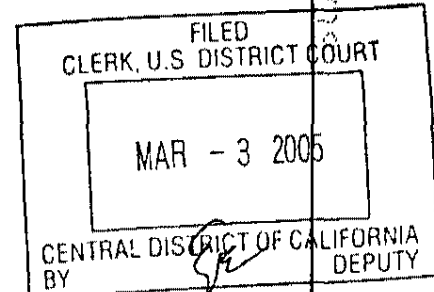
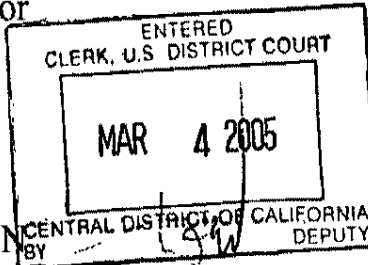


**ORIGINAL**

Anna Y. Park, SBN 164242  
Sue J. Noh, SBN 192134  
U.S. EQUAL EMPLOYMENT  
OPPORTUNITY COMMISSION  
255 East Temple Street, 4th Floor  
Los Angeles, CA 90012  
Telephone: (213) 894-1082  
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Attorneys for Plaintiff  
EQUAL EMPLOYMENT  
OPPORTUNITY COMMISSION



**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

EQUAL EMPLOYMENT  
OPPORTUNITY COMMISSION,

Plaintiff,

BSH HOME APPLIANCES  
CORPORATION, AND DOES 1-10  
Inclusive,

Defendants.

ERIKA SALGADO and  
MICHELLE HERNANDEZ

Plaintiffs in Intervention,

v.

BSH HOME APPLIANCES  
CORPORATION, AND DOES 1-10  
Inclusive,

Defendants.

CASE NO.: LACV 03-7013 TJH (MAN)

~~PROPOSED~~ CONSENT DECREE

Honorable Margaret A. Nagle

Priority  
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JS-2/JS-3  
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THIS CONSTITUTES NOTICE OF ENTRY  
AS REQUIRED BY FRCP, RULE 77(d).

57

## **I. INTRODUCTION**

Plaintiff U.S. Equal Employment Opportunity Commission ("EEOC"), Defendant BSH Home Appliances Corporation ("BSH"), and Plaintiffs in Intervention Erika Salgado ("Salgado") and Michelle Hernandez ("Hernandez") hereby stipulate and agree to entry of this Consent Decree to resolve the EEOC's Complaint, filed under Title VII of the Civil Rights Act of 1964, as amended, Section 706(f)(1) and (3) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e-5(f)(1) and (3), and Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981a ("Title VII"), and to resolve Salgado's and Hernandez's related Complaint-in-Intervention. The EEOC's Complaint alleges that BSH subjected Salgado and Hernandez to sexual harassment and that BSH retaliated against Salgado when she opposed and complained about the harassment. Salgado's and Hernandez's Complaint-in-Intervention alleges Title VII and related state law claims. BSH denies liability as to all allegations in the Complaints.

## **II. JURISDICTION**

The Court has jurisdiction over the parties and the subject matter of this lawsuit, pursuant to 28 U.S.C. Sections 451, 1331, 1337, 1343, 1345, 1367 and 42 U.S.C. 2000e-5(f). The Court shall retain jurisdiction of this action during the duration of the Decree for the purposes of entering all orders, judgments and decrees which may be necessary to implement and/or enforce the relief provided herein or to otherwise effectuate the purposes of the Decree.

## **III. PURPOSES AND SCOPE OF THE CONSENT DECREE**

A. The parties to this Consent Decree ("Decree") are the EEOC, BSH, Salgado, and Hernandez (the "Parties"). The scope of this Decree includes BSH's Huntington Beach, California facility. This Decree shall be binding on and enforceable against BSH and its officers, directors, agents, successors and assigns.

B. As a result of having engaged in comprehensive settlement negotiations the Parties have agreed that this action should be finally resolved by

entry of this Decree for the following purposes:

1. To avoid expensive and protracted costs incident to litigation;
  2. To provide a final and binding settlement upon the Parties as to all claims alleged in the respective Complaints filed by the EEOC, Salgado and Hernandez;
  3. To provide monetary and injunctive relief;
  4. To ensure that BSH's employment policies and procedures comply with federal law;
  5. To ensure training for BSH employees with respect to their obligations under Title VII;
  6. To prevent and correct discrimination in the workplace;
  7. To provide effective responses to discrimination complaints;
- and
8. To prevent retaliation against employees who engage in protected activities under Title VII.

#### **IV. EFFECTIVE DATE AND DURATION OF DECREE**

A. The provisions and agreements contained herein are effective immediately upon the date on which this Decree is entered by the Court ("the Effective Date").

B. Except as otherwise provided herein, the Decree shall remain in effect for twelve (12) months after the Effective Date.

#### **V. FINDINGS**

Having examined the terms and provisions of this Decree and based on the pleadings, record and stipulation of the Parties, the Court finds the following:

A. The Court has jurisdiction over the Parties and the subject matter of this action. The Complaint and Complaint-in-Intervention assert claims that, if proven, would authorize the Court to grant the relief set forth in this Decree.

B. The terms and provisions of this Decree are adequate, fair,

1 reasonable, equitable and just. The rights of the EEOC, BSH, Salgado,  
2 Hernandez, and the public interest for which the EEOC seeks redress are protected  
3 adequately by this Decree.

4 C. This Decree conforms with the Federal Rules of Civil Procedure and  
5 Title VII and is not in derogation of the rights and privileges of any person. The  
6 entry of this Decree will further the objectives of Title VII and will be in the best  
7 interest of the Parties.

## 8 **VI. RESOLUTION OF CLAIMS**

9 A. The Parties agree that this Decree constitutes a complete resolution of  
10 EEOC Charge Nos. 340A200388 and 340A200400, the Complaint and Complaint-  
11 in-Intervention filed in this action. The Decree does not, however, resolve any  
12 charges of discrimination that may be pending with or brought in the future before  
13 the EEOC other than the charge specifically referred to in this paragraph.

14 B. Nothing in this Decree shall be construed to limit or reduce BSH's  
15 obligation to comply fully with Title VII or any other federal employment statute.

16 C. This Decree in no way affects the EEOC's right to bring, process,  
17 investigate or litigate other charges that may be in existence or may later arise  
18 against BSH in accordance with standard EEOC procedures.

## 19 **VII. MONETARY RELIEF**

20 A. Within ten business days after the Effective Date, BSH shall deliver  
21 to Erika Salgado and Michelle Hernandez, in care of their attorney, Carla D.  
22 Barboza of Barboza & Associates at 660 South Figueroa Street, Suite 1620, Los  
23 Angeles, California 90017, via overnight mail, a check made payable to "The  
24 Trust Account of Barboza & Associates, A.L.C." in the amount of \$75,000 to  
25 compensate them for their alleged emotional distress damages. BSH shall also  
26 mail a copy of the check to Anna Y. Park, Regional Attorney, U.S. Equal  
27 Employment Opportunity Commission at 255 East Temple Street, Fourth Floor,  
28 Los Angeles, California 90012.

1 B. BSH shall issue a 1099 form to Barboza & Associates, A.L.C. for the  
2 full amount of the settlement.

3 **VIII. INJUNCTIVE RELIEF**

4 **A. Non-Discrimination**

5 BSH, its officers, agents, management (including all supervisory  
6 employees), successors, and assigns, hereby agree (1) not to engage in sexual  
7 harassment or other form of sex discrimination; (2) to prevent and correct any  
8 harassment or other discrimination on the basis of sex; and (3) to ensure that  
9 employees who complain about or resist discrimination on the basis of sex are not  
10 subjected to any tangible employment actions.

11 **B. Anti-Retaliation**

12 BSH, its officers, agents, management (including all supervisory  
13 employees), successors, and assigns, hereby agree not to retaliate against any  
14 current or former employee of BSH for: (a) opposing any practice made unlawful  
15 under Title VII; (b) engaging in protected activity under Title VII; (c) filing a  
16 charge of discrimination; (d) participating in any manner in any investigation  
17 (including any internal investigation undertaken by BSH) or proceeding relating to  
18 any alleged Title VII violation; (e) being identified as a possible witness or  
19 claimant pertaining to any alleged Title VII violation; (f) asserting any rights  
20 under this Decree; or (f) receiving any relief under this Decree.

21 **C. Revision to Anti-Harassment Policy**

22 By no later than April 1, 2005, BSH shall post in conspicuous places  
23 throughout the Huntington Beach facility the revised Sexual Harassment Policy.  
24 This Sexual Harassment policy shall also be issued to all employees during the  
25 training described in Section D.

26 **D. Training**

27 1. By no later than April 15, 2005, BSH shall provide sexual  
28 harassment training to all employees at BSH's Huntington Beach facility.

1 a. All employees' training shall include coverage of the  
2 subjects of equal employment opportunity rights and responsibilities,  
3 discrimination, retaliation, and BSH's revised policies and procedures for  
4 reporting and handling complaints of discrimination and retaliation.

5 b. Separate training of managerial employees shall include  
6 training on how to take preventive and corrective measures against discrimination,  
7 how to receive and investigate or report to designated officials complaints of  
8 discrimination or retaliation, and how to recognize, prevent, and correct  
9 retaliation.

10 c. The law firm of Connelly Sheehan Harris shall review  
11 and approve all training materials.

12 2. BSH shall provide sexual harassment training to employees  
13 hired after April 15, 2005, within a reasonable period of time after their hire.

14 **E. Monitoring**

15 For any complaint of sexual harassment received by BSH's Huntington  
16 Beach facility during the term of this Consent Decree, BSH shall also have the law  
17 firm of Connelly Sheehan Harris monitor BSH's investigation and respond to the  
18 complaint.

19 **F. Neutral References**

20 BSH shall provide neutral letters of reference to Salgado and Hernandez.  
21 BSH will provide no further information regarding Salgado and Hernandez  
22 without a release executed by Salgado or Hernandez, respectively.

23 **IX. RECORDKEEPING AND REPORTING**

24 BSH shall establish a record-keeping procedure that provides for the  
25 centralized tracking of complaints of discrimination and the monitoring of such  
26 complaints to prevent retaliation. The records to be maintained during the period  
27 of this Consent Decree shall include:

28 1. All documents generated in connection with any complaint,

1 investigation into, or resolution of every complaint of discrimination or retaliation  
2 for the duration of the Decree and the identities of the parties involved, including,  
3 but not limited to, the complainant, alleged perpetrator, investigator(s),  
4 witness(es), and decision-maker(s), notes, witness statements, drafts and final  
5 internal memorandum on the investigation and resolution, and documents  
6 reflecting any discipline considered, proposed, and applied;

7 2. A copy of the revised policy against discrimination and retaliation  
8 and any revisions to the policy thereafter; and

9 3. Copies of all training materials and a list of the names and positions  
10 of employment of each employee who attended each training required and  
11 provided under this Decree, classified by the date and type of training  
12 (management versus non-managerial staff).

13 BSH shall provide copies of the aforementioned records to the EEOC within  
14 ten (10) business days following a written request by the EEOC. BSH shall  
15 provide a complete copy of the records. If BSH withholds any documents as  
16 privileged, then it shall produce a privilege log in accordance with the Federal  
17 Rules of Civil Procedures and the Local Rules for the Central District of  
18 California. The records shall be submitted to the Regional Attorney, EEOC Los  
19 Angeles District Office, 255 East Temple St., 4<sup>th</sup> Floor, Los Angeles, CA 90012. If  
20 BSH does not receive any discrimination complaints between the effective date of  
21 this decree and a written request for records from the EEOC, BSH shall provide  
22 the EEOC a declaration under penalty of perjury that no complaints were received.

23 **X. MODIFICATION AND SEVERABILITY**

24 A. This Decree constitutes the complete understanding of the Parties  
25 with respect to the matters contained herein. No waiver, modification or  
26 amendment of any provision of this Decree will be effective unless made in  
27 writing and signed by an authorized representative of each of the Parties.

28 B. If one or more provisions of the Decree are rendered unlawful or



1 unenforceable, the Parties shall make good faith efforts to agree upon appropriate  
2 amendments to this Decree in order to effectuate the purposes of the Decree. In  
3 any event, the remaining provisions will remain in full force and effect unless the  
4 purposes of the Decree cannot, despite the Parties' best efforts, be achieved.

5 C. By mutual agreement of the Parties, this Decree may be amended or  
6 modified in the interests of justice and fairness in order to effectuate the  
7 provisions of this Decree.

## 8 **XI. COMPLIANCE AND DISPUTE RESOLUTION**

9 A. The Parties expressly agree that if the EEOC has reason to believe  
10 that BSH has failed to comply with any provision of this Consent Decree, the  
11 EEOC may petition this Court to enforce the Decree. Prior to initiating such  
12 petition, the EEOC will notify BSH and its legal counsel of record, in writing, of  
13 the nature of the dispute. This notice shall specify the particular provision(s) that  
14 the EEOC believes has/have been breached. Absent a showing by either party that  
15 the delay will cause irreparable harm, BSH shall have thirty days to attempt to  
16 resolve or cure the breach.

17 B. The Parties agree to cooperate with each other and use their best  
18 efforts to resolve any dispute referenced in the EEOC notice.

19 C. After thirty days have passed with no resolution or agreement to  
20 extend the time further, the EEOC may petition this Court for compliance with this  
21 Decree, seeking all available relief, including, but not limited to, the imposition of  
22 attorneys' fees and costs and an extension of the term of the Decree for such  
23 period of time as BSH is shown to be in breach of the Decree.

## 24 **XII. COSTS OF ADMINISTRATION AND IMPLEMENTATION OF** 25 **CONSENT DECREE**

26 BSH shall bear all costs associated with its administration and  
27 implementation of its obligations under this Consent Decree, including the costs of  
28 the Consultant.



**XIII. COSTS AND ATTORNEYS' FEES**

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

**XIV. COUNTERPARTS AND FACSIMILE SIGNATURES**

This Decree may be signed in counterparts. A facsimile signature shall have the same force and effect of an original signature or copy thereof.

*March*  
Dated: ~~February~~ 2, 2005

Respectfully submitted,

U.S. EQUAL EMPLOYMENT  
OPPORTUNITY COMMISSION

By: 

Anna Y. Park

Regional Attorney

Attorneys for Plaintiff EEOC

Dated: February \_\_, 2005

BSH HOME APPLIANCES  
CORPORATION

By: see attached signature page  
\_\_\_\_\_, President

Dated: February 16, 2005

CONNELLY SHEEHAN HARRIS

By: 

Rachel B. Cowen

Attorneys for Defendant BSH

Dated: February \_\_, 2005

see attached signature page

Erika Salgado

Plaintiff in Intervention

Dated: February \_\_, 2005

see attached signature page

Michelle Hernandez

Plaintiff in Intervention

Dated: February \_\_, 2005

Barboza & Associates

By: see attached signature page

Carla D. Barboza

Attorneys for Salgado and Hernandez

**[PROPOSED] ORDER**

IT IS SO ORDERED.

DATED: March 3, 2005



Hon. Margaret A. Nagle

United States Magistrate Judge

SCANNED

**XIII. COSTS AND ATTORNEYS' FEES**

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

**XIV. COUNTERPARTS AND FACSIMILE SIGNATURES**

This Decree may be signed in counterparts. A facsimile signature shall have the same force and effect of an original signature or copy thereof.

Respectfully submitted,

Dated: February \_\_, 2005

U.S. EQUAL EMPLOYMENT  
OPPORTUNITY COMMISSION

By: \_\_\_\_\_

Anna Y. Park  
Regional Attorney  
Attorneys for Plaintiff EEOC

Dated: February 26, 2005

BSH HOME APPLIANCES  
CORPORATION

By: \_\_\_\_\_

*John A. Gilligan*  
President

Dated: February \_\_, 2005

CONNELLY SHEEHAN HARRIS

By: \_\_\_\_\_

*Rachel B. Cowen*  
Rachel B. Cowen  
Attorneys for Defendant BSH

Dated: February \_\_, 2005

Erika Salgado  
Plaintiff in Intervention

Dated: February \_\_, 2005

Michelle Hernandez  
Plaintiff in Intervention

Dated: February \_\_, 2005

Barboza & Associates

By: \_\_\_\_\_

Carla D. Barboza  
Attorneys for Salgado and Hernandez

**PROPOSED ORDER**

IT IS SO ORDERED.

DATED: \_\_, 2005

Hon. Margaret A. Nagle  
United States Magistrate Judge

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BARBOZA ASSOCIATES

PAGE 08

Feb-11-2005 01:46pm From: LEGAL UNIT

213-884-1901

T-035 P.010/010 F-500

SCANNED

**XIII. COSTS AND ATTORNEYS' FEES**

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

**XIV. COUNTERPARTS AND FACSIMILE SIGNATURES**

This Decree may be signed in counterparts. A facsimile signature shall have the same force and effect of an original signature or copy thereof.

Respectfully submitted,

Dated: February \_\_, 2005

U.S. EQUAL EMPLOYMENT  
OPPORTUNITY COMMISSION

By: \_\_\_\_\_

Anna Y. Park  
Regional Attorney  
Attorneys for Plaintiff EEOC

Dated: February \_\_, 2005

BSH HOME APPLIANCES  
CORPORATION

By: \_\_\_\_\_

\_\_\_\_\_, President


Dated: February \_\_, 2005

CONNELLY SHEEHAN HARRIS

By: \_\_\_\_\_

Rachel B. Cowen  
Attorneys for Defendant BSH

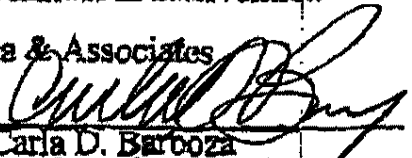
Dated: February 17, 2005

  
Enika Salgado  
Plaintiff in Intervention

Dated: February \_\_, 2005

Michelle Hernandez  
Plaintiff in Intervention

Dated: February 19, 2005

Barboza & Associates  
By:   
Carla D. Barboza  
Attorneys for Salgado and Hernandez

**[PROPOSED] ORDER**

IT IS SO ORDERED.

DATED: \_\_\_\_\_, 2005

Hon. Margaret A. Nagle  
United States Magistrate Judge

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213-884-1301

T-055 P.010/010 F-608

SCANNED

1 **XIII. COSTS AND ATTORNEYS' FEES**

2 Each party shall bear its own costs of suit and attorneys' fees.

3 **XIV. COUNTERPARTS AND FACSIMILE SIGNATURES**

4 This Decree may be signed in counterparts. A facsimile signature shall have  
5 the same force and effect of an original signature or copy thereof.

6 Respectfully submitted,

7 Dated: February \_\_, 2005

U.S. EQUAL EMPLOYMENT  
OPPORTUNITY COMMISSION

8

9

By: \_\_\_\_\_  
Anna Y. Park  
Regional Attorney  
Attorneys for Plaintiff EEOC

10

11 Dated: February \_\_, 2005

BSH HOME APPLIANCES  
CORPORATION

12

13

By: \_\_\_\_\_  
\_\_\_\_\_, President

14 Dated: February \_\_, 2005

CONNELLY SHEEHAN HARRIS

15

16

By: \_\_\_\_\_  
Rachel B. Cowen  
Attorneys for Defendant BSH

17

18 Dated: February \_\_, 2005

\_\_\_\_\_  
Erika Salgado  
Plaintiff in Intervention

19

20 Dated: February 14, 2005

\_\_\_\_\_  
Michelle Hernandez  
Plaintiff in Intervention

21

22 Dated: February \_\_, 2005

Barboza & Associates

23

24

By: \_\_\_\_\_  
Carla D. Barboza  
Attorneys for Salgado and Hernandez

25

**[PROPOSED] ORDER**

26

IT IS SO ORDERED.

27

DATED: \_\_, 2005

28

\_\_\_\_\_  
Hon. Margaret A. Nagle  
United States Magistrate Judge