

FILED

AUG - 5 2002

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
AIKEN DIVISION

LARRY W. PROPPS, CLERK
COLUMBIA, S.C.
Entered 8/7/02

EQUAL EMPLOYMENT OPPORTUNITY)
COMMISSION,)

Plaintiff,)

and)

BETTE KANE,)

Intervenor,)

v.)

GRAVES ENVIRONMENTAL &)
GEOTECHNICAL SERVICES, INC., et al.,)

Defendants.)

CIVIL ACTION NO.
1:00-CV-373-22BC

CONSENT DECREE

Amc
#1

The Equal Employment Opportunity Commission (the "Commission") instituted this action pursuant to Section 706(f)(1) and (3) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. Section 2000e-5(f)(1) and (3) ("Title VII"), and Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981a.

Because the issue of Defendants' status as "employers" under Title VII remains in dispute, the Commission, the Plaintiff-Intervenor and the Defendants, Graves Environmental & Geotechnical Services, Inc. ("Graves"), Graves Construction Services, Inc., Graves Water Services, Inc., and Graves Drilling Services, Inc. (collectively "Graves Companies"), hereby stipulate to the jurisdiction of the Court for purposes of this Consent Decree only. The parties further stipulate this Consent Decree shall be enforceable notwithstanding Defendants' assertion the Court lacks jurisdiction over them. Nothing in this Consent Decree shall be interpreted as an admission contrary to, and their consent to this Consent Decree shall be without prejudice to,

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Defendants' position that they are not "employers" as defined under Title VII.

In entering into this agreement, Defendants do not admit to any wrongdoing, violation of law or interference with the rights of any individuals, including the class members; rather, the parties have advised this Court that they desire to resolve the allegations in the Complaints 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) for purposes of this Consent Decree only, the Court has jurisdiction; and (2) this Decree resolves all matters in controversy between the parties as provided in paragraphs 1 through 18 below.

It is therefore ORDERED, ADJUDGED AND DECREED as follows:

1. Graves shall not discriminate against or harass individuals on the basis of sex or any other protected category within the meaning of Title VII of the Civil Rights Act of 1964.

CWC #2
2. Graves 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.

3. Graves shall pay Bette Kane and Misty Terise Kehr the total sum of Fifty Two Thousand Five Hundred (\$52,500.00) Dollars, and shall waive payment of costs and fees taxed against Ms. Kane in the Court's order of May 28, 2002, which Defendants estimate to be in the amount of \$3,500.00. The settlement funds will be distributed by Graves as set forth in paragraphs 6 and 7.

4. Ms. Kane and Ms. Kehr, after consultation with counsel, have both executed a settlement agreement and general release of all claims ("Settlement Agreement"). The parties agree and understand that the EEOC will not be a party to the Settlement Agreement between Ms. Kane, Ms. Kehr, and the Graves Companies.

5. The EEOC will not issue a press release to media in South Carolina or in *or*

the Augusta, Georgia area. Moreover, the EEOC will not post any such information concerning the case or its settlement on the EEOC's public web site, "www.eeoc.gov."

6. Graves shall pay Bette Kane the amount specified in the Settlement Agreement by issuing a check in that amount payable to M. Baron Stanton, Esq. as Attorney for Bette Kane, and mailed to him at Stanton Law Firm, P.A., 1728 Main Street, Columbia, South Carolina 29201. Payment shall be made within fifteen days after the Court approves this Consent Decree. Within ten days after the check has been sent to Mr. Stanton, Graves shall mail to Mindy E. Weinstein, Regional Attorney, Equal Employment Opportunity Commission, 129 West Trade Street, Suite 400, Charlotte, NC 28202, a copy of the check and proof of its delivery to Mr. Stanton.

7. Graves shall pay Misti Terise Kehr the amount specified in the Settlement Agreement by issuing a check in that amount payable to her and mailing it to Ms. Kehr at the address specified in the Settlement Agreement. Payment shall be made within fifteen days after the Court approves this Consent Decree. Within ten days after the check has been sent to Ms. Kehr, Graves shall mail to Mindy E. Weinstein, Regional Attorney, Equal Employment Opportunity Commission, 129 West Trade Street, Suite 400, Charlotte, NC 28202, a copy of the check and proof of its delivery to Ms. Kehr.

8. Graves agrees to eliminate from the personnel files of Misti Kehr and Bette Kane any and all documents and entries relating to the facts and circumstances which led to the filing of the EEOC charge of sexual harassment and the related events that occurred thereafter, including the filing of this lawsuit.

9. Within 30 days of the date that the Court executes this Consent Decree, the Graves Companies will implement, disseminate, and publish a written policy prohibiting harassment and discrimination ("Harassment Policy"). The Harassment Policy will set forth a complaint procedure for individuals who believe they have been a victim of or witnessed discrimination, retaliation, or harassment. The Harassment Policy will also provide, in part, that Graves will thoroughly investigate complaints or incidences of discrimination, retaliation and

harassment. The Harassment Policy will specify that such investigations will, at a minimum, include interviewing all witnesses and documenting facts learned during the investigation. Defendant further agrees that all documentation related to any investigation will be collected and maintained in accordance with 42 U.S.C. § 2000e-8(c) and 29 C.F.R. § 1602.14.

10. During the term of this Decree, Graves shall provide an annual training program to all of its employees. At least fifteen (15) days prior to each program, Graves shall provide the Commission with an agenda for the training program. The agenda and the personnel conducting the training will be subject to the Commission's approval.

Each training program shall include an explanation of the requirements of the federal equal employment opportunity laws, including Title VII of the Civil Rights Act of 1964 and its prohibition against sex discrimination and sexual harassment in the workplace. Each training program shall also cover Graves' Harassment Policy and an explanation of the rights and responsibilities of employees and managers under the policy. The first training program shall be completed within ninety (90) days after entry of the decree by the Court. Each subsequent training program shall be conducted on or before thirty days prior to the anniversary of the date that the Court files this Consent Decree. Within ten (10) days after completion of each training program, Graves shall certify to the Commission the specific training that was undertaken and shall provide the Commission with a roster of all employees in attendance.

11. During the term of this Decree, the Graves Companies agree that Graves shall provide a copy of the Harassment Policy to each person hired. In addition, Graves agrees that a manager or supervisory employee shall explain the meaning and operation of the Harassment Policy to each person hired.

12. Until August 1, 2003, Graves shall post the attached Employee Notice, marked Appendix A, hereby made a part of this Decree, in a place where it is visible to its employees. If the Notice becomes defaced or unreadable, Graves shall replace it by posting another copy of the Notice.

13. Graves agrees to provide the Commission with semi-annual reports during

the term of this Decree. The first report is due no later than four months after the date this Consent Decree is filed. Graves will provide reports every six months thereafter during the term of this Decree. The reports shall include the following information: (a) the identities of all individuals who have complained of or reported sexual harassment at Graves' facilities, including by way of identification each person's name, home address, home telephone number, social security number, and sex; (b) a statement of the individual's complaint; and (c) a description of what action was taken in response to the individual's complaint.

14. Defendant shall permit a representative of the EEOC to enter Defendant's premises for purposes of verifying compliance with this Consent Decree at any time during normal business hours without prior notice.

15. If anytime during the term of this Decree, the Commission believes that Graves is in violation of this Decree, the Commission shall give notice of the alleged violation to Graves. Graves shall have twenty (20) days in which to investigate and respond to the allegations. Thereafter, the parties shall have a period of thirty (30) 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.

16. Each party shall bear its own costs and attorneys' fees.

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

18. This action is dismissed, with prejudice; however, this Court shall retain jurisdiction of this cause for purpose of resolving controversies arising under this Decree and for entry of any orders as may be necessary or appropriate.

August 5, 2002
Date

Cameron McGowan Currie
CAMERON MCGOWAN CURRIE
UNITED STATES DISTRICT JUDGE

Aiken, South Carolina

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

**GRAVES ENVIRONMENTAL & GEOTECHNICAL
SERVICES, INC., GRAVES CONSTRUCTION
SERVICES, INC., GRAVES WATER SERVICES,
INC., GRAVES DRILLING SERVICES, INC., and** *JSB*

By: *Sue Erwin Harper*

Sue Erwin Harper

Federal # 737

NELSON, MULLINS, RILEY & SCARBOROUGH, L.L.P.

1330 Lady Street

Columbia, South Carolina 29201

803/255-5544

803/255-9034 (fax)

**EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION**

CME #6
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Greenville, SC 29601

(864) 241-4406

PLAINTIFF-INTERVENOR

BETTE KANE

By: *M. Baron Stanton*

M. Baron Stanton

STANTON LAW ~~LLP~~ *OFFICES* P.A. *Fed. (S.C.) ID# 4279*

1728 Main Street

Post Office Box 245

Columbia, SC 29202

803-929-1484

EXHIBIT A

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
AIKEN DIVISION**

**U.S. EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION,**

Plaintiff,

and

BETTE KANE,

Intervenor,

v.

**GRAVES ENVIRONMENTAL &
GEOTECHNICAL SERVICES, INC.,
et al.,**

Defendants.

**CIVIL ACTION
NO. 1:00:CV373-22BC**

NOTICE TO EMPLOYEES

This Notice is being posted pursuant to a Consent Decree entered in the above-styled case. Federal law prohibits harassment against any employee or applicant for employment because of the individual's sex, race, color, national origin, religion, age (40 and over) or disability with respect to hiring, promotion, discipline, firing, compensation, or other terms, conditions or privileges of employment.

Graves has an equal employment opportunity policy and will ensure that all management, supervisors, and other employees abide by the requirements of that policy. Graves will take all actions required by the United States District Court.

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

THIS NOTICE WILL REMAIN POSTED UNTIL AUGUST 1, 2003.

Employees may contact the U.S. Equal Employment Opportunity Commission at:

U.S. Equal Employment Opportunity Commission
Greenville Local Office
301 N. Main Street, Suite 1402
Greenville, S.C. 29601
(864)241-4400
www.eeoc.gov