within thirty days of the date this Consent Decree is entered by the Court. This \$2,500.00 amount shall be treated for tax purposes as back pay damages. The remaining amount of \$2,500.00 shall be paid to Ms. Jungels within six months from the date this Consent Decree is entered, in five monthly installments of \$500.00. The installment payments shall be treated for tax purposes as compensatory damages and shall be due as hereinafter set forth. The entire amount of \$5,000.00 shall be subject to applicable taxes and withholdings as provided by law.

Paradise Plaza agrees not to deduct from the settlement amount of \$5,000.00 the amount of the employer's share of any costs, taxes or social security required by law to be paid by Paradise Plaza. Paradise Plaza further agrees to issue a form 1099 for the amount of damages that has been deemed compensatory damages. All payments shall be made by check and made payable to Daysha Jungels and sent to her by certified mail at 7904 W. 700 N., Unit A, Culver, IN 46511. Fifteen days from the entry of this Consent Decree by the Court, the Commission will forward a release to Daysha Jungels for her execution. The Commission acknowledges that Daysha Jungels will not be entitled to receive any money pursuant to this Consent Decree if she fails to sign and return the release. The Commission will notify counsel for Paradise Plaza on receipt of the release executed by Daysha Jungels. Then, within thirty days from the entry of this Consent Decree by the Court, or within five days of the Commission's notification that it has received the release signed by Ms. Jungels, whichever is later, Paradise Plaza shall mail the check for \$2,500.00, by certified mail, to Ms. Jungels. Paradise Plaza shall mail a copy of Daysha Jungels' check and proof of its delivery to Ms. Jungels (a signed certified mail receipt) to the Commission in the care of Laurie A. Young, Regional Attorney, or her successor, Equal Employment Opportunity Commission, 101 W. Ohio Street, Suite 1900, Indianapolis, Indiana, 46204. Then, within six months from the entry of this Consent Decree or within six months of the Commission's notification that it has received the release signed by Ms. Jungels, whichever is later, Paradise Plaza shall mail, by certified mail, five installment checks of \$500.00 to Daysha Jungels. The first installment check shall be due to Ms. Jungels within sixty days from the entry of this Consent Decree or within sixty days of the Commission's notification that it has received the release signed by Ms. Jungels, whichever is later. The remaining four installment checks shall be due to Ms. Jungels beginning thirty days after the date that the first installment check

is due. The Commission shall forward Ms. Jungels' release to Paradise Plaza's counsel upon receipt of proof of delivery of all checks (the check for \$2,500.00 and the five installment checks of \$500.00) to Ms. Jungels.

3. Upon counsel for the Commission's representation of receipt of the release executed by Daysha Jungels, Paradise Plaza agrees to give the Commission a Consent Judgment in regard to the five installment payments, in the amount of \$2,500.00. The Commission agrees to withhold execution of the Consent Judgment so long as all installments are current and timely. In the event that Paradise Plaza is untimely in any payment, the Commission agrees to provide Paradise Plaza with a ten day cure period prior to executing the Consent Judgment. A copy of the Consent Judgment shall be in the form attached to this Decree as Appendix A.

4. Paradise Plaza agrees to post the Notice of Non-Discrimination Policy attached as Appendix B to this Decree in a conspicuous place on its premises. Said notice shall remain posted throughout the term of this Decree.

5. Paradise Plaza agrees to eliminate from the record of Daysha Jungels all reference to her charge of discrimination and participation in this suit and shall make no reference to such charge or participation in the event that it is contacted for references. This provision survives the expiration of the Consent Decree.

6. Without admitting any failure to comply with Title VII in the past or any of the allegations of the Commission, Paradise Plaza agrees to notify all of its current and future employees who possess hiring and firing authority that discrimination because of pregnancy violates Title VII and that pregnancy is not a factor to be considered in any employment decision.

7. Paradise Plaza agrees that its owners, managers and supervisors shall attend a training

seminar regarding sex discrimination (including but not limited to pregnancy discrimination). Said individuals must attend a seminar within twelve (12) months from the date of entry of this Decree. Thirty (30) days prior to the date of the seminar, Paradise Plaza shall provide notice to the Commission regarding the date, time and place of the seminar, and shall send to the Commission a copy of the seminar program. The Commission may provide reasonable input on the content of the program.

8. Paradise Plaza agrees to submit reports to the Commission detailing its compliance with this decree.

a. Within sixty (60) days of the date of this Decree, Paradise Plaza will certify to the EEOC Regional Attorney Laurie A. Young, that it has informed its employees that pregnancy is not a factor to be considered when making any employment decision;

b. In addition, four (4) annual reports shall be submitted during the term of this decree. The first report shall be due on June 30, 2005 and the subsequent reports shall be mailed to the Commission no later than June 30th of each year covered by the decree. The report shall include the following information for the twelve (12) month period preceding the report: the name, position, home address, home telephone number and reason for discharge of all employees who are discharged during their pregnancy.

Reports shall be sent to the attention of Laurie A. Young, Regional Attorney, or her successor, Equal Employment Opportunity Commission, 101 W. Ohio Street, Suite 1900, Indianapolis, Indiana, 46204.

9. Paradise Plaza agrees that the Commission may review compliance with this Decree.

As part of such review, the Commission may inspect the premises, interview employees, and examine and copy documents.

10. In the event that the Commission alleges that a violation of this Decree has occurred, prior to exercising any remedy provided by law, the Commission will give notice in writing by certified mail, specifically identifying the alleged violation to Paradise Plaza and to its counsel, McTurnan & Turner, 2400 Market Tower, 10 West Market Street, Indianapolis, Indiana 46204. Paradise Plaza will have thirty (30) days in which to investigate and respond to the allegation. Thereafter, the parties will have a period of thirty (30) days, or such additional period as may be agreed upon by them, in which to negotiate and confer regarding such allegation, before the Commission exercises any remedy provided by law.

11. The Commission and Paradise Plaza shall each bear their own costs and attorney fees.

12. The term of this Decree shall be for five (5) years following the date of the entry of this Decree.

13. RETENTION OF JURISDICTION BY COURT. The Court will retain jurisdiction of this cause throughout the duration of this Decree for purposes of monitoring compliance with this Decree and entry of such further orders as may be necessary or appropriate.

Date: October 28, 2004

/s/ Robert L. Miller, Jr.  
Chief Judge, United States District Court  
Northern District of Indiana

cc:

J. Farnsworth  
S. Nystrom/A. Cowgur

## APPENDIX A

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF INDIANA  
SOUTH BEND DIVISION

EQUAL EMPLOYMENT OPPORTUNITY	)	
COMMISSION,	)	
	)	
Plaintiff,	)	
	)	CIVIL ACTION NO.
v.	)	
	)	3:04-CV-233 RM
MASHIANA PARADISE PLAZA, INC.,	)	
d/b/a PARADISE PLAZA TRUCK STOP	)	
	)	
	)	
	)	
Defendant.	)	
	)	

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### **CONSENT JUDGMENT**

The Equal Employment Opportunity Commission (“Commission”) and Mashiana Paradise Plaza, Inc., d/b/a Paradise Plaza Truck Stop (“Paradise Plaza”), the parties to this action, having agreed to the terms and conditions of a Consent Decree entered by this Court on October 28, 2004, and having executed this Consent Judgment:

The Court, being duly and fully advised in the premises, now approves and enters the following Final Judgment Order, and it is therefore ORDERED, ADJUDGED AND DECREED:

1. Paradise Plaza is hereby ordered and directed to pay to Daysha Jungels in a timely manner as set forth below the total sum of \$5,000 less any amounts paid pursuant to the Consent Decree, and judgment is hereby rendered against Paradise Plaza in that amount.

2. Within 15 business days of entry of this Order, Paradise Plaza shall pay and satisfy the above-stated judgment to Daysha Jungels, by cashiers check sent by certified mail to 7904 W. 700 N., Unit A, Culver, IN 46511.

3. This Consent Judgment may be executed in any number of counterparts each of which shall be deemed to be an original, and shall become effective upon delivery to the Court of a copy or copies hereof, signed by each party's respective counsel, and upon execution entry thereof by the Court.

4. The parties, by their respective counsel, acknowledge that they have had an opportunity to review this Consent Judgment and understand the terms and conditions of this Consent Judgment.

FOR PLAINTIFF EEOC:

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JO ANN FARNSWORTH, #8364-69  
Senior Trial Attorney

EQUAL EMPLOYMENT  
OPPORTUNITY COMMISSION  
101 W. Ohio Street, Suite 1900  
Indianapolis, IN 46204  
(317) 226-7949

FOR DEFENDANT MASHIANA  
PARADISE PLAZA, INC., d/b/a PARADISE  
PLAZA TRUCK STOP:

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SUSAN NYSTROM, #18989-49

McTURNAN & TURNER  
2400 Market Tower  
10 West Market Street  
Indianapolis, IN 46204  
(317) 464-8181

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Date

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Judge, United States District Court

Copies to:

Jo Ann Farnsworth, Senior Trial Attorney  
EQUAL EMPLOYMENT OPPORTUNITY  
COMMISSION  
101 W. Ohio Street, Suite 1900  
Indianapolis, IN 46204

Susan C. Nystrom  
Cynthia A. Bedrick  
McTURNAN & TURNER  
2400 Market Tower  
10 West Market Street  
Indianapolis, IN 46204

APPENDIX B

# **EMPLOYEE NOTICE**

## **NOTICE OF NON-DISCRIMINATION POLICY**

Federal law requires that there be no discrimination against any employee or applicant for employment because of the employee's race, color, religion, sex, national origin, age (over 40) or disability.

Federal law also prohibits discrimination in the workplace against employees because of their pregnancy. More specifically, pregnancy is not a factor to be considered in any employment decision.

Paradise Plaza supports and will comply with such Federal law in all respects and will not take any actions against employees because they have exercised their rights, reported an alleged violation under the law or have given testimony, assistance or participation in any investigation, proceeding or hearing conducted by the U. S. Equal Employment Opportunity Commission.

An employee has the right, and is encouraged to exercise that right, to report allegations of employment discrimination in the workplace. An employee may contact the U. S. Equal Employment Opportunity Commission for the purpose of filing a charge of employment discrimination.

**Questions concerning this notice may be addressed to:**

**Equal Employment Opportunity Commission  
101 W. Ohio St., Suite 1900  
Indianapolis, Indiana 46204-4203  
Telephone: (317) 226-7212  
EEOC 800 # 1-800-669-4000  
TDD (317) 226-4162**