

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA
FORT PIERCE DIVISION

CASE NO. 02-14139-CIV-PAINE/LYNCH

UNITED STATES EQUAL EMPLOYMENT)
OPPORTUNITY COMMISSION,)
)
Plaintiff,)
)
and DR. GLORIA FARINA,)
)
Intervenor,)
)
v.)
)
EMERGENCY MEDICINE ASSOCIATES, INC.,)
)
Defendant,)
)
and)
)
INDIAN RIVER MEMORIAL HOSPITAL, INC.,)
)
Defendant.)
_____)

FILED by <u> JP </u> D.C.
DEC 23 2003
CLARENCE MADDOX CLERK U.S. DIST. CT. S.D. OF FLA. - W.P.B.

CONSENT DECREE

1. This Consent Decree is entered into by and between Plaintiff, the U.S. Equal Employment Opportunity Commission (hereinafter referred to as the "Commission" or "EEOC"), Plaintiff Intervenor, Gloria Farina (hereinafter referred to as "Plaintiff Intervenor" or "Dr. Farina") and the Defendant, EMERGENCY MEDICINE ASSOCIATES, INC. (hereinafter referred to as "Defendant"). The Commission, the Intervenor, and the Defendant are collectively referred to as the "Parties".
2. The Commission filed this action on May 1, 2002, under Title VII of the Civil Rights Act of 1964 ("Title VII") and Title I of the Civil Rights Act of 1991 to correct unlawful

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employment practices on the basis of sex (female) and retaliation and to provide appropriate relief to Dr. Farina, and other similarly situated individuals who were adversely affected by such practices. EEOC's complaint alleged that Defendant subjected Dr. Farina to a sexually hostile work environment, failed to promote her to partner, terminated her on the basis of her sex and/or in retaliation for complaining about the sexually hostile work environment.

3. The court granted Plaintiff-Intervenor's Motion to Intervene in the above-styled case. Plaintiff-Intervenors' Complaint alleged that Defendant violated Title VII of the Civil Rights Act of 1964, 42 U.S.C. Section 2000(e) et seq. ("Title VII") and Title I of the Civil Rights Act of 1991, and the Florida Civil Rights Act (FCRA).
4. In the interest of resolving this matter, to avoid the costs of litigation, and as a result of having engaged in comprehensive settlement negotiations, the Parties have agreed that this action should be finally resolved by the entry of this Decree. This Decree is final and binding upon the Parties, their successors and assigns.
5. The parties agree that this Decree resolves all the claims against Defendant alleged in EEOC charge number 150 A0 3139 and civil action number 02-14139-CIV- PAINE. The Parties further agree that this Decree does not resolve any Charges of Discrimination that may be pending with the EEOC other than the charge referred to in this paragraph.

NOW, THEREFORE, the Court having carefully examined the terms and provisions of this Consent Decree, and based on the pleadings filed by the parties, it is ORDERED, ADJUDGED AND DECREED THAT:

I. JURISDICTION

- 6. This court has jurisdiction of the subject matter of this action and over the Parties for the purposes of entering and enforcing this Decree.
- 7. No party shall contest the jurisdiction of this Federal Court to enforce this Decree and its terms or the right of the EEOC to bring an enforcement suit upon breach of any terms of this Decree.

II. GENERAL PROVISIONS AND INJUNCTIVE RELIEF

- 8. The Defendant, its officers, managers, employees, agents, partners and assigns, are enjoined from engaging in any conduct which violates Title VII by adversely affecting the terms and conditions of any individual's employment because of their sex.
- 9. Defendant, its officers, managers, employees, agents, partners and assigns, shall not discriminate against any individual who opposes any of Defendant's practices which the employee believes to be unlawful employment discrimination, who files a charge of discrimination with the EEOC alleging violations of the Statutes the Commission enforces; who cooperates with the EEOC in investigation and/or prosecution of any charge of discrimination; or who cooperated in the investigation or who offered testimony or information in the above styled litigation which resulted in this Consent Decree.

III. DEVELOPMENT OF POLICES AND TRAINING

- 10. Defendant ^{shall} ~~has established~~ a written sexual harassment and retaliation policy which ~~is~~ ^{shall} be provided to the EEOC ^{by Jan. 30, 2004} attached hereto as Exhibit A. A complete copy of this policy will be distributed to all its current employees at its Vero Beach facilities in the State of Florida by ^{March} ~~December~~ 30, 2004. Defendant further agrees that all new employees will be provided a copy of the policy within one week of employment.

11. In order to further ensure the effective implementation of Defendant's anti-discrimination policies, Defendant will conduct an eight (8) hour annual training throughout the duration of this Decree for all of its managers and supervisory personnel at the Vero Beach facilities in the State of Florida, with specific emphasis on recognizing sexual harassment, wage discrimination and acts that constitute unlawful retaliation and the proper procedure to be followed if they become aware of sexual harassment or retaliation in the workplace and/or if they receive a complaint of such harassment or retaliation for complaining about sexual harassment. Defendant agrees to provide the EEOC with at least two (2) weeks notice before it conducts its training session(s), with the date(s) and location(s) of the training, the identification of the training materials to be used at the training session, and the name and job title of the employees who will be in attendance at the training. The training will be conducted by ~~an unqualified party~~^a qualified party approved by the EEOC. Additionally, Defendant agrees that the EEOC may, at the EEOC's discretion, be in attendance at each training session(s).

12. Defendant agrees that the training described in paragraph 11 shall be conducted by March 30, 2004, and should thereafter take place by July 30th annually in the same format for the duration of this Decree. Defendant further agrees that the training described in paragraph 11 shall be given to all new managers and supervisors who did not attend the annual training within thirty (30) days of being placed in a management or supervisory position.

IV. POSTING

13. Defendant shall post a laminated 11X17 size copy of the notice attached hereto as Exhibit B within 7 days of the entering of this decree. Said notice shall be posted in a conspicuous ~~location~~^{but not public} location in the emergency room break room, emergency room nurse's station and

convenience care nurse's station. This notice is to remain posted for the term of this Decree.

V. REPORTING AND MONITORING

14. Defendant will retain all employment records relating in any way to any complaint made to a supervisor or manager and to any investigation of sexual harassment or retaliation for complaining of sexual harassment at Defendant's Vero Beach facilities in the State of Florida for the duration of this Decree and as required by federal law.

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15. For the duration of this Decree, Defendant will provide the EEOC every six (6) months with the name, last known address and last known phone number of any person employed at ^{by Defendant} ~~its~~ Defendant's Vero Beach locations who has complained to his or her Manager/Supervisor, Human Resources Department, that he or she has been subjected to sexual harassment or retaliation while working at Defendant's Vero Beach Emergency Care and hospital facilities during the preceding six (6) months. Defendant will also state its actions taken in response to each such allegation. The first report shall be submitted no later than March 31, 2004, Defendant will provide upon request by the Commission (a) a copy of the complaint, or if no written complaint was filed, a statement describing the nature of the complaint; (b) a statement describing the actions taken; and (c) outcome regarding such complaint.

16. Defendant will certify to the EEOC every six (6) months throughout the duration of this Decree that it is in compliance with all aspects of this Decree. The first such certification will be due no later than March 31, 2004, and thereafter biannually on September 30th and March 31st throughout the duration of this consent decree.

17. The Defendant will appoint one individual who shall be responsible for coordinating Defendant's compliance with this Consent Decree and for providing reports to the EEOC. This person shall be appointed and the EEOC notified of his or her identity within 15 days

of the Court's approval of this Consent Decree. All reports and documents required to be delivered by Defendant to the EEOC pursuant to this Consent Decree shall be mailed to: United States Equal Employment Opportunity Commission, Attention: Office of the Regional Attorney, 1 Biscayne Tower, Suite 2700, 2 South Biscayne Blvd, Miami, FL 33131.

VI. MONETARY RELIEF

18. Defendant shall pay a lump sum in the amount of Five Hundred Thousand dollars (\$500,000).

a. Two Hundred Ninety-Six Thousand Eight Hundred dollars (\$296,800) shall be representative of compensatory, personal injury and tort damages, made payable directly to Dr. Gloria Farina. Defendant shall issue an IRS form 1099 for said amount directly to Dr. Farina.

b. Two Hundred Three Thousand Two Hundred dollars (\$203,200) shall be representative of attorney fees and costs incurred by Dr. Farina made payable to Jill S. Schwartz & Associates, P.A. Defendant shall issue an IRS form 1099 for said amount to the Law Firm of Jill S. Schwartz & Associates, P.A..

All payments referenced in paragraphs 18a and b shall issue within thirty (30) calendar days from the Court's execution of this Decree, by certified mail. The check shall be mailed to the Jill S. Schwartz & Associates Law Firm, P.A., at 180 North Park Avenue, Suite 200, Winter Park, FL 32789. Copies of the check shall be forwarded to the attention of the Regional Attorney, U.S. Equal Employment Opportunity Commission, Miami District Office, One Biscayne Tower, 2 South Biscayne Boulevard, Suite 2700, Miami, Florida 33131.

19. If Defendant fails to tender the above-mentioned payments as set forth in paragraph 18 above, then Defendant shall pay interest on the defaulted payment at the rate calculated pursuant to 26 U.S.C. Section 6621(b) until the same is paid, and bear any additional costs incurred by the EEOC caused by the non-compliance of the Defendant.

VII. ENFORCEMENT

20. The Commission shall have independent authority to seek judicial enforcement of each aspect, term, provision and attachment of this Decree. However, the EEOC shall not seek such judicial enforcement unless it has first (1) given Defendant a written notice of its intention to seek judicial enforcement, which notice shall specify the alleged breach for which judicial enforcement shall be sought and (2) provided Defendant at least 15 days to cure any alleged breach of any terms, except the provisions set forth in paragraph 18 entitled monetary relief, for which court enforcement may be sought immediately. The Commission will take whatever measures it deems appropriate to effectuate the enforcement of the terms of this decree.

21. The court will take whatever measures necessary to effectuate the terms of this Decree.

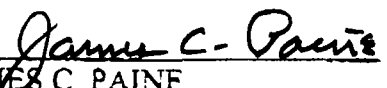
VIII. COSTS

22. Each party shall bear its own costs associated with this litigation to the extent that they are not already addressed herein.

IX. DURATION OF CONSENT DECREE

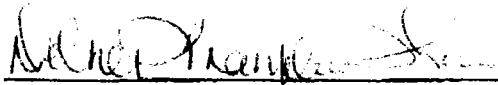
23. The duration of this Decree shall be four (4) years from the date of entry of the Decree.

SO ORDERED ADJUDGED AND DECREED, this ~~23rd~~ day of December, 2003.




JAMES C. PAINE
UNITED STATES DISTRICT JUDGE

AGREED TO:
FOR THE PLAINTIFF,
UNITED STATES EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

by: 
Delner Franklin-Thomas
Regional Attorney
U.S. Equal Employment Opportunity Commission
Miami District Office
One Biscayne Tower, Suite 2700
2 South Biscayne Boulevard
Miami, Florida 33131


Date: 12/5/03

AGREED TO:
FOR THE PLAINTIFF-INTERVENORS
DR. GLORIA FARINA

by: 
Jill S. Schwartz, Esq.
Andrew Wedmore, Esq.
JILL S. SCHWARTZ & ASSOCIATES, P.A.
180 Park Avenue North, Suite 200
Winter Park, FL 32789

Date: 12/5/03

AGREED TO:
FOR THE Defendant
EMERGENCY MEDICINE ASSOCIATES, INC.,

by: 
~~Ted L. Shinkle, Esq.~~
For: Emergency Medicine Associates, Inc.
GRAY, HARRIS & ROBINSON, P.A.
P.O. Box 1870
Melbourne, FL 32902-1870

Date: 12/5/03

EXHIBIT A

EXHIBIT B

NOTICE TO ALL EMPLOYEES POSTED PURSUANT TO A CONSENT DECREE BETWEEN THE UNITED STATES EQUAL EMPLOYMENT OPPORTUNITY COMMISSION AND DR. GLORIA FARINA and EMERGENCY MEDICINE ASSOCIATES, INC.

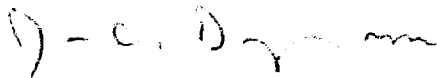
This notice is being posted pursuant to a Consent Decree entered by the Court in EEOC and Farina vs. Emergency Medicine Associates, Inc., et al., Civil Action No. 02-14139-CIV-PAINE/LYNCH. Emergency Medicine Associates, Inc.'s policy prohibits discrimination against employees in violation of Title VII of the Civil Rights Act of 1964 ("Title VII"). Title VII protects individuals from employment discrimination because of their race, religion, color, national origin, or sex. Title VII also protects individuals from retaliation for having complained of an unlawful employment practice. Emergency Medicine Associates, Inc. will not condone employment discrimination of any kind as set forth in federal anti-discrimination laws, including, but not limited to, sexual harassment.

Furthermore, Emergency Medicine Associates, Inc. supports Title VII and will not take any retaliatory action against an individual because he/she has exercised his/her rights under the law to oppose discriminatory acts or to file charges with the EEOC.

Appropriate corrective action, up to and including termination, based upon the circumstances involved, shall be taken against any employee (including management personnel) found to have violated Emergency Medicine Associates, Inc.'s policy prohibiting discrimination.

This notice shall remain posted for four (4) years from the date Decree entered. Employees or applicants for employment who have questions about their rights under Title VII or any other federal anti-discrimination law may telephone Emergency Medicine Associates, Inc. at or the Miami District Office of the Equal Employment Opportunity Commission at 1-800-669-4000.

Signed this 5th day of December, 2003.



PRESIDENT/CEO, Emergency Medicine Associates, Inc.

DO NOT REMOVE BEFORE _____, 2007.