

United States District Court, Northern District of Illinois

Name of Assigned Judge or Magistrate Judge	Philip G. Reinhard	Sitting Judge if Other than Assigned Judge	
CASE NUMBER	02 C 50269	DATE	10/1/2003
CASE TITLE	EEOC vs. Colonial Ice Cream		

[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] Joint motion for entry of Consent Decree is granted. Enter Consent Decree. This case is dismissed. Any pending motions are now moot. The court retains jurisdiction to enforce the terms of the Consent Decree.

Philip G. Reinhard

- (11) [For further detail see order (on reverse side of/attached to) the original minute order.]

	No notices required, advised in open court.			Document Number
	No notices required.		number of notices	
✓	Notices mailed by judge's staff.		OCT - 2 2003 <small>date docketed</small>	25
	Notified counsel by telephone.		<i>[Signature]</i> <small>docketing deputy initials</small>	
	Docketing to mail notices.		10/2/2003 <small>date mailed notice</small>	
	Mail AO 450 form.		smw	
✓	Copy to judge/magistrate judge.		mailing deputy initials	
smw	courtroom deputy's initials	Date/time received in central Clerk's Office		

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

FILED-WVD
03 OCT -2 PM 2:22
U.S. DISTRICT COURT

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,)	
Plaintiff,)	
)	Civil Action No. 02 C-50269
SHANNON GINNERY,)	
Plaintiff-Intervenor,)	Judge Reinhard
)	Magistrate Judge Mahoney
v.)	
)	
COLONIAL ICE CREAM, INC.)	
Defendant.)	
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CONSENT DECREE

THE LITIGATION

1. Plaintiff Equal Employment Opportunity Commission (the "EEOC") filed this action alleging that Defendant Colonial Ice Cream, Inc. ("Colonial") 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 a female employee Shannon Ginnery ("Ginnery") and a group of female employees on the basis of their sex. Specifically, the EEOC alleged that Defendant violated Title VII by harassing Ms. Ginnery and a group of female employees on the basis of their gender and permitting their complaints about harassment to go unaddressed, and constructively discharging Shannon Ginnery by creating intolerable working conditions as a result of the sexual harassment. Defendant denied these allegations. The EEOC seeks relief for Shannon Ginnery, who filed a charge of discrimination and for other individuals whom the EEOC believes were subjected to a sexually hostile working environment ("Class Members"). Shannon Ginnery intervened in this

action, by filing an intervening complaint and is represented by attorney Patricia Jochum and Dennis Favaro.

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 and the Complaint filed by Ginnery in this action. This Decree is not an admission by any party of the claims or defenses of the others.

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 EEOC, Colonial, the Intervenor, 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:

INJUNCTION AGAINST SEX DISCRIMINATION

4. Colonial and its officers, agents, management, successors and assigns, are hereby enjoined from discriminating against employees on the basis of their sex.

NON-RETALIATION

5. Colonial, 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

6. Colonial shall pay an aggregate of \$368,000.00 to the Class Members and Shannon Ginnery to be apportioned as set forth in subparagraphs a) and b) below.

a). Colonial shall pay an aggregate of \$220,500 to the Class Members. Within five (5) business days after entry of this Decree, the EEOC will mail to the Class Members a copy of the Release Agreement attached as Exhibit A. Within five (5) business days after receipt by the EEOC of a signed Release Agreement, the EEOC shall mail the Release Agreement to Colonial. Within five (5) business days after receipt by Defendant of a signed Release Agreement, Colonial shall issue and mail by certified mail to the Class Member who signed the Agreement a check in the amount set forth below. Defendant shall also mail a copy of each check to the EEOC within five (5) business days of sending the check to the Class Member. The EEOC shall provide Defendant with current addresses for all Class Members, which shall be provided with the delivery of each signed release. Colonial will issue IRS Form 1099s with respect to these

payments. In the event that any amount of the payment designated for the Class Members has not been distributed as required by this Decree after a period of six months from entry of this Decree, then Colonial shall donate an amount equal to the unclaimed portion of the total payment designated for the Class Members to a non-profit organization, selected by the EEOC with consultation with Colonial, that serves to benefit women's workplace interests in Northern Illinois. Thereafter, Colonial shall have no further monetary obligation to any class member under this consent decree or pursuant to settlement of this case for unclaimed portions of the total payment designated for Class Members.

Class Member Name	Amount
Sashire Sorenson	\$29,500
Carrie Carlisle	\$26,000
Amanda Chudy	\$26,000
Jennifer Chudy	\$26,000
Nathalie Kokott	\$20,000
Michelena Smetters	\$19,000
Julie Picquette	\$17,000
Diana Jones	\$16,000
Brooke Domich	\$13,000
Jennifer Krok	\$13,000
Kristin Richards	\$13,000
Kelly Conlon	\$2,000

b). After the Consent Decree has been entered and within ten (10) days after Colonial receives a Release form executed by Shannon Ginnery, approved by her own private attorney, Colonial shall send by certified mail, payment in an aggregate amount totaling \$147,500.00 to

Favaro, Buzek, and Gorman, Shannon Ginnery's attorney, located at 835 Sterling Ave., Suite 100, Palatine, Illinois 60067. Defendant shall also mail proof of payment to the EEOC within five (5) business days of sending the payment to Favaro, Buzek, and Gorman. Defendant shall issue appropriate federal tax forms for the payment made by Defendant to Ginnery and her attorneys. Ginnery was represented by her own private counsel with regard to her release. The EEOC did not participate in any negotiations regarding the release, has not counseled Ginnery regarding the release, and has not approved her release.

POSTING OF NOTICE

7. Within fifteen (15) business days after entry of this Decree, Colonial shall post copies of the Notice attached as Exhibit B to this Decree at all of its locations on bulletin boards usually used by Colonial for communicating with employees. Copies in both English and Spanish shall be posted. The Notice shall remain posted for two (2) years from the date of entry of this Decree. Colonial shall take all reasonable steps to ensure that the posting is not altered, defaced or covered by any other material. Colonial shall certify to the EEOC in writing within fifteen (15) business days after entry of the Decree that the Notice has been properly posted. Colonial shall permit a representative of the EEOC to enter Colonial' premises for purposes of verifying compliance with this Paragraph at any time during normal business hours without prior notice.

RECORD KEEPING

8. For a period of two (2) years following entry of this Decree, Defendant shall maintain records of each complaint of sex harassment made by its employees from all of its facilities. Such records shall indicate the date the complaint was made, who made it, what was alleged, and what actions the Defendant took to resolve the matter.

9. Colonial shall make all documents or records referred to in Paragraph 8 above, available for inspection and copying within ten (10) business days after the EEOC so requests.

REPORTING

10. Colonial shall furnish to the EEOC the following written reports semi-annually for a period of two (2) 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 twenty-four (24) months after entry of the Decree. Each such report shall contain:

- A. A summary of the information recorded by Colonial pursuant to Paragraph 8;
- B. A certification by Colonial that the Notice required to be posted in Paragraph 7, above, remained posted during the entire six (6) month period preceding the report.

DISTRIBUTION OF REVISED POLICY AGAINST SEXUAL HARASSMENT

11. Colonial shall distribute its revised policy against sex harassment in English and Spanish to each employee of Colonial within twenty-one (21) days after the entry of this Consent Decree. The inclusion of Paragraph 11 in the Decree does not mean that EEOC or the Court approves of Colonial's anti-discrimination or anti-harassment policy.

12. Colonial shall distribute to all managers its revised procedure for investigation of sex harassment complaints. The revised procedure shall provide for thorough and prompt investigation of complaints of sex harassment. The inclusion of Paragraph 12 in the Decree does not mean that EEOC or the Court approves of Colonial's sex harassment investigation procedures.

TRAINING

13 During each of the two (2) years covered by this Decree, all managers, assistant managers, and supervisors shall participate in an annual training session by a trainer paid for by Colonial and approved by the EEOC regarding sex harassment. The first training shall take place within ninety (90) days of entry of this Decree.

14. In addition to the mandatory training provided for managers set forth in paragraph 13, Colonial shall provide all its employees the opportunity to attend voluntary training regarding sexual harassment. This training shall be provided in both English and Spanish. The first training shall take place within ninety (90) days of entry of this Decree.

15. Colonial shall obtain the EEOC's approval of its proposed trainer(s) prior to the training session. Colonial shall submit the name, address, telephone number, resume and training proposal of the proposed trainer(s) to the EEOC at least fifteen (15) days prior to the proposed date(s) of the training. The EEOC shall have five (5) 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 Colonial's designated trainer(s), Colonial shall have five (5) calendar days to identify an alternate trainer(s). The EEOC shall have five (5) calendar days from the date of receipt of the information described above to accept or reject the alternate

trainer(s). If the parties cannot through this process agree on a trainer(s), then they may seek the Court's assistance under paragraph 17.

16. Colonial shall certify to the EEOC in writing within five (5) business days after the training has occurred that the training has taken place and that the required personnel have attended. Such certification shall include: (i) the date, location and duration of the training; and (ii) a copy of an attendance list, which shall include the name and position of each person in attendance.

DISPUTE RESOLUTION

17. 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

18. 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 two (2) years immediately following entry of the Decree, provided, however, that if, at the end of the two (2) year period, any disputes under Paragraph 17, 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

19. Each party to this Decree shall bear its own expenses and costs. The EEOC, Intervenor and Colonial shall bear their own attorneys' fees.

20. The terms of this Decree are and shall be binding upon the present and future representatives, agents, directors, officers, assigns, and successors of Colonial in their capacities as representatives, agents, directors and officers of Colonial.

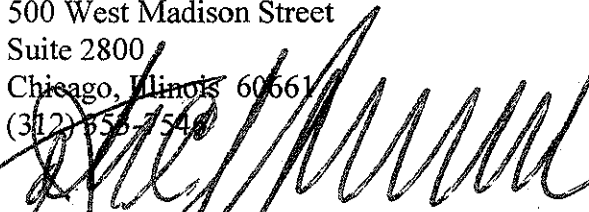
ENTERED AND APPROVED FOR:

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

JAMES LEE
Deputy General Counsel

GWENDOLYN YOUNG REAMS
Associate General Counsel


EQUAL EMPLOYMENT OPPORTUNITY
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500 West Madison Street
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JOHN C. HENDRICKSON
Regional Attorney




NOELLE BRENNAN
Supervisory Trial Attorney



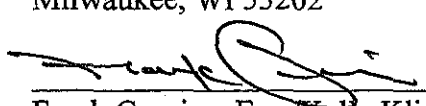
RICHARD J. MRIZEK/DEBORAH HAMILTON
Trial Attorneys

ENTER:



The Honorable Philip G. Reinhard
United States District Judge

For COLONIAL ICE CREAM, INC
Wessels and Pautsch, P.C.
Two Plaza East
330 East Kilbourn Ave.
Suite 1475
Milwaukee, WI 53202



Frank Gumina, Esq./Kelly Klick, Esq.

For SHANNON GINNERY, Intervenor
Favaro, Buzek & Gorman, Ltd.
835 Sterling Ave
Suite 100
Palatine, Illinois 60067

Patricia Jochum, Esq./Dennis Favaro, Esq.

DATE:

OCT 01 2003

ENTERED AND APPROVED FOR:

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

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NOELLE BRENNAN
Supervisory Trial Attorney

RICHARD J. MRIZEK/DEBORAH HAMILTON
Trial Attorneys

ENTER:




The Honorable Philip G. Reinhard
United States District Judge

For COLONIAL ICE CREAM, INC
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835 Sterling Ave
Suite 100
Palatine, Illinois 60067



Patricia Jochum, Esq./Dennis Favaro, Esq.

DATE:

OCT 01 2003

EXHIBIT A
RELEASE AGREEMENT

I, _____, for and in consideration of the sum of \$ _____ payable to me for alleged personal, physical, emotional injuries and pursuant to the terms of the Consent Decree entered by the Court in EEOC et al. v. Colonial Ice Cream, Inc., No. 02 C 50269 (N.D. Ill.), on behalf of myself, my heirs, assigns, executors, and agents, do hereby forever release, waive, remise, acquit, and discharge Colonial Ice Cream, Inc. ("Colonial"), and all past and present shareholders, officers, agents, employees, and representatives of Colonial, as well as all successors and assignees of Colonial, from any and all claims and causes of action of any kind which I now have or ever have had under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e et seq., as a result of or arising from the subject matter and claims which were or which could have been asserted in EEOC et al. v. Colonial Ice Cream, Inc., No. 02 C 50269 (N.D. Ill.).

Date

Signature

EXHIBIT B

NOTICE TO ALL COLONIAL EMPLOYEES

This Notice is being posted pursuant to a Consent Decree entered by the federal court in EEOC v. Colonial Ice Cream, resolving a lawsuit filed by the Equal Employment Opportunity Commission ("EEOC") against Colonial Ice Cream, Inc. ("Colonial")

In its suit, the EEOC alleged that Colonial fostered or tolerated a working environment that was sexually hostile toward female employees, in violation of Title VII of the Civil Rights Act of 1964 ("Title VII"). In this suit, Colonial denied these allegations.

To resolve the case, Colonial and the EEOC have agreed to the entry of the Consent Decree which provided, among other things, that:

- 1) Colonial will pay monetary relief to a class of former employees;
- 2) Colonial will not discriminate on the basis of sex in the future;
- 3) Colonial will not retaliate against any person because she opposed any practice made unlawful by Title VII, filed a Title VII charge of discrimination, participated in any Title VII proceeding, or asserted any rights under the Consent Decree; and
- 4) Colonial will train all of its managers with respect to sexual harassment and will offer training on sex harassment to all employees.

The EEOC enforces the federal laws against discrimination in employment on the basis of race, color, religion, national origin, sex, age or disability. 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

This Notice must remain posted for two 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: EEOC 500 West Madison Street, Suite 2800, Chicago, Illinois 60661.

OCT 01 2003
Date


The Honorable Philip G. Reinhard
District Judge