

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

FILED-CLERK
U.S. DISTRICT COURT
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TX EASTERN-MARSHALL
BY _____

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,

Plaintiff,

v.

NEXION HEALTH, INC. D/B/A
MOUNT PLEASANT HEALTHCARE
CENTER

Defendant.

CIVIL ACTION NO.

2:03-CV-343

CONSENT DECREE

This Consent Decree is made and entered into between the Plaintiff, the Equal Employment Opportunity Commission ("EEOC"), and the Defendant, Nexion Health, Inc. d/b/a Mount Pleasant Healthcare Center (hereinafter collectively referred to as "the parties").

On September 30, 2003, the Equal Employment Opportunity Commission instituted a lawsuit in the United States District Court for the ~~North~~ ^{EASTERN} District of Texas, ~~Abilene~~ ^{MARSHALL} Division, Civil Action Number 2:03-CV-343 against Defendant, alleging that the Defendant violated Title VII of the Civil Rights Act of 1964 (Title VII) when it transferred Chentosha Nixon from a full-time position to a part-time position because of her pregnancy.

The parties hereto desire to compromise and settle the differences embodied in the aforementioned lawsuit, and intend that the terms and conditions be set forth in this Consent

Decree.

NOW, THEREFORE, in consideration of the mutual promises and agreements set forth herein, the sufficiency of which is hereby acknowledged, the parties agree as follows, the court finds appropriate, and therefore, it is ORDERED, ADJUDGED AND DECREED that:

1. This Court has jurisdiction to enforce the provisions set forth in this Consent Decree.
2. This Consent Decree resolves all issues, including all like and related issues, raised in EEOC Charge Number 310 A3 00256. This Decree further resolves all issues in the Complaint filed by the Commission in this civil action. The Commission does not waive processing or litigating charges or cases other than the above referenced charges and Complaint. It is understood that this Consent Decree does not constitute an admission by Defendant of any violation of Title VII of the Civil Rights Act of 1964, as amended.
3. Defendant agrees not to discriminate on the basis of pregnancy with respect to recruitment, hiring, termination, or any other employment action, and Defendant further agrees not to retaliate in any way against any person because of opposition to any practice declared unlawful under Title VII or because of the filing of a charge, giving testimony, or assisting or participating in any manner in any investigation, proceeding or hearing.
4. Defendant agrees to post the Notice appended hereto as Attachment "A" on the employee bulletin board at its Mount Pleasant Healthcare Center within 10 days

after the entry of this Consent Decree. Defendant will report to the EEOC that it has complied with this requirement within 30 days after posting the notice.

5. For each year that this Consent Decree is in effect, Defendant agrees to conduct annual training for all managers and supervisors of Defendant's Mount Pleasant, Texas, facility, advising them of the requirements and prohibitions of Title VII of the Civil Rights Act of 1964. The training will inform the employees of the complaint procedure for individuals who believe that they are being discriminated against by Nexion Health, Inc. The training will also include a specific discussion or instruction relating to the issue of pregnancy discrimination. The training shall be at least two (2) hours in duration. No less than 10 days before the training is conducted, Defendant agrees to give written notice to the EEOC as to the date and location of the training, the name and qualifications of the person providing the training and the substance of the training. All materials used in conjunction with the training shall be forwarded to the EEOC. Within 20 days following the training, Defendant shall submit to the EEOC confirmation that the training was conducted, and a list of attendees.
6. Defendant agrees that, for the duration of this Consent Decree, it shall immediately report all complaints of pregnancy discrimination at its Mount Pleasant Healthcare Center to the EEOC's Dallas District Office. Defendant also agrees that it will, on a biannual basis, report to the EEOC the status of its receipts of pregnancy discrimination complaints from employees at its Mount Pleasant

Healthcare Center, even if no such complaints have been received.

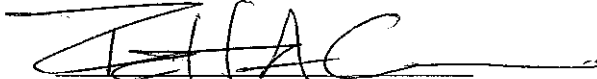
7. Defendant agrees to pay Chentosha Nixon the gross sum of \$15,000.00 in full and final settlement of the claim asserted in this dispute. This \$15,000.00 represents damages under Title VII and the Civil Rights Act of 1991 for the claim asserted by the EEOC on behalf of Charging Party Chentosha Nixon. Payment shall be made in the form of cashier's check made out to "Chentosha Nixon". The check shall be mailed within 14 days after entry of this Consent Decree.
8. Defendant agrees to report to the EEOC within 30 days of entry of this Consent Decree regarding its compliance with the arrangements set forth in paragraphs 4 through 6, above. All reports to the EEOC required by this Decree shall be sent to Devika S. Dubey, Senior Trial Attorney, 207 S. Houston Street, 3rd Floor, Dallas, Texas 75202.
9. If Defendant fails to tender payment or otherwise fails to timely comply with the terms of paragraph 6 above, Defendant shall:
 - a. Pay interest at the rate calculated pursuant to 26 U.S.C. § 6621(b) on any untimely or unpaid amounts; and
 - b. Bear any additional costs incurred by the EEOC caused by the non-compliance or delay of the Defendant.
10. The parties agree to bear their own costs associated with this action, including attorney's fees.
11. The Commission has the right to specifically enforce the terms of this Decree.

Nothing in this Consent Decree can preclude further actions by the EEOC or any other person to remedy any other alleged violations of Title VII by Defendant.

12. The effective date of this Decree shall be the date upon which it is signed for approval by the Court.
13. The term of this Decree shall be for three (3) years from the effective date. The Court shall retain jurisdiction to enforce the terms of this Decree until the expiration of the term of the Consent Decree.

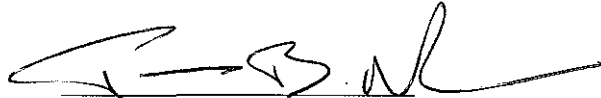
APPROVED AS TO FORM AND CONTENT:

FOR THE PLAINTIFF,
EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION:

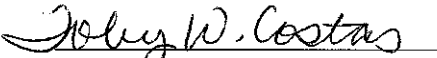


ROBERT A. CANINO
Regional Attorney
Oklahoma State Bar No. 011782

FOR THE DEFENDANT,
NEXION HEALTH, INC.



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TOBY W. COSTAS
Supervisory Trial Attorney
Texas State Bar No. 04855720



DEVIKA S. DUBEY
Senior Trial Attorney
Hawaii State Bar No. 005599

SO ORDERED, ADJUDGED AND DECREED this 27th day of April, 2004.



THE HONORABLE T. JOHN WARD
UNITED STATES DISTRICT JUDGE

**NOTICE AS REQUIRED UNDER TITLE VII
OF THE CIVIL RIGHTS ACT OF 1964, AS AMENDED**

This NOTICE to all employees of Nexion Health, Inc. is being posted as part of a Consent Decree between Nexion Health, Inc. and the United States Equal Employment Opportunity Commission.

1. Federal Law requires that there be no discrimination against any employee or applicant for employment because of that person's pregnancy, race, color, religion, sex, national origin, age or disability with respect to hiring, compensation, promotion, discharge or other terms, conditions or privileges of employment.
2. Nexion Health, Inc. strongly supports and will comply with such Federal Law in all aspects and it will not take any action against employees because they have exercised their rights under the law by filing charges with the United States Equal Employment Opportunity Commission.
3. Employees, who believe they may have been discriminated against, may report violations to [designated company official/department/telephone number/extension] and/or the Dallas District Office of the United States Equal Employment Opportunity Commission, 207 South Houston Street, Third Floor, Dallas, Texas 75202 (214-253-2700).
4. Nexion Health, Inc. agrees that, for the duration of this Consent Decree, it shall immediately report all complaints of pregnancy discrimination at its Mount Pleasant Healthcare Center to the EEOC and it will, on a biannual basis, report to the EEOC the status of its receipts of pregnancy discrimination complaints from employees at its Mount Pleasant Healthcare Center, even if no such complaints have been received
5. This NOTICE will remain posted until March 1, 2007, as provided in the Consent Decree.

Attachment "A"