

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

FILED BY *E* D.C.
02 MAR 27 PM 2:04
ROBERT R. DI TROLIO
CLERK, U.S. DIST. CT.
WESTERN DISTRICT OF TENNESSEE

EQUAL EMPLOYMENT OPPORTUNITY)
COMMISSION,)
)
Plaintiff,)
v.)
)
CHILI'S, INC.)
BRINKER INTERNATIONAL)
PAYROLL CORPORATION, and)
BRINKER INTERNATIONAL, INC.,)
d/b/a COZYMEL'S COASTAL MEXICAN GRILL,)
)
Defendants.)

Civil Action No.
01-2076 DA

CONSENT DECREE

In this lawsuit, which was filed January 30, 2001 the Equal Employment Opportunity Commission (EEOC) claims that Chili's, Inc., Brinker International Payroll Corporation, and Brinker International, Inc., doing business as Cozymel's Coastal Mexican Grill (collectively, Cozymel's) violated Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. Section 2000e, *et seq.* (Title VII) by subjecting Tara Hedges and other female employees to harassment because of their sex. Cozymel's has answered denying any and all wrongdoing.

EEOC and Cozymel's have agreed to this consent decree to settle all of the claims involved in this lawsuit.

The Court has reviewed the terms of this decree in light of the applicable laws and regulations, and hereby approves this decree. **THEREFORE, it is hereby ORDERED:**

This document entered on the docket sheet in compliance with Rule 58 and/or 79(a) FRCP on 3-27-02

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I. JURISDICTION

The United States District Court for the Western District of Tennessee, Western Division, has jurisdiction over the parties and subject matter of this lawsuit, and will retain jurisdiction over this decree for purposes of enforcement and dispute resolution.

II. DISCLAIMER

Neither the negotiation of or the agreement to this decree is an admission or acknowledgment by Cozymel's that any of its employees, officers, directors, or agents have violated Title VII.

III. NONDISCRIMINATION

Cozymel's agrees that its supervisors, managers, officers, directors, agents, and successors at its Memphis restaurant will adhere to the mandates of Title VII and will not harass employees because of their sex.

IV. INDIVIDUAL REMEDIES

Cozymel's will pay a total of \$117,500.00 to the individuals identified to Cozymel's by EEOC as individuals entitled to relief. The checks will be made payable to each individual in the amount specified by EEOC in the Individual Remedy Distribution List (the list) attached to this decree, and will be sent by Cozymel's to the individuals at the addresses provided to Cozymel's by EEOC in the list. The checks will be sent to the individuals by Cozymel's within ten days after the entry of this decree. A copy of the front and back of each check mailed to the individuals, and a copy of any letter or other documents sent to the individuals by Cozymel's with the checks, will be sent at the same time to:

Carson L. Owen, Senior Trial Attorney
Equal Employment Opportunity Commission
1407 Union Ave., Suite 621
Memphis, TN 38104.

V. POSTING OF NOTICE

Within ten days after the entry of this decree, Cozymel's will post the notice attached to this decree in a conspicuous place at its Memphis restaurant where notices to employees are customarily posted. The notice will remain posted for thirty days. Within twenty days after the entry of this decree Cozymel's will send a letter to Carson Owen, at the address indicated above, verifying that the notice has been posted.

VI. POLICY PROHIBITING HARASSMENT

The policy prohibiting harassment which is attached to this decree will be complied with by Cozymel's. Each employee at Cozymel's Memphis restaurant will be required to read and sign a copy of this policy, and will be given a copy of the policy.


VII. REPORTING

Cozymel's will submit a report to Carson L. Owen, at the address indicated above, six months after the entry of this decree, and once again six months after the submission of the first report. Each report will describe all complaints received from employees at Cozymel's Memphis restaurant concerning harassment because of sex, including the name, home address, and home telephone number of each employee who complained, the nature of the complaint, what action, if any, was taken in response to the complaint, and if no action was taken an explanation of why no action was taken.

VIII. ATTORNEY'S FEES AND COSTS

EEOC and Cozymel's will each bear its own attorney's fees and costs incurred in this action.

SO ORDERED this 27th day of March, 2002.

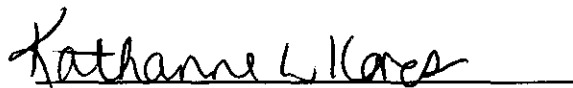

BERNICE DONALD
UNITED STATES DISTRICT JUDGE

Consented to on behalf of the respective parties:

FOR PLAINTIFF EEOC:

NICHOLAS M. INZEO
Acting Deputy General Counsel

GWENDOLYN YOUNG REAMS
Associate General Counsel


KATHARINE W. KORES
Regional Attorney

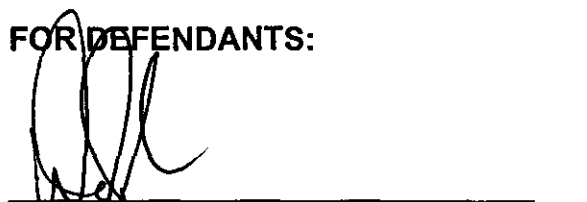

TERRY BECK
Supervisory Trial Attorney


CARSON L. OWEN
Senior Trial Attorney

**EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION**

1407 Union Avenue, Suite 621
Memphis, Tennessee 38104
Telephone No. (901) 544-0133

FOR DEFENDANTS:


DAVE SCHMILLE
President, Cozymel's Coastal Mexican Grill

AGREED AS TO FORM:

JACKSON WALKER L.L.P.
901 Main Street, Suite 6000
Dallas, TX 75202
Telephone No. (214) 953-6000

By: 
MICHAEL BYRD

ATTORNEYS FOR DEFENDANTS

Individual Remedy Distribution List

- | | | |
|----|---|-------------|
| 1. | Laurie Arthur
5960 Brierdale Cv.
Memphis, TN 38120 | \$10,000.00 |
| 2. | Wendy Auippa
2810 Broxton Mill Court
Snellville, GA 30039 | \$ 5,000.00 |
| 3. | Danielle Dowdy
410 N. McLean
Memphis, TN 38112 | \$ 5,000.00 |
| 4. | Wendy Ferrer
4912 Park Ave.
Memphis, TN 38117 | \$10,000.00 |
| 5. | Tara Hedges
4912 Park Ave.
Memphis, TN 38117 | \$45,000.00 |
| 6. | Monica Henao
7185 Raleigh Lagrange Rd.
Memphis, TN 38018 | \$ 2,500.00 |
| 7. | Jennifer Hood
2962 Mistwood Cove North
Collierville, TN 38017 | \$20,000.00 |
| 8. | Leslie King
7562 Conner Cove, Apt. 302
Germantown, TN 38138 | \$10,000.00 |
| 9. | Wendy Zinn
110 Kerri Court
Wetumpka, AL 36093 | \$10,000.00 |

NOTICE

This Notice is being posted as part of a settlement agreement between Cozymel's Coastal Mexican Grill (Cozymel's) and the United States Equal Employment Opportunity Commission (EEOC).

EEOC enforces Title VII of the Civil Rights Act of 1964 (Title VII), which prohibits employment discrimination based on race, color, religion, sex, or national origin; the Age Discrimination in Employment Act; the Equal Pay Act; sections of the Civil Rights Act of 1991; and Title I of the Americans With Disabilities Act, which prohibits discrimination against people with disabilities. Sexual harassment is one type of sex discrimination prohibited by Title VII.

Cozymel's supports these Federal laws in all respects, and will not take any action against employees or applicants for employment because they have exercised their rights under the law by complaining about discrimination or by filing a discrimination charge with EEOC.

Cozymel's has a policy prohibiting sexual harassment, and all employees are required to read it and follow it. All of our employees should be aware that Cozymel's takes harassment very seriously and that Cozymel's will not tolerate the harassment of its employees. Any employee who we find has sexually harassed another employee will be disciplined or discharged.



Dave Schmille, President
Cozymel's Coastal Mexican Grill

- Unwanted sexual advances.
- Offering employment benefits in exchange for sexual favors.
- Making threats due to a negative response to a sexual advance.
- Visual conduct: leering, making sexual gestures, displaying of sexually suggestive objects or pictures, cartoons or posters.
- Verbal conduct: making or using derogatory comments, slurs or jokes.
- Verbal sexual advances or propositions.
- Verbal abuse of a sexual nature, graphic verbal commentaries about an individual's body, sexually degrading words used to describe an individual, suggestive or obscene letters, notes or invitations.
- Physical conduct: touching, grabbing, pinching or blocking someone's movement.

The same type of conduct done on the basis of a person's race, color, sexual orientation, national origin, religion/ creed, age, marital status, or disability - such as making or using derogatory comments, slurs or jokes, or verbal commentaries based upon an individual's status - is also prohibited.

Brinker International monitors its employment procedures to make certain that no discrimination occurs. Additionally, the Company will make reasonable accommodations for qualified persons with a disability, as provided by the Americans with Disabilities Act.

Brinker International's policy on discrimination and/or harassment, and complaint procedure are set out in the Operations Manual, Employee File Folder, Employee Orientation Handbook, and Employee Handbook.

DISCRIMINATION AND/OR HARASSMENT COMPLAINT PROCEDURE

As your employer, we will take all needed steps to prevent discrimination and/or harassment from occurring in the workplace. All employees are also responsible for helping to ensure that discrimination and/or harassment is prevented. If you believe that you have witnessed or been subject to discrimination and/or harassment, you should follow the guidelines listed below so that your complaint or report can be investigated and resolved quickly and fairly.

- If possible, confront the harasser and inform him or her that his or her actions are offensive to you and that you want him or her to stop immediately.
- Report the incident to your manager, your General Manager, your Area Director, Director of Human Resources and/or HR Generalist.
- If possible, present your complaint in writing to any of the above mentioned individuals and include all relevant details of the incident, names of individuals involved, names of any witnesses, and dates of occurrence.
- We will begin an objective, thorough, and (to the extent possible) confidential investigation immediately.
- If we find that discrimination and/or harassment has occurred, we will take appropriate action to correct the situation. Any employee who has been found to have violated the policy on discrimination and/or harassment will be subject to disciplinary action, which may include reprimand, suspension, or termination, if warranted. A person committing discrimination and/or harassment may also be held liable for his or her actions under applicable law.
- We will keep you apprised of the investigation. The results of the investigation will be communicated to you and, if appropriate, to all others directly involved in the complaint.

The Company will not retaliate against any employee for presenting a complaint because he or she feels they have been a victim of discrimination and/or harassment. Nor will the Company tolerate or permit retaliation by management, fellow employees, customers or vendors.

If you have any questions regarding this policy or the complaint procedure, please contact Ginger K. Hukill, Director of Employee Relations at 872-770-9331 or 1-888-224-7484. If you have a complaint, please follow the above procedure.

**BRINKER INTERNATIONAL
DISCRIMINATION AND/OR HARASSMENT POLICY
ACKNOWLEDGEMENT FORM**

I acknowledge that I have received a copy of Brinker International's (here after referred to as "the Company") Discrimination and/or Harassment Policy ("the Policy"). I acknowledge that I have read the Policy and I agree to comply with the terms of the Policy.

I understand that compliance with the Policy is a term and condition of my employment with the Company. I further understand if I violate the terms of the Policy during the course of employment, I may be subjected to discipline, up to and including termination.

Name (please print)

Signature

Date



Notice of Distribution

This notice confirms a copy of the document docketed as number 43 in case 2:01-CV-02076 was distributed by fax, mail, or direct printing on March 27, 2002 to the parties listed.

Katharine W. Kores
EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
1407 Union Avenue
Ste. 621
Memphis, TN 38104

Terry L. Beck
EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
1407 Union Avenue
Ste. 621
Memphis, TN 38104

Carson L. Owen
EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
1407 Union Avenue
Ste. 621
Memphis, TN 38104

Thomas L. Henderson
LEWIS FISHER HENDERSON & CLAXTON
5050 Poplar Ave.
Ste. 1717
Memphis, TN 38157

Keri Goldstein Unowsky
LEWIS FISHER HENDERSON & CLAXTON
5050 Poplar Ave.
Ste. 1717
Memphis, TN 38157

Michael Byrd
JACKSON WALKER L.L.P.
901 Main St.
Ste. 6000
Dallas, TX 75202

Ella Schoeder Namaksy
JACKSON WALKER L.L.P.
901 Main St.
Ste. 6000
Dallas, TX 75202

James Allen
U.S. Magistrate Judge
167 N. Main St., Rm 341
Memphis, TN 38103

Honorable Bernice Donald
US DISTRICT COURT