

FILED  
U.S. DISTRICT COURT  
DISTRICT OF MARYLAND

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND

2008 APR 14 P 4:35

CLERK'S OFFICE  
AT BALTIMORE

EQUAL EMPLOYMENT OPPORTUNITY )  
COMMISSION, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
EMS INNOVATIONS, INC., )  
 )  
Defendant. )  
\_\_\_\_\_ )

BY \_\_\_\_\_ DEPUTY

Case No. RDB-06-CV-1320

CONSENT DECREE

INTRODUCTION

1. Plaintiff, the U.S. Equal Employment Opportunity Commission (the "EEOC" or "Commission") commenced this action on May 23, 2006, in the United States District Court for the District of Maryland, Northern Division, against Defendant EMS Innovations, Inc. ("Defendant"). In its Amended Complaint, the Commission alleged that Defendant engaged in discriminatory employment practices by sexually harassing and constructively discharging Charging Parties Elizabeth Cooper and Paula Bathras; sexually harassing and discharging claimant Kellie Brown; sexually harassing, constructively reassigning and discharging claimant Tanya Smith; and sexually harassing a class of aggrieved female employees in violation of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, et seq. ("Title VII").

2. As a result of settlement discussions, the Commission and Defendant have resolved their differences and have agreed that this action should be settled by entry of this Consent Decree. Throughout the course of this litigation, Defendant has denied, and continues to deny, the allegations of Title VII violations asserted by the EEOC. However, solely in the interest of avoiding the expense and inconvenience of litigation, Defendant has agreed to

resolve this matter by entry of this Consent Decree. It is the intent of the parties that this Consent Decree be a final and binding settlement in full disposition of any and all claims alleged in the Amended Complaint against Defendant and on behalf of the persons receiving monetary relief who are listed below.

FINDINGS

3. The EEOC is the Agency of the United States Government authorized by Title VII to investigate allegations of unlawful employment discrimination because of sex, to bring civil actions to prohibit unlawful practices, and to seek relief for individuals affected by such practices.

4. Solely for purposes of entry and enforcement of this Consent Decree, the parties agree that Defendant is an employer engaged in an industry affecting commerce within the meaning of Section 701(b), (g) and (h) of Title VII, 42 U.S.C. Section 2000e-(b), (g) and (h).

5. Pursuant to Title VII, the parties acknowledge the jurisdiction of the United States District Court for the District of Maryland (Northern Division) over the subject matter and over the parties to this case for the sole purpose of entering this Consent Decree and, if necessary, enforcing this Decree.

6. Venue is appropriate in the District of Maryland (Northern Division). Solely for purposes of this Decree and any proceedings related to this Decree, Defendant agrees that all statutory conditions precedent to the institution of this lawsuit against Defendant have been fulfilled.

7. Having examined the terms and provisions of the Consent Decree and based on the pleadings, records, and stipulations of the parties, the Court finds the following:

A. The Court has jurisdiction over the subject matter of this action against Defendant and the parties;

B. The terms and provisions of this Consent Decree are fair, reasonable, and just. The rights of Defendant, the EEOC, and those for whom the EEOC seeks relief are adequately protected by this Decree;

C. The Consent Decree conforms with the Federal Rules of Civil Procedure, Title VII, and is not in derogation of the rights and privileges of any person. The entry of this Consent Decree will further the objectives of Title VII and will be in the best interests of the parties and those for whom the EEOC seeks relief.

NOW, THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED THAT:

NON-DISCRIMINATION

8. Defendant, its officers, servants, employees, successors, and assigns, is hereby enjoined from engaging in the sex-based harassment of any employee, and from condoning the sex-based harassment of any employee. The prohibited harassment includes the use of offensive or derogatory comments, or other verbal or physical conduct based on an individual's sex, which creates an intimidating, hostile, or offensive working environment, or interferes with the individual's work performance. Such harassment violates Title VII, which, in part, is set forth below:

It shall be an unlawful employment practice for an employer -- (1) . . . to discriminate against any individual with respect to [his or her] . . . terms, conditions, or privileges of employment, because of such individual's . . . sex .

...

42 U.S.C. § 2000e-2(a)(1).

NON-RETALIATION

9. Defendant, its officers, directors, agents, employees, successors, assigns, and all persons in active concert or participation with them or any of them are enjoined from, and shall not engage in, reprisal or retaliation of any kind against any person because such person, either in the past or in the future: (a) opposed any practice made unlawful or reasonably believed to be unlawful under Title VII; (b) filed a charge of discrimination with the Commission or any fair employment practices agency; (c) was identified as a potential witness for the EEOC in an action; (d) requested and/or received relief in accordance with this Decree; (e) participated in any manner in an action under Title VII or in any investigation giving rise to such action; or (f) asserted any rights under this Decree. In this regard, Defendant shall not take any action against any person(s) which constitutes intimidation, coercion, retaliation, harassment, or interference with the exercise of such person's rights under Title VII because of the filing of Charge Nos. 120-2005-01724C & 120-2005-01112C with the EEOC, which form the basis for this case, or because such person(s) gave testimony or assistance, or participated in any manner in any investigation or proceeding in connection with this case under Title VII.

RECORD-KEEPING

10. Defendant shall comply with all applicable record-keeping requirements of Title VII and the Commission's regulations, including but not limited to, 29 C.F.R. § 1602.14.

NON-ADMISSION

11. This Decree, being entered with the consent of the EEOC and Defendant, shall not constitute an adjudication or finding on the merits of this case and shall not be construed as an admission by Defendant of any violation of Title VII or any other law, rule or regulation dealing with or in connection with equal employment opportunity.

COVERED FACILITIES

12. The provisions of this Consent Decree shall apply to all of Defendant's facilities and all other locations where it is conducting its activities.

DURATION OF DECREE

13. This Consent Decree shall be in effect for a period of three (3) years and six (6) months from the date it is entered by the Court.

MONETARY RELIEF

14. Defendant shall pay monetary relief to Paula Bathras in the total amount of \$25,000.00, which shall be compensatory damages. This monetary relief shall be paid in four checks made payable to Paula Bathras, and sent to her at her address which will be provided to Defendant's counsel by the EEOC at the time of filing this Decree. Defendant (or its agent acting on Defendant's behalf) shall mail these four payments to Paula Bathras by certified mail in the following amounts, and in accordance with following payment schedule: (a) \$6667.00 due not later than thirty (30) calendar days after this Consent Decree has been entered by the Court; (b) \$6666.00 due not later than one hundred twenty (120) calendar days after this Consent Decree has been entered by the Court; (c) \$6667.00 due not later than two hundred ten (210) calendar days after this Consent Decree has been entered by the Court; and (d) \$5000.00 due not later than three hundred sixty (360) calendar days after this Consent Decree has been entered by the Court. Within fourteen (14) calendar days of any and all such payments, Defendant (or its agent acting on Defendant's behalf) shall send a photocopy of the check sent to Paula Bathras, along with a photocopy of the Certified Mail receipt, to the EEOC's attorney of record.

15. Defendant shall pay monetary relief to Elizabeth Cooper in the total amount of \$25,000.00, which shall be compensatory damages. This monetary relief shall be paid in

four checks made payable to Elizabeth Cooper, and sent to her at her address which will be provided to Defendant's counsel by the EEOC at the time of filing this Decree. Defendant (or its agent acting on Defendant's behalf) shall mail these four payments to Elizabeth Cooper by certified mail in the following amounts, and in accordance with following payment schedule: (a) \$6667.00 due not later than thirty (30) calendar days after this Consent Decree has been entered by the Court; (b) \$6667.00 due not later than one hundred twenty (120) calendar days after this Consent Decree has been entered by the Court; (c) \$6666.00 due not later than two hundred ten (210) calendar days after this Consent Decree has been entered by the Court; and (d) \$5000.00 due not later than three hundred sixty (360) calendar days after this Consent Decree has been entered by the Court. Within fourteen (14) calendar days of any and all such payments, Defendant (or its agent acting on Defendant's behalf) shall send a photocopy of the check sent to Elizabeth Cooper, along with a photocopy of the Certified Mail receipt, to the EEOC's attorney of record.

16. Defendant shall pay monetary relief to Tanya Smith in the total amount of \$25,000.00, which shall be compensatory damages. This monetary relief shall be paid in four checks made payable to Tanya Smith, and sent to her at her address which will be provided to Defendant's counsel by the EEOC at the time of filing this Decree. Defendant (or its agent acting on Defendant's behalf) shall mail these four payments to Tanya Smith by certified mail in the following amounts, and in accordance with following payment schedule: (a) \$6666.00 due not later than thirty (30) calendar days after this Consent Decree has been entered by the Court; (b) \$6667.00 due not later than one hundred twenty (120) calendar days after this Consent Decree has been entered by the Court; (c) \$6667.00 due not later than two hundred ten (210) calendar days after this Consent

Decree has been entered by the Court; and (d) \$5000.00 due not later than three hundred sixty (360) calendar days after this Consent Decree has been entered by the Court. Within fourteen (14) calendar days of any and all such payments, Defendant (or its agent acting on Defendant's behalf) shall send a photocopy of the check sent to Tanya Smith, along with a photocopy of the Certified Mail receipt, to the EEOC's attorney of record.

17. Defendant shall pay monetary relief to Kellie Brown in the total amount of \$20,000.00, which shall be compensatory damages. This monetary relief shall be paid in four checks made payable to Kellie Brown, and sent to her at her address which will be provided to Defendant's counsel by the EEOC at the time of filing this Decree. Defendant (or its agent acting on Defendant's behalf) shall mail these four payments to Kellie Brown by certified mail in the following amounts, and in accordance with following payment schedule: (a) \$5000.00 due not later than thirty (30) calendar days after this Consent Decree has been entered by the Court; (b) \$5000.00 due not later than one hundred twenty (120) calendar days after this Consent Decree has been entered by the Court; (c) \$5000.00 due not later than two hundred ten (210) calendar days after this Consent Decree has been entered by the Court; and (d) \$5000.00 due not later than three hundred sixty (360) calendar days after this Consent Decree has been entered by the Court. Within fourteen (14) calendar days of any and all such payments, Defendant (or its agent acting on Defendant's behalf) shall send a photocopy of the check sent to Kellie Brown, along with a photocopy of the Certified Mail receipt, to the EEOC's attorney of record.

18. Defendant shall pay monetary relief to Jamie Brasher in the total amount of \$10,000.00, which shall be compensatory damages. This monetary relief shall be paid in four checks made payable to Jamie Brasher, and sent to her at her address which will be provided to Defendant's counsel by the EEOC at the time of filing this Decree. Defendant

(or its agent acting on Defendant's behalf) shall mail these four payments to Jamie Brasher by certified mail in the following amounts, and in accordance with following payment schedule: (a) \$2500.00 due not later than thirty (30) calendar days after this Consent Decree has been entered by the Court; (b) \$2500.00 due not later than one hundred twenty (120) calendar days after this Consent Decree has been entered by the Court; (c) \$2500.00 due not later than two hundred ten (210) calendar days after this Consent Decree has been entered by the Court; and (d) \$2500.00 due not later than three hundred sixty (360) calendar days after this Consent Decree has been entered by the Court. Within fourteen (14) calendar days of any and all such payments, Defendant (or its agent acting on Defendant's behalf) shall send a photocopy of the check sent to Jamie Brasher, along with a photocopy of the Certified Mail receipt, to the EEOC's attorney of record.

19. Defendant shall pay monetary relief to Jessica Self (formerly Reno) in the total amount of \$10,000.00, which shall be compensatory damages. This monetary relief shall be paid in four checks made payable to Jessica Self, and sent to her at her address which will be provided to Defendant's counsel by the EEOC at the time of filing this Decree. Defendant (or its agent acting on Defendant's behalf) shall mail these four payments to Jessica Self by certified mail in the following amounts, and in accordance with following payment schedule: (a) \$2500.00 due not later than thirty (30) calendar days after this Consent Decree has been entered by the Court; (b) \$2500.00 due not later than one hundred twenty (120) calendar days after this Consent Decree has been entered by the Court; (c) \$2500.00 due not later than two hundred ten (210) calendar days after this Consent Decree has been entered by the Court; and (d) \$2500.00 due not later than three hundred sixty (360) calendar days after this Consent Decree has been entered by the Court. Within fourteen (14) calendar days of any and all such payments, Defendant (or its



agent acting on Defendant's behalf) shall send a photocopy of the check sent to Jessica Self, along with a photocopy of the Certified Mail receipt, to the EEOC's attorney of record.

20. In the event that any of the above-referenced payments cannot be delivered to the persons designated at the addresses provided, Defendant (or its agent acting on Defendant's behalf) shall promptly contact EEOC Senior Trial Attorney Ronald L. Phillips to obtain current addresses for such persons for the purpose of prompt Certified Mail delivery, or, if a current mailing address is not available, to otherwise make arrangements for prompt payment. Defendant shall thereafter promptly report any efforts made to deliver payment and shall exercise due diligence to complete such delivery.

21. After the conclusion of any calendar year in which Defendant has made payment of monetary relief to above-referenced claimants, Defendant shall promptly issue to any persons to whom it has made payment under this Decree an IRS Form 1099-Misc for those monetary relief amounts. Defendant may deliver these IRS Forms to the claimants through an agent on its behalf.

22. Until it has made full payment of monetary relief provided by this Consent Decree for Paula Bathras, Kellie Brown, Elizabeth Cooper, Tanya Smith, Jamie Brasher and Jessica Self, Defendant shall not file for bankruptcy, be sold, or take any action that would prevent it from making full payment of monetary relief to the above-referenced claimants.

23. Defendant agrees that if there is any attempt to sell, or a sale of, the Defendant and/or its assets before the payment of any monetary relief due under this Decree, the balance of all monetary relief payments yet to made under the Decree shall be immediately due and payable. If Defendant fails to make any payment of monetary relief in full in accordance with the payment schedule set forth above, then the principal sum of the unpaid balance shall become immediately due and payable.

EQUITABLE RELIEF: NOTICE TO EEOC OF CLAIMS

24. Within thirty (30) calendar days of the institution of any judicial or administrative proceeding (including the filing of a charge of discrimination or complaint with the Maryland Commission on Human Relations or any other Fair Employment Practices Agency ("FEPA") against Defendant), wherein the person or entity instituting the proceeding alleges sex/sexual harassment or other sex discrimination under Title VII, Executive Order 11246, or state or local law, Defendant shall give notice to the Commission of the institution of such proceeding, which shall include the following: the full name, home address, home telephone number, social security number of the person(s) aggrieved (e.g., claimant, charging party, plaintiff, potential plaintiff); the full name and business telephone number of any representative(s) of the person(s) aggrieved; and the specific allegations of discrimination made by the person(s) aggrieved, if known by any of Defendant.

EQUITABLE RELIEF: SPECIFIC RESTRICTIONS  
REGARDING OWNERS, OFFICERS, AND DIRECTORS

25. While staying at any accommodation (e.g., hotel, motel, condominium) during any business travel, Defendant's owners, officers, and/or directors shall not stay in any room that is adjacent or adjoining to the room of any female employee or independent contractor, unless other arrangements are not possible. Defendant's owners, officers, and/or directors shall not enter the hotel room of any female employee or independent contractor, nor shall he invite or permit her entry into his hotel room. The requirements of this paragraph shall not be construed to apply to female employees or independent contractors who are members of the owners, officers, and/or directors' family.

26. Defendant's owners, officers, and/or directors shall not make any sexual remarks about or in the presence of, or sexual advances toward, any employees or independent contractors of Defendant, and shall not explicitly or implicitly request dates or sexual favors from any of Defendant's employees or independent contractors. This duty to refrain from such conduct is in addition to, not in lieu of, other legal requirements established under this Consent Decree or federal, state or local law.

EQUITABLE RELIEF: REPORTS TO EEOC OF DISCRIMINATION  
ALLEGATIONS AND WITNESSED CONDUCT

27. Defendant shall submit written reports to the Commission regarding the following: (a) all written or verbal complaints of sex/sexual harassment or other sex discrimination made to any person with management or supervisory authority, whether sufficient to state an actionable claim under Title VII or not, and any action taken in response to the complaints, and (b) regardless of whether any complaint was made or not, all circumstances about which a person with management or supervisory authority has actual knowledge and which would cause a reasonable person to suspect that sex/sexual harassment or other sex discrimination may have occurred, and any action taken in response to those circumstances. The reports must be sent to the Commission's Baltimore Field Office, to the attention of the Supervisory Trial Attorney, within thirty (30) calendar days of any complaints to supervisors or within thirty (30) calendar days of a person with management or supervisory authority acquiring actual knowledge of facts giving rise to a reasonable suspicion that sex/sexual harassment or other sex discrimination may have occurred, whichever is first. Such reports shall contain the following: a detailed narrative of the circumstances of the complaint or acquired knowledge; the dates and times pertinent to the complaint or knowledge being reported; the allegations of sex/sexual

harassment or other sex discrimination and the facts known and/or alleged that are relevant to such complaint; a specific description of the knowledge of possible discrimination that was acquired by any person with management or supervisory authority; the full name, job title, social security number, work address, last known home address, and last known home telephone number of any complainant; the full name, job title, and work address of any person with management or supervisory authority with acquired knowledge of possible discrimination; the full name, job title and work address of any persons who received any complaints; if other than the complainant, the full name, job title, social security number, work address, last known home address, and last known home telephone number of (1) any person alleged by a complainant to have been a victim of discrimination or, where there has been no complaint, (2) the potential discriminatee who is the subject of the knowledge acquired by a person with management or supervisory authority; the full name, job title, work address, and professional relationship to the complainant or potential discriminatee of the person or persons whose conduct is the subject of a complaint or acquired knowledge being reported; and the full name, job title, and work address of any known or alleged witnesses to the incidents alleged by a complainant or reported by a person with management or supervisory authority. Such reports must be updated and sent to the Commission's Baltimore Field Office every thirty (30) calendar days thereafter until final action is taken by Defendant on the complaint or the circumstances suggesting possible sex discrimination. Defendant shall append to all reports required by this provision of the Decree any and all documents generated or obtained in the course of its investigations, including, but not limited to, any investigatory reports, memoranda, witness statements, affidavits or other investigation-related materials.

EQUITABLE RELIEF: POLICIES AND TRAINING

28. Defendant shall adhere to a sex/sexual harassment policy that is consistent with the requirements of Title VII. Such policy shall contain at least the following elements: (1) a definition of sexual harassment that describes such harassment in a manner consistent with the requirements of Title VII; (2) a definition of sexual harassment that includes (a) offensive and unwelcome conduct that is not overtly sexual in nature but that is motivated by sex/gender and (b) harassment based on pregnancy, childbirth, and related medical conditions; (3) a statement that sexual harassment violates both federal and state law and will not be tolerated by Defendant; (4) a statement that sexual harassment is prohibited and that the policy protects all employees from sexual harassment by any person, including owners, directors, corporate officers, managers, supervisors, co-workers of any rank or position, contractors, and customers; (5) a statement that all employees of whatever rank are responsible for implementing the policy and for cooperating fully in its enforcement; (6) a provision that directs all persons to report sexual harassment to any supervisor, any management official or to the U.S. Equal Employment Opportunity Commission at the following numbers: (410) 209-2737, (410) 209-2734, (800) 669-4000, or TTY at (800) 669-6820; (7) a statement that it is the duty of all supervisors and all management officials who receive a complaint of harassment to report the complaint to one or more management officials who Defendant shall designate and specifically identify as responsible for receiving and acting upon complaints of harassment, who shall be the Operations Manager, or her/his successor if she/he is no longer employed by Defendant, and shall not be an owner of Defendant; (8) a statement that it is the duty of all supervisors and management officials to monitor the workplace for sexual harassment and that if they suspect that such harassment has taken place, it is their duty to report it to one

or more management officials who Defendant shall designate and specifically identify as responsible for receiving and acting upon complaints of harassment, who shall be the Operations Manager, or her/his successor if she/he is no longer employed by Defendant, and shall not be an owner of Defendant; (9) a statement that employees of any rank are required to report any incidents of sexual harassment that they observe; (10) a statement that employees will not be retaliated against for reporting harassment; (11) a statement that reports of harassment and investigations of those reports will be kept confidential unless disclosure is required for investigation or by law; (12) a statement that all reports shall be investigated promptly and impartially; and (13) a statement warning that persons who engage in sexual harassment will be subject to disciplinary action, up to and including immediate discharge. Defendant shall distribute a copy of its sexual harassment policy to all current officers, employees and independent contractors within twenty-one (21) calendar days of the entry of this Consent Decree by the Court. Defendant shall provide a copy of this policy to all new officers, employees and independent contractors hired during the operation of this Decree on such person's first day of work.

29. Defendant shall require all current and future owners, officers and employees to attend training regarding the requirements of Title VII, with particular emphasis on sex/sexual harassment and other forms of sex discrimination. The training shall be not less than two (2) hours in duration. In addition, the Operations Manager, or her/his successors if she/he is no longer employed by Defendant, shall receive not less than four (4) additional hours of training regarding investigation, prevention and correction of sexual harassment. Such training is to be provided by a qualified third-party at the expense of Defendant, with format and content of training subject to review by the Commission. The training must be conducted within two (2) months after entry of this

Decree or two (2) months after the commencement of employment for all new hires in such positions. The EEOC must be notified, in writing, as to the identity and qualifications of the trainer, all content of such training (including training manuals and handout materials), method of presentation, length of training course(s) and the names and job titles of attendees within one (1) month of such training. Defendant shall have the option of videotaping the first training session and then fulfilling its duty to provide any subsequent training sessions required by this Decree by requiring attendance of trainees at a viewing of the videotape. Any trainee who receives training by viewing a videotape of a previous session shall be given the name and telephone number of a qualified contact person employed by the third-party trainer and instructed to direct any questions regarding the content of the training to that contact person. If Defendant exercises its option to conduct training by videotape, a copy of the videotape shall be provided to the Commission within one (1) month of the training that was videotaped.

EQUITABLE RELIEF: POSTING OF NOTICE

30. Defendant shall post a copy of the Notice attached as Attachment A in a conspicuous location at all of its facilities where employee notices are posted. The Notice shall be posted for three (3) years and six (6) months. In addition, Defendant shall post a notice of all applicable equal employment opportunity laws and all other notices required by law. In the event that any of aforementioned notices becomes defaced, marred or otherwise made unreadable, Defendant shall immediately post a readable copy of such notice(s).

DISPUTE RESOLUTION AND COMPLIANCE

31. This Court will have all available equitable powers to enforce this Decree, including injunctive relief and imposition of monetary and other sanctions for violation of the Decree.

32. Upon motion of any party, this Court may schedule a hearing for the purpose of reviewing compliance with this Consent Decree. The parties shall engage in a good faith effort to resolve any dispute as to compliance with this Decree prior to seeking review by this Court, and shall be required to give written notice to each other ten (10) days before moving for such review.

33. The Commission, its agents and employees shall, upon reasonable prior written notice to the Defendant, have the legal right to enter any of Defendant's facilities and conduct an on-site inspection to ensure compliance with Title VII and any of the terms of this Decree if, after entry of this Decree, the Commission, its agents or employees have an objectively reasonable basis to suspect (a reasonable suspicion) that Defendant may potentially have violated, or are then violating, any term of this Decree or provision of Title VII. Such inspections may, at the discretion of the Commission, include access to any and all documents not protected by attorney-client privilege for the purposes of inspection and duplication, ex parte interviews or depositions of current employees, interviews or depositions of owners, officers and directors, inspection of any area within the facility, and any other investigatory technique or procedure permitted by Title VII or the Commission's regulations. The Commission's written notice shall specify the date and time of the on-site inspection and the basis for its suspicion. However, under no circumstances shall the Commission be required to divulge to the Defendant through notice or otherwise, or to anyone else (other than to the Court for in camera review), the identity of any witness or



the source of any information giving rise to the reasonable suspicion, or any other information that might reveal such identities or sources or that might compromise EEOC's inquiry. Defendant shall have seven (7) business days after service of the Commission's written notice to serve upon the Commission a written statement of any objections to the on-site inspection. The written statement shall specify each and every basis for objection, the factual basis for the objection, and the extent to which Defendant will permit on-site inspection, if any. After receiving the objections, or in any event after the time for service of such objections has expired, the Commission may at any time move the Court for a hearing in accordance with the procedures set forth above for the purpose of compelling Defendant to cooperate in any aspect of the on-site inspection under the terms of this Decree. Neither the Commission's right to conduct on-site inspections nor any other provisions of this Decree shall be construed to limit or impair in any manner any other Commission right to conduct investigations of the Defendant that is provided by law, including, but not limited to, investigating charges of discrimination filed under Title VII, the Equal Pay Act ("EPA"), the Age Discrimination in Employment Act ("ADEA"), Title I of the Americans with Disabilities Act, and any statute over which the Commission is given jurisdiction in the future, and conducting directed investigations authorized under the EPA, the ADEA, and any future statute which authorizes directed investigations.

COURT COSTS AND ATTORNEY FEES

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

MISCELLANEOUS

35. If any provision(s) of this Consent Decree is found to be unlawful, only the specific provision(s) in question shall be affected and the other provisions will remain in full force and effect.

36. The terms of the Consent Decree are and shall be binding upon (a) Defendant; (b) all present and future parents of EMS Innovations, Inc; (c) all present and future subsidiaries of EMS Innovations, Inc.; (d) all present and future business enterprises of which any current owner or officer of EMS Innovations, Inc. owns a controlling interest; and (e) all present and future owners, officers, directors, employees, independent contractors, creditors, agents, trustees, administrators, successors, representatives, or assigns of Defendant. Defendant shall provide a copy of this Decree to all persons or entities that seek to acquire a controlling interest in Defendant, and the contract of sale shall require that the purchasing person or entity be subject to the provisions of this Decree. However, notwithstanding the foregoing provisions at (a) - (e), the non-monetary relief terms of this Decree (i.e., terms other than those in Paragraphs 14-23) shall not be binding upon a future purchaser meeting the following conditions: (1) the prospective purchaser is a third-party unrelated to Defendant and any current owner or officer of Defendant; (2) any and all current owners and officers of Defendant will not be a director, officer, or management or supervisory employee of the Defendant or unrelated third-party purchaser after the sale and will not own any interest in such unrelated third-party purchaser or the Defendant; (3) any and all current owners and officers of Defendant will not maintain any other kind of relationship with such unrelated third-party purchaser or the Defendant other than as a consultant or non-managerial/non-supervisory employee who is terminable at will and with no authority or power to control or direct the business

and no authority or power to supervise or make personnel decisions regarding its directors, officers, employees or independent contractors.

37. This Consent Decree constitutes the entire agreement and commitments of the parties. Any modifications to this agreement must be mutually agreed upon and memorialized in a separate writing signed by Defendant and the Commission.

38. When this Consent Decree requires the submission of any documents to the EEOC, if not otherwise indicated in the Decree or Attachments, they shall be mailed by Certified Mail to the Commission's Baltimore Field Office and to the attention of the Supervisory Trial Attorney.

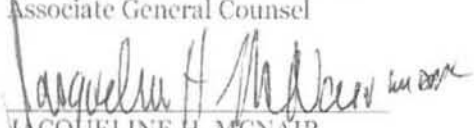
IT IS AGREED:

EQUAL EMPLOYMENT OPPORTUNITY  
COMMISSION

RONALD S. COOPER  
General Counsel

JAMES LEE  
Deputy General Counsel

GWENDOLYN YOUNG REAMS  
Associate General Counsel

  
JACQUELINE H. MCNAIR  
Regional Attorney  
EEOC-Philadelphia District Office  
(including Baltimore Field Office)  
City Crescent Building, 3rd Floor  
10 S. Howard St.  
Baltimore, MD 21201  
Office #: (215) 440-2666  
Facsimile #: (215) 440-2600


Dated: 4/11/08

EMS INNOVATIONS, INC.

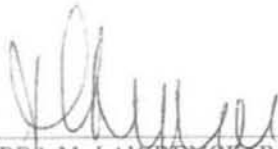
  
PATRICIA CRESTA-SAVAGE

(Bar No. 14447)  
Law Offices of Pat Cresta-Savage &  
Associates, LLC  
124 South Street, Suite 4  
Annapolis, MD 21401  
Office #: (410) 263-7779  
Facsimile #: (410) 263-7790  
Attorney for Defendant

Dated: 4-10-08

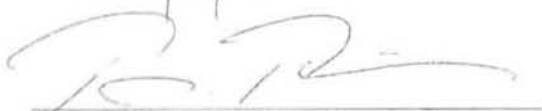
  
JOSEPH G. FERKO, III  
Individually and as Owner, President  
and CEO of Defendant

Dated: 04/08/08



DEBRA M. LAWRENCE (Bar. No. 04312)  
Supervisory Trial Attorney  
EEOC-Baltimore Field Office  
City Crescent Building, 3rd Floor  
10 South Howard Street  
Baltimore, MD 21201  
Office #: (410) 209-2734  
Facsimile #: (410) 962-4270

Dated: 4/11/08



RONALD L. PHILLIPS  
Senior Trial Attorney  
EEOC-Baltimore Field Office  
City Crescent Building, 3rd Floor  
10 South Howard Street  
Baltimore, MD 21201  
Office #: (410) 209-2737  
Facsimile #: (410) 962-4270

Dated: 4/11/08

IT IS SO ORDERED:

DATED: APRIL 14, 2008



HONORABLE RICHARD D. BENNETT  
United States District Judge