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IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS

**FILED**  
U.S. DISTRICT COURT  
EASTERN DISTRICT OF TEXAS  
JAN - 5 2004

SHERMAN DIVISION

DAVID J. MALAND, CLERK  
BY DEPUTY Joy McEwen

EQUAL EMPLOYMENT OPPORTUNITY §  
COMMISSION, §  
Plaintiff, §  
§  
VS. §  
§  
FARRIS CONCRETE COMPANY, §  
Defendant. §  
§

CAUSE NO. 4:02cv105

**CONSENT DECREE**

THIS CONSENT DECREE is made and entered into by and between the Equal Employment Opportunity Commission ("EEOC"), and Farris Concrete Company ("Farris") in the United States District Court for the Eastern District of Texas, Sherman Division, with regard to the EEOC's Complaint filed on April 8, 2002 ("EEOC Complaint"), in Civil Action No. 4:02CV105. The EEOC Complaint was based upon Charge of Discrimination Number 310A10829 filed by Teresa Cheshier ("Cheshier") against Farris Concrete Company (the "Charge").

The EEOC Complaint alleges that Farris violated Title VII of the Civil Rights Act of 1964 and Title I of the Civil Rights Act of 1991, by subjecting Cheshier to a sexually hostile work environment. Farris denies all of the EEOC's allegations against Farris.

The EEOC, Cheshier, and Farris agree to compromise and settle

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the differences embodied in the EEOC Complaint, and intend that the terms and conditions of the compromise and settlement be set forth in this Consent Decree ("Consent Decree").

NOW, THEREFORE, in consideration of the mutual promises and agreements set forth herein, the sufficiency of which is hereby acknowledged, the parties agree as follows, the Court finds appropriate, and therefore, it is ORDERED, ADJUDGED AND DECREED that:

1. This Consent Decree resolves all issues raised in the EEOC Complaint and/or the Charge. This Consent Decree further resolves all issues in the Complaint filed by the EEOC in this civil action. The EEOC waives further claims and/or litigation on all issues raised in the Charge and the EEOC Complaint. The EEOC does not waive processing or litigating charges other than the above-referenced Charge.

2. The parties agree that this Consent Decree does not constitute an admission by Farris of any liability or wrongdoing. Farris expressly denies any violation of local, state or federal law, common or statutory, including but not limited to, Title VII of the Civil Rights Act of 1964, as amended, or Title I of the Civil Rights Act of 1991.

3. Nothing in this Consent Decree shall be construed to expand, limit or reduce Farris' obligation to comply with Title VII of the Civil Rights Act of 1964, as amended.

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4. Farris agrees that all duty assignments, disciplinary actions, and other terms and conditions of employment shall be maintained and conducted in a manner which does not discriminate on the basis of sex in violation of Title VII of the Civil Rights Act of 1964, as amended, and Title I of the Civil Rights Act of 1991. Farris will maintain a workplace environment free from sexual harassment, as that term is defined in the Sexual Harassment Policy appended hereto as Attachment "A".

5. Farris agrees to post its Sexual Harassment Policy appended hereto as Attachment "A" in a conspicuous place upon the premises of the affected facility where notices to employees, applicants for employment, members and trainees are customarily posted within ten (10) days after the entry of this Consent Decree. Farris will report to the EEOC that it has complied with this requirement within (fourteen) 14 days after posting the notice(s). The posting of the notice(s) is to inform applicants and employees about sexual harassment and retaliation. EEOC's agreement that Attachment "A" be posted is in no way an endorsement or approval of the specific sexual harassment and retaliation policy as an effective anti-sexual harassment and anti-retaliation policy. The notice(s) will remain posted during the two year pendency of this Consent Decree.

6. Within three months after the Consent Decree is entered, Farris agrees to conduct Sexual Harassment Training for all

employees, managers, supervisory personnel and officers of Farris at the affected facility. The training will advise employees of the requirements and prohibitions of Title VII of the Civil Rights Act of 1964. The training will inform the employees of the complaint procedure for individuals who believe they have experienced sexual harassment. The training will advise employees, including supervisors and managers, of the consequences of violating Title VII. The training will also include a specific discussion or instruction relating to the issue of sexual harassment and gender discrimination. The training shall be at least two hours in duration. The training may be conducted by the EEOC or by a private party. Within ten (10) days after the training is conducted, Farris agrees to give written notice to the EEOC as to the date and location of the training, the name of the person providing the training and the substance of the training. If the EEOC conducts the training, the required notice will be waived.

7. Farris agrees to remove from all personnel files of Cheshier all documents, entries and references relating to: the facts and circumstances which led to the filing of the Charge; the Charge itself; and the EEOC Complaint. Farris shall send written notice to the EEOC within thirty (30) days after expungement, stating that it has complied with the requirements of this paragraph.

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8. Farris agrees to provide a neutral employment reference for Cheshier limited to the dates of her employment and whether or not she is eligible for re-employment.

9. Farris agrees that there shall be no discrimination of any kind against any person because of opposition to any practice declared unlawful under Title VII or because of the filing of a charge, giving testimony or assistance or participating in any manner in any investigation, proceeding or hearing under Title VII.

10. Farris agrees to pay Cheshier the amount of \$15,000.00 to resolve all claims for damages arising out of the Charge and/or the EEOC Complaint. Cheshier will assume full responsibility to all state and federal taxing authorities for any tax consequences to Cheshier, if any, including interest, sanctions or penalties regarding income or other taxes, and further agrees to hold harmless Farris for any such tax consequences.

11. The payment referenced in paragraph 10 above shall be made as follows:

- (a) \$5,000.00 shall be paid upon the signing of this Consent Decree;
- (b) \$5,000.00 shall be paid on or before March 31, 2004; and
- (c) \$5,000.00 shall be paid on or before June 30, 2004.

12. The payments due on March 31, 2004 and June 30, 2004 shall be made by check payable to Cheshier, and shall be sent by first class mail to Cheshier at P. O. Box 274, Anna, Texas 75409.

A copy of the check shall be sent to EEOC attorney Keri L. Mallon, or any other EEOC supervisor which the EEOC designates in writing to receive said copy. The payments shall be considered to be made timely if mailed on or before the due dates specified above.

13. All reports to the EEOC required by this Consent Decree shall be sent to Keri L. Mallon, Trial Attorney, EEOC, third floor, 207 S. Houston, Dallas, Texas 75202.

14. If Farris fails to tender payment or otherwise fails to timely comply with the terms of paragraph 11 above, Farris shall:

- a. Pay interest at the rate calculated pursuant to 26 U.S.C. Section 6621(b) on any untimely or unpaid amounts; and
- b. Bear any additional costs incurred by the EEOC caused by the non-compliance or delay of Farris.

15. Neither the EEOC, Cheshier nor Farris shall contest the validity of this Consent Decree nor the jurisdiction of the federal district court to enforce this Consent Decree and its terms or the right of either party to the Consent Decree to bring an enforcement action upon breach of any term of this Consent Decree by either such party. Nothing in this Consent Decree shall be construed to preclude the EEOC from enforcing this Consent Decree in the event that Farris fails to perform the promises and representations contained herein.

16. Cheshier shall not bring suit or join in any suit against Farris with respect to the allegations contained in the Charge and/or the EEOC Complaint, or any acts or allegations reasonably

related to the Charge and/or the EEOC Complaint, or falling within the scope of the EEOC's investigation of the Charge and/or the EEOC Complaint.

17. The EEOC shall not bring further suit or intervene in any suit against Farris based upon the Charge and/or the EEOC Complaint, any of the allegations contained therein, the EEOC's investigation of the Charge and/or EEOC Complaint, or the underlying facts.

18. The parties to this Consent Decree agree to bear their own costs and attorney's fees associated with the Charge and/or the EEOC Complaint.

19. The term of this Consent Decree shall be for two (2) years.

SO ORDERED, ADJUDGED AND DECREED this 2nd day of January, 2004.

  
U.S. DISTRICT COURT JUDGE

AGREED AS TO FORM AND SUBSTANCE:

Signed this \_\_\_\_\_ day of \_\_\_\_\_, 2003.

**ATTORNEY FOR PLAINTIFF,  
EQUAL EMPLOYMENT OPPORTUNITY COMMISSION**

S. ERIC DREIBAND  
General Counsel

ROBERT A. CANINO  
Regional Attorney

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Oklahoma State Bar No. 011782

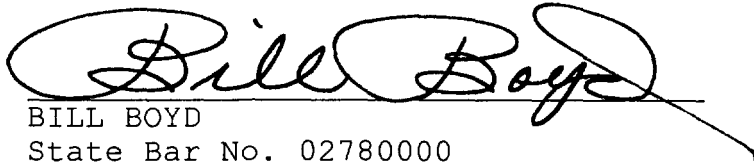
SUZANNE M. ANDERSON  
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EQUAL EMPLOYMENT OPPORTUNITY COMMISSION  
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**ATTORNEY FOR DEFENDANT,  
FARRIS CONCRETE COMPANY**



BILL BOYD  
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# **ATTACHMENT “A”**

## **NOTICE TO ALL EMPLOYEES**

**POLICY:** Discrimination of any kind can and often will detract from employees' job performance, discourage employees from remaining on the job, keep employees from advancing in their careers, and lower overall employee morale and productivity. This company is a place of business, and employees are expected to conduct themselves accordingly. It is the policy of this company that gender discrimination in the form of sexual harassment and retaliation are unacceptable conduct and will not be condoned.

**PURPOSE:** It is the purpose of this policy to reaffirm and amplify the position of Title VII of the Civil Rights Act of 1964, as amended, and the Equal Employment Opportunity Commission's guidelines on gender discrimination and to reiterate this company's policy on discrimination.

**SCOPE:** This policy extends to all employees of this company, both management, non-management, and temporary/probationary.

**DEFINITION:** Sexual harassment has been defined as follows: Unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature constitute sexual harassment when (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or (3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.

Sexual harassment is a form of misconduct that undermines the integrity of the employment relationship. No employee, either male or female, should be subjected to unsolicited and unwelcome sexual conduct, either verbal or physical.

Examples of behavior that may constitute sexual harassment include, but are not limited to, the following:

- Hugging, grabbing or any type of unnecessary touching of another person.
- Acting like you are going to touch another person's genitalia or buttocks.
- Making unwelcome sexual advances.
- Foul or obscene language of a sexual nature, including jokes.
- Requests for sexual favors whether in exchange for benefits or otherwise.

**RESPONSIBILITY:** Each manager and supervisor has a responsibility to maintain a workplace free of sexual harassment. Each level of management is responsible for ensuring that all personnel policies, procedures, and activities are in full compliance with applicable federal, state, and local equal employment laws, statutes, rules, and regulations regarding gender discrimination and sexual harassment. Employees are expected to read, understand, and follow this company's policies against discrimination, especially sexual harassment. Managers and supervisors have the duty to discuss this policy with all employees and assure them that they are not to endure insulting, degrading, or exploitive sexual treatment.

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**REPORTING PROCEDURES:** Any employee who believes that he or she has been subjected to gender discrimination, including sexual harassment, is expected to report the alleged act as soon as possible to either that person's immediate supervisor, any supervisor or manager with this company, or to the person designated to receive such complaints. The person designated to receive such complaints for this company is LEROY WATSON and may be contacted at 8280 Highway 5 North, Melissa, Texas 75454, or by telephone at 972.838.4400. Supervisors and managers who are informed of an alleged incident of gender discrimination, including sexual harassment, must immediately notify MIKE FARRIS by telephone at 972.838.2217.

A person either alternatively, or in addition to reporting such an allegation to company officials, may contact the U.S. Equal Employment Opportunity Commission for the purposes of filing a charge of employment discrimination. The address and telephone number of the U.S. EEOC office is 207 S. Houston Street, Third Floor, Dallas, Texas 75202; (214)655-3355. Information about your rights and how to file a charge is available on the Internet at [www.eeoc.gov](http://www.eeoc.gov).

**INVESTIGATION OF COMPLAINTS:** A complete investigation of each complaint will be undertaken immediately by MIKE FARRIS OR HIS DESIGNEE. The investigation may include interview of all employees and supervisors at the facility, the inspection of documents, including personnel records, and full inspection of the premises.

**PUNISHMENT FOR VIOLATION:** Employees engaged in gender discrimination can expect serious disciplinary action. After appropriate investigation, any employee, whether management or non-management, who has been found to have discriminated against another employee will be subject to appropriate sanctions, depending on the circumstances, from a written warning in his or her personnel file, up to and including termination of employment.

**RETALIATION:** There shall be no retaliation against any employee because that person has opposed what they believe to be unlawful employment practices or has filed a charge of discrimination, or has given testimony, assistance, or has participated in any manner in any investigation, proceeding, or hearing under Title VII of the Civil Rights Act of 1964. This company will not punish you for reporting gender discrimination simply because you have made a complaint under the above guidelines.

**PROTECTION OF PRIVACY:** The question of whether a particular action or incident constitutes gender discrimination requires a determination based on all available facts. This company will therefore make a concerted effort to protect the privacy of all personnel. Confidential information will be shared on a need-to-know basis to complete the investigation and to deal appropriately with the situation.

**EXCEPTIONS:** There are no exceptions to this policy.

**THIS IS AN OFFICIAL NOTICE AND MUST NOT BE REMOVED OR DEFACED BY ANYONE.**

**NOTICE TO ALL EMPLOYEES**

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