

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

EQUAL EMPLOYMENT OPPORTUNITY)
COMMISSION,)
)
Plaintiff,)
) CIVIL ACTION NO. 03-1347-WEB
v.)
)
O'REILLY AUTOMOTIVE, INC.)
d/b/a O'Reilly Auto Parts,)
)
Defendant.)

CONSENT DECREE

Introduction

Plaintiff Equal Employment Opportunity Commission (hereinafter the "Commission") has instituted this action alleging that O'Reilly Automotive, Inc. d/b/a O'Reilly Auto Parts (hereinafter "Defendant") discriminated against Debra Peres in violation of Title VII of the Civil Rights Act of 1964 (hereinafter "Title VII") by involuntarily placing her on medical leave and terminating her because she was pregnant. Defendant denies the Commission's allegations.

For purposes of settlement and compromise only, the parties have advised the Court that they wish to resolve the instant controversy without the expense, delay, and burden of further litigation;

THEREFORE, it is the finding of this Court, made on the pleadings and on the record as a whole and upon agreement of the parties, that: (i) this Court has jurisdiction over the parties to and the subject matter of this action, (ii) the requirements of Title VII will be carried out by the implementation of this Decree, (iii) this Decree is intended to and does resolve all matters in

controversy in this lawsuit among the parties, and (iv) the terms of this Decree constitute a fair and equitable settlement of all issues in this lawsuit.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED as follows:

I. General Provisions

1. This Decree, being entered with the consent of the parties for purposes of settlement, shall not constitute an adjudication on the merits of this lawsuit and shall not be construed as an admission by Defendant of any violation of Title VII or any executive order, law, rule or regulation dealing with or in connection with retaliation and/or sex discrimination in employment.

2. Defendant shall not discriminate against its employees with respect to hiring, promotion, firing, compensation, scheduling or other terms, conditions or privileges of employment on the basis of pregnancy and/or sex.

3. Defendant shall not discriminate or retaliate against any person because he or she: (a) has opposed any practices alleged in this lawsuit as unlawful under Title VII, (b) has participated in any investigation conducted under Title VII connected with or leading up to this lawsuit; (c) has participated in this lawsuit; or (d) has benefitted or will benefit in any way as a result of this Consent Decree.

II. Relief for Charging Party

4. Within thirty (30) days of the entry of this decree, Defendant shall forward to Debra Peres:

a.. A check in settlement of Ms. Peres' disputed claim for lost wages and benefits, in the amount of fifteen thousand dollars (\$15,000.00), less any deductions for the employee's portion of FICA and applicable federal and state income tax withholdings;

b. A check in settlement of Ms. Peres' disputed claim for compensatory damages in the amount of thirty-five thousand dollars (\$35,000.00);

c. A statement itemizing the deductions made from the lost wages.

5. As a condition precedent to Defendant making the payments referred to in Paragraph 4 above, Ms. Peres shall execute a Release of claims against Defendant, beyond those raised in this lawsuit. Defendant agrees to reimburse Ms. Peres for up to \$200 in attorney's fees so that she may consult a private attorney prior to signing the Release.

6. Defendant shall forward copies of the checks with the statement of deductions, referenced in paragraph 4 above, to the Regional Attorney, Equal Employment Opportunity Commission, 1222 Spruce, Room 8.100, St. Louis, Missouri 63103.

7. Within thirty (30) days of the entry of this Decree, Defendant will prepare a letter in the form shown in Exhibit A on appropriate O'Reilly Automotive, Inc. letterhead, and will make a signed copy of the resulting letter part of the permanent employment record of Debra Peres. Moreover, Defendant will send the original signed Exhibit A to Debra Peres. In the case of any inquiries by any prospective employers regarding Debra Peres, Defendant will limit its response to the information contained in this letter, which shall be available to the prospective employer and a copy provided, if requested.

III. Training

8. Within sixty (60) days after the entry of this Decree, Defendant shall issue the policies attached hereto as Exhibits C and D and to all of its managers and supervisors and, within one year after the date of this Decree, Defendant shall provide mandatory EEO training for all of its managers

and supervisors. The content of this training shall include pregnancy and sex discrimination, and retaliation under Title VII of the Civil Rights Act. Defendant will submit its training materials for approval by the Regional Attorney of the EEOC's St. Louis District Office.

IV. Posting and Policies

10. Defendant shall post and cause to remain posted copies of the notice attached hereto as Exhibit B in each of its retail stores in a location publicly visible to all employees for a period extending from the date of entry of this Decree through the expiration of this Decree on December 31, 2006.

11. Within thirty (30) days of the entry of this Decree, Defendant shall cause the policies attached hereto as Exhibits C and D to be adopted and included in Defendant's policy manual. Exhibits C and D also shall be made a part of the training referred to in Paragraph 8 above.

V. Reporting, Record-keeping, and Access

12. Within seventy-five (75) days of the entry of this Decree, Defendant shall prepare and submit to the EEOC's Regional Attorney in its St. Louis District Office a letter indicating as follows:

a. That Exhibit A has been made a part of Debra Peres' permanent personnel file and a copy has been mailed to her;

b. That Exhibit B has been posted as required by Paragraph 10, above;

c. That the policy dissemination required by Paragraph 8 above has been completed; and

d. That Exhibits C and D have been adopted as required by Paragraph 11 above.

13. Within six (6) months of the date of entry of this Decree and every 6 months thereafter

for the duration of this Decree, Defendant shall prepare and submit to the EEOC's Regional Attorney in its St. Louis Office, a report for the preceding six-month period listing the name of each female employee who took a pregnancy-related leave of absence, whether the leave of absence was voluntary or involuntary, date of termination, if applicable, and reason(s) for termination.

14. During the term of this Decree, Defendant shall allow representatives of the Commission to review Defendant's compliance with this Decree by inspecting and photocopying relevant documents and records, interviewing employees and management officials on their premises, and inspecting their premises. Such review of compliance shall be initiated by written notice to the Defendant's attorney of record at least five (5) business days in advance of any inspection of a Defendant's documents or premises.

VI. Term and Effect of Decree

15. The term of this Decree shall be two (2) years.

16. By entering into this Decree, the parties do not intend to resolve any charges of discrimination currently pending before the Commission other than the charge that created the procedural foundation for the complaint in this case.

17. This Decree shall be binding upon the parties hereto, their successors and assigns. Defendants shall affirmatively notify any purchasers of the obligations of this Consent Decree prior to any sale which may take place.

18. The Court shall retain jurisdiction of this cause for purposes of compliance and enforcement.

19. Each party shall bear its own costs.

DATE: 06/16/04

s/ Wesley E. Brown
UNITED STATES DISTRICT JUDGE

BY CONSENT:

FOR DEFENDANT:

FOR PLAINTIFF:

/s/ Larry M. Schumaker
Larry M. Schumaker KS USDC #70450
10401 Holmes Rd., Suite 480
Kansas City, MO 64131
(816) 941-9994
(816) 941-8244 (Fax)

/s/ Robert G. Johnson
ROBERT G. JOHNSON
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/s/ Barbara A. Seely
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(913) 551-5844

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EXHIBIT A

LETTER OF REFERENCE

(On Company Letterhead)

To Whom it May Concern:

Debra Peres was employed at O'Reilly Auto Parts in McPherson, Kansas in the position of Parts Specialist from August 8, 2001 until September 22, 2002 and in the position of Assistant Manager from September 22, 2002 until February 5, 2003. Her job performance was consistently good, her attendance was regular, and we wish her well.

Sincerely,

Store Manager
O'Reilly Auto Parts
McPherson, Kansas

EXHIBIT B

NOTICE TO EMPLOYEES

(On Company letterhead)

Federal law prohibits discrimination against any employee or applicant for employment because of pregnancy. Applicants or employees who are pregnant may not be discriminated against with respect to hiring, promotion, firing, compensation, or other terms, conditions or privileges of employment and they may not be placed on leave if they are able to perform all job functions and physical requirements of their jobs. Title VII also prohibits retaliation against employees because they have opposed practices they believe discriminate on the basis of sex or because they have filed charges with the EEOC or participated in or cooperated with an EEOC investigation.

O'Reilly Automotive, Inc. is committed to complying with such Federal law in all respects and will not discriminate against applicants and employees because they are pregnant and will not take any action against employees because they have exercised their rights under the law.

Date

Vice-President, Human Resources

EXHIBIT C

PREGNANCY POLICY

Applicants and employees who are pregnant when they apply for employment or who become pregnant while employed by O'Reilly Automotive, Inc. will not be discriminated against with respect to hiring, promotion, firing, compensation, or other terms, conditions or privileges of employment and they will not be placed on medical leave if they are able to perform the physical requirements of their job. In the event a pregnancy-related medical restriction impacts an applicant or employee's ability to perform certain job functions, it will be treated in the same way as other non-work-related illnesses or conditions..

EXHIBIT D

WORK RESTRICTIONS DUE TO NON-WORK-RELATED MEDICAL CONDITIONS (INCLUDING OFF-THE-JOB INJURY OR ILLNESS OR PREGNANCY)

Team members may on occasion sustain a non-work-related injury or illness that results in a limitation of their ability to perform certain functions of their job. As a general rule, employees must be able to perform their job functions and the physical requirements of their jobs or else they will need to take time off from work.

If a team member brings in a medical restriction from his or her doctor, this information should be communicated immediately to Corporate Team Member Relations.

Likewise, Corporate Team Member Relations should be notified as soon as possible if a store manager, district manager, distribution center supervisor, or another member of management has reason to believe that a team member is limited in his or her ability to perform his or her job. In turn, Corporate Team Member Relations will assist store/distribution center management in reviewing the situation on a case-by-case basis to determine whether the team member is able to perform all job functions and physical requirements despite his or her restriction, or whether the team member will need to be placed in a leave-of-absence status, or whether it is acceptable to accommodate the team member's restriction on a short-term basis.

Unless the arrangement has been reviewed and approved by Corporate Team Member Relations, store management is not authorized to permit a team member to continue working with medical restrictions that interfere with the performance of his or her job.

The policy and process described above applies to all situations involving non-work-related injuries or illnesses. It also applies to pregnancy, childbirth, and related medical conditions, which are to be treated in the same way as other non-work-related illnesses or conditions.