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United States District Court, Northern District of Illinois

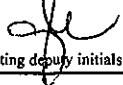
Name of Assigned Judge or Magistrate Judge	David H. Coar	Sitting Judge if Other than Assigned Judge	
CASE NUMBER	99 C 4100	DATE	10/5/2000
CASE TITLE	USEEOC vs. BERNIA OF AMERICA		

[In the following box (a) indicate the party filing the motion, e.g., plaintiff, defendant, 3rd party plaintiff, and (b) state briefly the nature of the motion being presented.]

MOTION:

DOCKET ENTRY:

- (1) Filed motion of [use listing in "Motion" box above.]
- (2) Brief in support of motion due _____.
- (3) Answer brief to motion due _____. Reply to answer brief due _____.
- (4) Ruling/Hearing on _____ set for _____ at _____.
- (5) Status hearing[held/continued to] [set for/re-set for] on _____ set for _____ at _____.
- (6) Pretrial conference[held/continued to] [set for/re-set for] on _____ set for _____ at _____.
- (7) Trial[set for/re-set for] on _____ at _____.
- (8) [Bench/Jury trial] [Hearing] held/continued to _____ at _____.
- (9) This case is dismissed [with/without] prejudice and without costs[by/agreement/pursuant to]
 - FRCP4(m) General Rule 21 FRCP41(a)(1) FRCP41(a)(2).
- (10) [Other docket entry] This case is reinstated. Plaintiff's Motion for Entry of Consent Decree is Granted. Bernia will implement a revised policy with respect to sick leave benefits. Bernia will pay \$105,000 as monetary relief representing damages to four present or former employees. Bernia will not discriminate on the basis of sex (pregnancy in the future). ENTER CONSENT DECREE. This action is closed. Copies of the consent decree given to the parties in Court.
- (11) [For further detail see order attached to the original minute order.]

<input type="checkbox"/> No notices required, advised in open court. <input type="checkbox"/> No notices required. <input type="checkbox"/> Notices mailed by judge's staff. <input type="checkbox"/> Notified counsel by telephone. <input checked="" type="checkbox"/> Docketing to mail notices. <input type="checkbox"/> Mail AO 450 form. <input type="checkbox"/> Copy to judge/magistrate judge.	courtroom deputy's initials PAMF	ED-7 FILED FOR DOCKETING Date/time received in central clerk's office 10/5/00 4:47	number of notices	Document Number 37
			OCT 06 2000 <small>date docketed</small>	
			 <small>docketing deputy initials</small>	
			<small>date mailed notice</small>	
			<small>mailing deputy initials</small>	

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

**UNITED STATES EQUAL EMPLOYMENT)
OPPORTUNITY COMMISSION,)**

Plaintiff,)

v.)

BERNINA OF AMERICA,)

Defendant.)

No. 99 C 4100

**Judge Coar
Magistrate Judge Ashman**

**DOCKETED
OCT 06 2000**

CONSENT DECREE

THE LITIGATION

1. Plaintiff Equal Employment Opportunity Commission (the "EEOC") filed this action alleging that since at least September 1995, Defendant, Bernina of America ("Defendant" or "Bernina"), violated Section 703(a) of Title VII of the Civil Rights Act of 1964, as amended ("Title VII"), 42 U.S.C. § 2000e-2(a), by discriminating against Linda Eiermann, the Charging Party in the underlying Charge of Discrimination, and a class of female employees on the basis of sex (pregnancy). Specifically, the EEOC alleged that Defendant denied sick pay benefits to certain females employed during pregnancy related leaves while other employees were granted sick pay benefits during non-pregnancy related leaves. Further, the EEOC alleged that certain female employees were denied sick pay benefits for medical conditions related to "routine" pregnancy or childbirth, while other employees were granted such benefits for medical conditions unrelated to pregnancy and for medical conditions related to "non-routine" pregnancy or childbirth. Finally, the EEOC alleged that Defendant failed to comply with Title VII's record keeping and recording

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requirements.

2. In the interest of resolving this matter, and 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 Consent Decree (hereafter "Decree"). This Decree fully and finally resolves any and all issues and claims arising out of the Complaint filed by the EEOC in this action. Nothing contained in this Decree shall be construed as an admission with respect to any of the claims of the suit. By entering into this Consent Decree, Bernina does not admit that any of the EEOC's allegations are true, or that any action relating to its employees was unlawful.

FINDINGS

3. Having carefully examined the terms and provisions of this Decree, and based on the pleadings, record, and stipulations of the parties, the Court finds the following:

a. This Court has jurisdiction of the subject matter of this action and of the parties.

b. The terms of this Decree are adequate, fair, reasonable, equitable, and just. The rights of the parties, the class members, and the public interest are adequately protected by this Decree.

c. This Decree conforms with the Federal Rules of Civil Procedure and Title VII and is not in derogation of the rights or privileges of any person. The entry of this Decree will further the objectives of Title VII and will be in the best interests of the parties, the class members, and the public.

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

NON-DISCRIMINATION

4. Bernina, its officers, agents (including management personnel), successors, and

assigns are permanently enjoined from maintaining a policy and practice of denying sick pay benefits to employees during pregnancy or childbirth related leaves while granting such benefits to employees during non-pregnancy related leaves.

So long as the requested sick leave meets the other terms of Bernina's sick leave policy, Bernina, its officers, agents (including management personnel), successors, and assigns are permanently enjoined from maintaining a policy and practice of denying an employee's requested sick leave for pregnancy or child birth on the ground that the pregnancy or child birth is routine, normal or free from complications.

5. Bernina, its officers, agents (including management personnel), successors, and assigns are ordered to make and preserve all records, in accordance with the provision of Section 709(c) of Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e-8(c), relevant to the determination of whether unlawful employment practices have been or are being committed.

6. Defendant shall implement a written policy and practice of paying sick pay benefits to employees during pregnancy or childbirth related leaves that is the same as the policy and practice of paying such benefits to employees during non-pregnancy related leaves.

7. Within thirty (30) days of the entry of this Decree, Defendant shall present the EEOC with a draft of the written policy referred to in Paragraph 6 above. The EEOC shall have fourteen (14) days to approve or propose amendments to the policy. The EEOC shall tender any proposed amendments to the policy to Defendant. Any policy submitted by Defendant shall treat pregnancy or childbirth related leaves the same as non-pregnancy or childbirth related leaves in all respects. The availability of sick leave benefits, the procedure for requesting such benefits, and any limitations on or preconditions for obtaining or using of such benefits shall be the same for pregnancy or childbirth related leaves as for non-pregnancy or childbirth related leaves. If Defendant requires

a doctor's certification of the need for such benefits, certification requirements shall be the same for pregnancy or childbirth related leaves as for non-pregnancy or childbirth related leaves. So long as the requested sick leave meets the other terms of Bernina's sick leave policy, Bernina will not deny an employee's requested sick leave for pregnancy or child birth on the ground that the pregnancy or child birth is routine, normal or free from complications.

8. If the EEOC proposes amendments to the policy, Defendant shall have seven (7) days in which to respond to the EEOC proposal. The sick leave policy Bernina will implement must be approved by the EEOC. The EEOC will not unreasonably withhold its approval.

9. If sixty (60) days after the entry of this Decree, Defendant has been unable to submit a policy which meets with EEOC approval, the Defendant and the EEOC may seek intervention of the Court pursuant to Paragraph 23 of this Decree, below.

TRAINING

10. Defendant shall provide training on the requirements of Title VII on the following terms:

- A. Defendant shall pay for its Human Resources Manager and Vice President of Finance, Operations and Corporate Development to attend a training seminar, approved by the EEOC as set out in Paragraph 11, that addresses employee and employer rights and obligations under Title VII and the Pregnancy Discrimination Act with respect to pregnancy or childbirth related leaves and with respect to the proper maintenance of personnel records.
- B. After attending the training seminar, Bernina's Human Resources Manager and/or Vice President of Finance, Operations and Corporate Development shall provide training on the same topics set out in Paragraph 10(A) and on the policy implemented

pursuant to Paragraph 6 above to all Bernina's management, supervisory and human resources personnel. The registry of attendance shall be retained by Bernina for the duration of the Consent Decree.

- C. Bernina's Human Resources Manager and Vice President of Finance, Operations and Corporate Development shall first receive training in accordance with Paragraph 10(A) within sixty (60) calendar days of the entry of this Consent Decree and Bernina's Human Resources Manager and/or Vice President of Finance, Operations and Corporate Development shall first provide the training in accordance with Paragraph 10(B) within ninety (90) calendar days of the entry of this Consent Decree. Bernina shall then also receive and provide training pursuant to Paragraphs 10(A) and (B) on at least one occasion in calendar year 2001 and on at least one occasion in calendar year 2002.

11. Bernina shall use an outside trainer whom it chooses, but who has been approved in writing by the EEOC prior to the training. Bernina shall submit the name(s), address(es), telephone number(s) and resume(s) of the proposed trainer(s), together with the date(s) of the proposed training session to the EEOC within thirty (30) calendar days prior to the proposed date(s) of training. The EEOC shall have fifteen (15) calendar days from the date of receipt of the information described above to accept or reject the proposed trainer(s). In the event the EEOC does not approve Bernina's designated trainer(s), Bernina shall have ten (10) calendar days to identify an alternate trainer. The EEOC shall have ten (10) calendar days from the date of receipt of the information described above to accept or reject the alternate trainer. In the event the EEOC does not approve Bernina's alternate trainer, the EEOC shall designate the trainer to be retained and paid for by Bernina.

12. Upon the EEOC's request, Bernina agrees to provide the EEOC with any and all copies

of pamphlets, brochures, outlines or other written material(s) provided to the participants of the training session(s).

13. Bernina shall certify to the EEOC in writing with five (5) business days after the trainings have occurred that the trainings have taken place and that the required personnel attended. Such certification shall include: (i) the date, location and duration of the training; and (ii) the name and position of each in attendance. The certification for the training described in Paragraph 10(B) shall also include a listing of all current management, supervisory and human resources personnel as of the date of the training.

NON-RETALIATION

14. Bernina, its officers, agents, employees, successors, assigns and all persons acting in concert with it shall not engage in any form of retaliation against any person because such person has opposed any practice made unlawful under Title VII, filed a Charge of Discrimination under Title VII, testified or participated in any manner in any investigation, proceeding, or hearing under Title VII, or asserted any rights under this Decree.

MONETARY RELIEF

15. Within five (5) business days after entry of this Decree, the EEOC will mail to Linda Eiermann, Lynn Honnold, and Martina Hemphill ("claimants") a copy of the Release Agreement attached as Exhibit A, and a copy of the letter attached as Exhibit B to this Decree, and to Kelly Wynns a copy of the Release Agreement attached as Exhibit C and a copy of the letter attached as Exhibit B to this Decree.

16. Within five (5) business days after receipt by the EEOC of the signed Release Agreements, the EEOC shall mail the Release Agreements to Bernina.

17. Within five (5) business days after receipt by Defendant of the signed Release

Agreements, Bernina shall issue and mail by certified mail to Ms. Eiermann, a check payable to the order of Linda Eiermann in the amount of *thirty-five* thousand dollars (\$35,000.00), in settlement for damages claimed in this case; to Ms. Honnold a check payable to the order of Lynn Honnold in the amount of *twenty-five* thousand dollars (\$25,000.00), in settlement for damages claimed in this case; to Ms. Wynns a check payable to the order of Kelly Wynns in the amount of *thirty* thousand dollars (\$30,000.00), in settlement for damages claimed in this case; and to Ms. Hemphill a check payable to the order of Martina Hemphill in the amount of *fifteen* thousand dollars (\$15,000.00), in settlement for damages claimed in this case. The EEOC shall provide Defendant with current addresses for the claimants. In the event that any check is undeliverable, Defendant shall so notify the EEOC, in writing, and EEOC shall have thirty (30) days to supply a new mailing address to Defendant (to which Defendant shall mail the check) or to notify Defendant that it cannot locate the class member. Within ten (10) business days of such latter notification, Defendant shall issue and mail to those claimants to whom checks were deliverable, by certified mail, individual checks payable to each remaining claimant an equal pro rata share of the sum or the check(s) which was undeliverable.

POSTING OF NOTICE

18. Within five (5) business days after entry of this Decree, Bernina shall post a same-sized copy of the Notice attached as Exhibit D to this Decree at its facility in Aurora, Illinois, in a conspicuous location easily accessible to and commonly frequented by employees. The Notice shall remain posted for three (3) years from the date of entry of this Decree. Bernina shall take all reasonable steps to ensure that the posting is not altered, defaced or covered by any other material. Bernina shall certify to the EEOC in writing within ten (10) business days after entry of the Decree that the Notice has been properly posted. Bernina shall permit a representative of the EEOC to enter

Bernina's premises for purposes of verifying compliance with this Paragraph at any time during normal business hours without prior notice.

RECORD KEEPING

19. For a period of three (3) years following entry of this Decree, Bernina shall maintain and make available for inspection and copying by the EEOC records (including name, gender, social security number, address, telephone number) of each Bernina employee who requests sick pay benefits, the person to whom the request is addressed, the reasons given for the request, the amount of sick pay benefits requested, any medical documentation requested or produced with respect to the request, the amount of sick pay granted, the amount of sick pay benefits the employee has remaining after the requested sick pay is used, and the reason(s) for denying or limiting any such request for sick pay benefits.

20. Bernina shall make all documents or records referred to in Paragraph 19, above, available for inspection and copying within five (5) business days after the EEOC so requests. In addition, Bernina shall make available all persons within its employ whom the EEOC reasonably requests for purposes of verifying compliance with this Decree and shall permit a representative of the EEOC to enter Bernina's premises for such purposes on five (5) business days advance notice by the EEOC.

21. Nothing contained in this Decree shall be construed to limit any obligation Bernina may otherwise have to maintain records under Title VII or any other law or regulation.

REPORTING

22. Bernina shall furnish to the EEOC the following written reports semi-annually for a period of three (3) years following entry of this Decree. The first report shall be due six (6) months after entry of the Decree. The final report shall be due thirty-sixty (36) months after entry of the

Decree. Each such report shall contain:

- a. A summary of the information collected pursuant to Paragraph 19, above, during the preceding six months; and
- b. A certification by Bernina that the Notice required to be posted in Paragraph 18, above, remained posted during the entire six (6) month period preceding the report.

DISPUTE RESOLUTION

23. In the event that either party to this Decree believes that the other party has failed to comply with any provision(s) of the Decree, the complaining party shall notify the other party of the alleged non-compliance and shall afford the alleged non-complying party ten (10) business days to remedy the non-compliance or to satisfy the complaining party that the alleged non-complying party has complied. If the alleged non-complying party has not remedied the alleged non-compliance or satisfied the complaining party that it has complied within ten (10) business days, the complaining party may apply to the Court for appropriate relief.

DURATION OF THE DECREE AND RETENTION OF JURISDICTION

24. All provisions of this Decree shall be in effect (and the Court will retain jurisdiction of this matter to enforce this Decree) for a period of three (3) years immediately following entry of the Decree, provided, however, that if, at the end of the three (3) years period, any disputes under Paragraph 23, above, remain unresolved, the term of the Decree shall be automatically extended (and the Court will retain jurisdiction of this matter to enforce the Decree) until such time as all such disputes have been resolved.

MISCELLANEOUS PROVISIONS

25. The terms of this Decree are and shall be binding upon the present and future representatives, agents, directors, officers, assigns, and successors of Bernina.

26. When this Decree requires the submission by Bernina of reports, certifications, notices, or other materials to the EEOC, they shall be mailed to: Bernina Settlement, c/o John A. Knight, Trial Attorney, Equal Employment Opportunity Commission, 500 West Madison Street, Suite 2800, Chicago, Illinois, 60661. When this Decree requires submission by the EEOC of materials to Bernina, they shall be mailed to: William G. Miossi, Winston & Strawn, 35 West Wacker Drive, Chicago, IL 60601-9703.

For the EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION
1801 L Street, N.W.
Washington, D.C. 20507

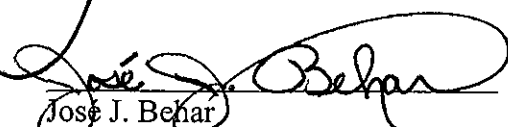
C. Gregory Stewart
General Counsel

Gwendolyn Young Reams
Associate General Counsel

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION

500 West Madison Street
Suite 2800
Chicago, Illinois 60661
(312) 353-7558

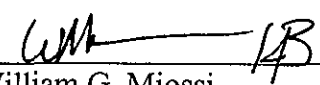

John C. Hendrickson
Regional Attorney


José J. Behar
Supervisory Trial Attorney

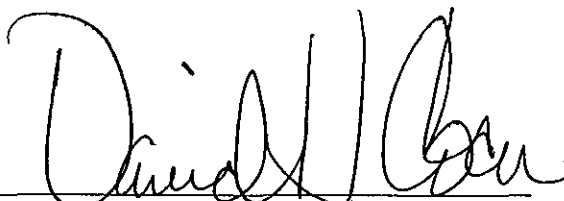

John A. Knight
Trial Attorney

DATE: OCT 5 - 2000

For BERNINA OF AMERICA:


William G. Miossi
Winston & Strawn
35 West Wacker Drive
Chicago, IL 60601-9703

ENTER:


The Honorable David H. Coar
United States District Judge

OCT 5 - 2000

Judge David H. Coar
United States District C

NOTICE TO ALL BERNINA EMPLOYEES

This Notice is being posted pursuant to a Consent Decree entered by the federal court in EEOC v. Bernina of America, No. 99 C 4100 (N.D. Ill.), settling a lawsuit filed by the Equal Employment Opportunity Commission ("EEOC") against Bernina of America ("Bernina").

In its suit, the EEOC alleged that Bernina discriminated against women by denying sick pay benefits to women employed during pregnancy related leaves while other employees were granted sick pay benefits during non-pregnancy related leaves.

The fact Bernina chose to settle the lawsuit filed by the EEOC does not mean it admits, or has admitted, that any of the EEOC's allegations are true, or that any action relating to its employees was or has been unlawful. Bernina chose to settle this case to avoid the cost of litigation.

To resolve the case, Bernina and the EEOC have entered into a Consent Decree which requires, among other things, that:

- 1) Bernina will implement a revised policy with respect to sick leave benefits which makes clear that requests for sick leave during pregnancy or childbirth related leaves will be treated the same as requests for sick leave during non-pregnancy or childbirth related leave.

So long as the requested sick leave meets the other terms of Bernina's sick leave policy, Bernina will not deny an employee's requested sick leave for pregnancy or child birth on the ground that the pregnancy or child birth is routine, normal or free from complications.

- 2) Bernina will pay \$105,000 as monetary relief representing damages to four present or former employees;
- 3) Bernina will not discriminate on the basis of sex (pregnancy) in the future;
- 4) Bernina will not retaliate against any person because she opposed any practice made unlawful by Title VII, filed an Title VII charge of discrimination, participated in any Title VII proceeding, or asserted any rights under the Consent Decree.

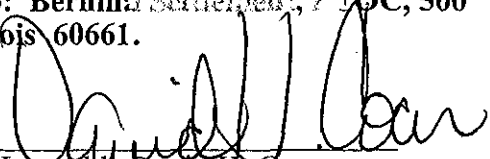
The EEOC enforces the federal laws against discrimination in employment on the basis of sex, race, color, religion, national origin, disability, and age. If you believe you have been discriminated against, you may contact the EEOC at (312) 353-8195. The EEOC charges no fees and has employees who speak languages other than English.

THIS IS AN OFFICIAL NOTICE AND MUST NOT BE DEFACED BY ANYONE

This Notice must remain posted for three years from the date below and must not be altered, defaced or covered by any other material. Any questions about this Notice or compliance with its terms may be directed to: Bernina Settlement, EEOC, 500 West Madison Street, Suite 2800, Chicago, Illinois 60661.

OCT 5 - 2000

Date


The Honorable David H. Coar
United States District Judge

OCT 06 2000

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EXHIBIT A

RELEASE AGREEMENT

I, XXXXXXXX, for and in consideration of the sum of \$XX,000.00, payable to me pursuant to the terms of the Consent Decree entered by the Court in EEOC v. Bernina of America, No. 99 C 4100 (N.D. Ill.), on behalf of myself, my heirs, assigns, executors, and agents, do hereby forever release, waive, remise, acquit, and discharge Bernina of America ("Bernina"), and all past and present shareholders, officers, agents, employees, and representatives of Bernina, as well as all successors and assignees of Bernina, from any and all claims and causes of action of any kind which I now have or ever have had under Section 703(a) of Title VII of the Civil Rights Act of 1964, as amended ("Title VII"), 42 U.S.C. § 2000e-2(a), as a result of or arising from the subject matter and claims which were or which could have been asserted in EEOC v. Bernina of America, No. 99 C 4100.

Date

XXXXXXXX

EXHIBIT B

_____, 2000

XXXXXXXXXX
XXXX St.
XXXXX, XX XXXXX

Re: EEOC v. Bernina of America
No. 99 C 4100 (N.D. Ill.)

Dear Ms. XXXXXX:

A Consent Decree resolving the above-referenced lawsuit was signed by the parties and entered by the Court on _____, 2000. Pursuant to the terms of the Consent Decree, enclosed you will find a copy of a Release to be signed by you.

In order to obtain any monetary relief under the Consent Decree in this case, you must sign the Release and return it to me. Please mail the signed Release to me as soon as possible at the following address:

John A. Knight
Equal Employment Opportunity Commission
500 West Madison Street
Suite 2800
Chicago, Illinois 60661

I have enclosed a pre-addressed envelope for your convenience. You may, of course, wish to make and keep a copy of the signed Release for your own records.

If you have any questions about the Release or cannot sign and return the enclosed documents within fourteen days, please contact me at (312) 353-7726.

Sincerely,

John A. Knight
Trial Attorney

Encls.

EXHIBIT C**RELEASE AGREEMENT**

I, Kelly Wynns, for and in consideration of the sum of \$30,000.00, payable to me pursuant to the terms of the Consent Decree entered by the Court in EEOC v. Bernina of America, No. 99 C 4100 (N.D. Ill.), on behalf of myself, my heirs, assigns, executors, and agents, do hereby forever release, waive, remise, acquit, and discharge Bernina of America ("Bernina"), and all past and present shareholders, officers, agents, employees, and representatives of Bernina, as well as all successors and assignees of Bernina, from any and all claims and causes of action of any kind which I now have or ever have had under Section 703(a) of Title VII of the Civil Rights Act of 1964, as amended ("Title VII"), 42 U.S.C. § 2000e-2(a), as a result of or arising from the subject matter and claims which were or which could have been asserted in EEOC v. Bernina of America, No. 99 C 4100, other than my claim and cause of action that my termination or refusal to re-hire by Bernina in May 2000 was retaliatory.

Date

Kelly Wynns

EXHIBIT D

NOTICE TO ALL BERNINA EMPLOYEES

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- 4) Bernina will not retaliate against any person because she opposed any practice made unlawful by Title VII, filed an Title VII charge of discrimination, participated in any Title VII proceeding, or asserted any rights under the Consent Decree.

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Date

The Honorable David H. Coar
United States District Judge