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

UNITED STATES OF AMERICA,

CIV-

Plaintiff,

v.

THE REGENTS OF THE UNIVERSITY
OF CALIFORNIA,

Defendant.

CONSENT DECREE

This action was brought by the United States against the Regents of the University of California ("Regents") to enforce the provisions of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, *et seq.* ("Title VII"), following receipt by the Department of Justice from the Equal Employment Opportunity Commission ("EEOC") of a charge of discrimination filed by Patricia Ormsby, ("Ormsby"), EEOC charge number 370-99-1221.

In its Complaint, the United States alleges that Defendant Regents retaliated against Ormsby, a former employee of the University of California Davis Medical Center ("UCDMC"), and Karen Knuth ("Knuth"), a similarly situated individual. The complaint alleges that the Regents retaliated against Ormsby and Knuth in violation of § 704(a) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e-3(a), among other ways, by releasing them from their Temporary Support Services ("TSS") positions in the Operator Services Unit of UCDMC's Telecommunications Department because they opposed employment practices that they reasonably believed to be unlawful employment practices under Title VII.

The Regents specifically deny the United States' allegations and further deny that they have discriminated against Ormsby or Knuth in violation of Title VII. Nevertheless, the parties, desiring that this action be settled by an appropriate Consent Decree ("Decree") and without the burden of protracted litigation, agree to the jurisdiction of this Court over the parties and the subject matter of this action. Furthermore, the parties hereby waive, for the purposes of this Decree only, hearings and findings of fact and conclusions of law on all issues, and further agree to the entry of this Decree as final and binding among themselves as to the issues raised in the Complaint filed in this case.

This Decree, being entered with the consent of the parties, shall in no way constitute an adjudication or finding of any wrongdoing or violation of any applicable federal or state law or regulation, nor be construed as an admission by the Regents.

In resolution of this action, the parties hereby AGREE and the Court expressly APPROVES, ENTERS and ORDERS the following:

A. SPECIFIC RELIEF

1. Without admitting the allegations of the United States, and in settlement of the claims of the United States for individual relief on behalf of Ormsby, as well as in settlement of the claims of Ormsby if she accepts the relief provided her by this Decree, the Regents agree to offer Ormsby the total sum of \$90,000, of which \$40,000 shall be attributed to back pay, and \$50,000 shall be attributed to compensatory damages. Ormsby has informed the undersigned counsel for the United States that she does not presently desire to return to work at UCDMC. Therefore, the Regents are not required to offer Ormsby job opportunity relief under the Consent Decree. The Regents agree that, if Ormsby applies for employment at UCDMC or with the Regents in the future, her application will be given fair, objective and nondiscriminatory consideration. In order for Ormsby to accept the relief to be offered by the Regents under this Decree to her, she must execute the Release of All Claims attached hereto as Appendix A(2).
2. Within fifteen (15) days after the date of entry of this Decree, the Regents shall notify Ormsby of its terms by mailing to her, via certified mail, return receipt requested, a copy of the letter, and Release of All Claims as set forth in Appendix A(1) and A(2). The letter shall advise Ormsby that in order to accept the relief offered to her, she must return the executed Appendix A(2) release form to the Regents within thirty (30) days of her receipt of the letter unless good cause, as determined exclusively by the United States, exists for her failure to do so. A copy of this Decree shall be enclosed with the letter. The Regents shall also enclose all tax forms required by law, including a W-4 form. The Regents shall advise Ormsby of any deductions from the back pay award that are required by law. The Regents shall not deduct their share of FICA, if any, from the monetary award.
3. Within fifteen (15) days of its receipt of the executed release form from Ormsby, the Regents shall pay the full amount of the monetary awards specified for her, minus those deductions identified in

paragraph 2. The Regents shall notify the United States as soon as payment to Ormsby has been made. The Regents shall promptly forward to the United States a copy of the canceled check or other appropriate documentation indicating that payment has been received. The Regents will provide Ormsby with a W-2 form for the back pay portion of the award and a 1099 form or other appropriate form for the compensatory damages portions of the award.

4. Without admitting the allegations of the United States, and in settlement of the claims of the United States for individual relief on behalf of Knuth, as well as in settlement of the claims of Knuth if she accepts the relief provided her by this Decree, the Regents agree to offer Knuth reinstatement to the position of "Per Diem Operator II," a position formerly known as "Telecommunications Operator II," within the Operator Services Unit of UCDMC's Telecommunications Department, with a remedial seniority date of October 11, 1998. In order for Knuth to accept this relief to be offered by the Regents under this Decree to her, she must execute the Release of All Claims attached hereto as Appendix B(2). If Knuth elects to accept the Regents' offer of reinstatement, she shall be allowed to begin work for the Regents as a Per Diem Operator II in the Operator Services Unit of the Telecommunications Department at the UCDMC no later than 30 days after entry of this Decree.

5. Within fifteen (15) days after the date of entry of this Decree, the Regents shall notify Knuth of its terms by mailing to her, via certified mail, return receipt requested, a copy of the letter in the form set forth in Appendix B(1). The letter shall advise Knuth that in order to accept the relief offered to her, she must return the executed Appendix B(2) release form to the Regents within thirty (30) days of her receipt of the letter unless good cause, as determined exclusively by the United States, exists for her failure to do so. A copy of the release form and of this Decree shall be enclosed with the letter.

6. The salary to be offered to Knuth upon reinstatement shall be the same salary as she would be earning had she remained continuously employed by the Regents and not left the Regents' employment in 1999. The offer of reinstatement to Knuth shall involve a position that is at least commensurate (in terms of scheduling, number of hours, benefits and responsibility) with Knuth's previous position with the Regents at the time she was last employed in the Operator Services Unit of UCDMC's Telecommunications Department.

7. For all purposes for which job seniority may be used; including, but not limited to, salary determinations, promotions, reductions in force, shift assignment, vacations and leave; Knuth's remedial seniority date will be October 11, 1998.

8. The Regents will offer to Ormsby and Knuth to remove any and all negative performance evaluations and exit evaluations from each individual's personnel file or other files at the UCDMC.

B. GENERAL RELIEF

9. The Regents shall not retaliate against or in any respect adversely affect any person because that person has opposed allegedly discriminatory policies or practices; filed a charge or complaint, either formal or informal, with the Regents, UCDMC or UCDMC's office of Equal Opportunity, Sexual Harassment, Mediation Services ("Equal Opportunity Office"); filed a charge of discrimination with the EEOC or the State of California Department of Fair Employment and Housing; or participated in or cooperated with the initiation, investigation, litigation or administration of this case or this Decree. The Regents' Equal Opportunity Office shall continue to investigate and attempt to resolve complaints of unlawful retaliation.

Employment Discrimination Training

10. The Regents shall continue to provide all UCDMC managers and supervisors in UCDMC's Operator Services Unit of the Telecommunications Department, Temporary Support Services Department (and its successor Department(s), if any) ⁽¹⁾ and Sexual Harassment/ Affirmative Action, Compliance, Mediation, Diversity, Outreach, & Support Services Office ("Sexual Harassment Office"), with at least one and one-half hours of training. This training shall be focused upon (1) the specific obligations that managers and supervisors have under the Regents' discrimination policies and this Decree; and (2) how to prevent, detect and correct discrimination, including retaliation. This training, which UCDMC began providing to all UCDMC managers and supervisors, described above, in 2002, shall be provided to all managers and supervisors referenced in this paragraph on a quarterly basis throughout the duration of this Consent Decree.

11. Participation in the training program described in paragraph 10 shall be mandatory for all management level and supervisory UCDMC employees in the Operator Services Unit of the Telecommunications Department, Temporary Support Services (and its successor Department(s), if any) and the Sexual Harassment Office. All managers and supervisors who attend the training shall be required to sign-in. A copy of the sign-in sheet shall be kept in each employee's personnel file or with the Regents' records, as applicable. All managers and supervisors who are unable to attend the required training shall be provided with training at an alternative date and time, no later than thirty (30) days after the date that the initial training is conducted.

C. RECORD KEEPING AND REPORTING

12. The Regents shall retain for the duration of this Decree

(a) all records that come into their possession relating to complaints or charges of retaliation, filed by a prospective, current, temporary or former UCDMC employee, irrespective of whether the complaint is filed with a local or federal agency or through any internal grievance process.

(b) all records, in whatever form, (including any computer disks and computer, video or audio tapes) that pertain to the implementation of this Decree.

(c) records of the training conducted, as provided for in this Consent Decree, including:

- (i) dates of all training;
- (ii) attendance lists for all training;
- (iii) the names of all employees who failed to attend scheduled training, and the Regents' plans for ensuring that those individuals receive the required training, including the date therefor; and
- (iv) all training materials.

(d) The name, home address and telephone number of all employees who resign or are terminated from UCDMC's Operator Services Unit or are released, from any UCDMC Unit or Department and for each such employee:

(i) all records that reflect the reasons for resignation or termination, and

(ii) all complaints of retaliation made by each individual, described in paragraph 12(d), within one year prior to or after his or her date of termination or release.

13. During the duration of this Decree, the United States shall have the right to inspect and copy any of the documents described in paragraph 12. The Regents shall make those documents available for

inspection and copying to the United States, by its counsel, upon thirty (30) days' notice without further order of this Court.

D. COMPLIANCE

14. If a dispute arises concerning compliance with any provision of this Consent Decree, the parties shall engage in good faith efforts to resolve the issue before seeking action by the Court. If the parties are unable expeditiously to resolve the issue, any party may move the Court for resolution, provided that written notice is first provided to the other party.

E. NOTIFICATION OF THE PARTIES

15. The following shall serve as the correct addresses for purposes of all correspondence directed to the parties.

For the United States:

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 U.S. Department of Justice
 Civil Rights Division
 Employment Litigation Section
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 Washington, D.C. 20530

For the Regents:

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 Downey, Brand, Seymour & Rohwer, LLP
 555 Capitol Mall, Tenth Floor
 Sacramento, California
 95814-4686

F. JURISDICTION OF THE COURT

16. This Court shall retain jurisdiction of the matters covered by this Consent Decree for a period of three (3) years from the date of entry of this Consent Decree for such action as may be necessary or appropriate to effectuate the purposes of the

Decree. This period may be extended by order of this Court for good cause shown.

DONE AND ORDERED this _____ day of _____, 2003.

 UNITED STATES DISTRICT JUDGE

Agreed and Consented to:

On behalf of Plaintiff
 United States of America

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On behalf of the Regents of the University of California

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Dated:

1. Counsel for the Regents has informed the United States that the TSS Department is in the process of being eliminated. For the purpose of this Consent Decree, "any successor Department(s) to the TSS" shall mean any Department(s) that are responsible for hiring, placing, releasing, terminating and/or managing any per diem employees, part-time employees, or any non-permanent Regents' employees in the Telecommunications Department.