

Mary Jo O'Neill AZ #005924
Sally C. Shanley AZ #012251
Lucila G. Rosas CA #187345
EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
3300 N. Central Avenue, Suite 690
Phoenix, Arizona 85012
Telephone: 602-640-5032
Lucila.Rosas@eeoc.gov

Attorneys for Plaintiff

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

Equal Employment Opportunity
Commission,

Plaintiff,

Andrea Liender,

Plaintiff-Intervenor,

vs.

Body Firm Aerobics, Inc. d/b/a Gold's
Gym,

Defendant.

) Case No.: No. 2:03CV00846 TC

) **SETTLEMENT AGREEMENT**
) **AND STIPULATION FOR ORDER OF**
) **DISMISSAL**

INTRODUCTION

The United States Equal Employment Opportunity Commission (the "Commission" or "EEOC") filed this action on September 29, 2003 against Body Firm Aerobics, Inc. d/b/a/ Gold's Gym ("Body Firm") to enforce Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e et seq. (Title VII) and the Civil Rights

Act of 1991, 42 U.S.C. §1981a. On November 25, 2003, Ms. Liender intervened in the lawsuit. On October 30, 2003, Body Firm answered the complaint and denied liability on all claims asserted in the complaint.

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 this Settlement Agreement and an Order of Dismissal. This Settlement Agreement does not constitute any admission of liability by the Body Firm and Body Firm has entered into this agreement solely to avoid the cost of trial. The parties do not object to the jurisdiction of the Court over this action.

It is hereby agreed by the parties to the following:

1. This Agreement resolves all claims of the Commission, Ms. Liender and Ms. Erin Allen against Body Firm, including back pay, compensatory and punitive damages, interest, injunctive relief, attorney's fees and costs arising out of the issues in this lawsuit.

2. This Court has jurisdiction over the parties and the subject matter of this Action pursuant to Title VII of the Civil Rights Act of 1964, as amended, 42 U.S. Code § 2000e - *et seq.*

3. Body Firm agrees to refrain from sexually harassing any employee; discriminating against any employee based on pregnancy; retaliating against any employee because he or she: (i) opposes or opposed discriminatory practices made unlawful by Title VII; or (ii) files or filed a charge of discrimination.

4. Without admitting liability, Body Firm shall make payment of \$25,000.00 to Ms. Liender's counsel and \$25,000.00 to Ms. Allen within ten days of the execution of this agreement. The aggregate amount paid to the claimants shall be the gross sum of \$50,000.00 plus additional consideration as agreed by the Plaintiffs and Defendant.

5. Body Firm shall issue a United States Internal Revenue Service Form 1099 to each individual for tax year during which payment is made.

6. Within five business days of the issuance of the checks, Body Firm shall submit a copy of the checks and all related correspondence to Mary Jo O'Neill, Regional Attorney, Equal Employment Opportunity Commission, 3300 North Central Avenue, Suite 690, Phoenix, Arizona 85012.

7. Body Firm shall post within thirty (30) days of the entry of this Agreement, for the duration of this Agreement, in a prominent place frequented by its employees at its facilities located in the state of Utah, including, both at the time that this Agreement becomes effective and for the duration of this

Agreement, the Notice attached as Attachment B. The Notice shall be the same type, style and size as set forth in Attachment B to this Agreement.

8. Body Firm agrees to carry out policies and practices at its facilities in the state of Utah that help assure a work environment free from sexual harassment and pregnancy discrimination of its employees and that allows employees to raise concerns, or complaints without retaliation about matters, whether alleged, perceived or actual, made unlawful by Title VII.

9. Within thirty (30) days of the entry of this Agreement Body Firm shall review and revise, as necessary, a written policy that prohibits discrimination based on gender, including sexual harassment and pregnancy, as well as a policy against retaliation.

10. Body Firm shall provide training for all employees, managerial and non-managerial, includes coverage of pregnancy discrimination and sexual harassment, within one (1) year of the entry of this Agreement. All personnel who attend the trainings shall sign attendance rosters. The registry of attendance or like training records shall be retained by Defendant for the duration of this Settlement Agreement.

11. Each Party shall bear its costs and attorney's fees incurred as a result of this action through the filing of this Agreement, except as may be provided in paragraph four.

12. The duration of this Agreement shall be one (1) year from its entry.

13. Absent extension, this Agreement shall expire by its own terms at the end of one (1) year from the date of entry without further action by the Parties.

14. The Parties agree to submit this Settlement Agreement to the Court for its consideration and approval by entry of the attached order.

Dated this 17th day of May, 2007

APPROVED AND CONSENTED TO:

s/ Mary Jo O'Neill
MARY JO O'NEILL
Regional Attorney

s/ Sally C. Shanley
SALLY C. SHANLEY
Supervisory Trial Attorney

s/ Lucila G. Rosas
LUCILA G. ROSAS
Trial Attorney

President
Body Firm Aerobics, Inc.

s/ Mary Anne Q. Wood
MARY ANNE Q. WOOD
KATHRYN BALMFORTH
Wood Crapo LLC
500 Eagle Gate Tower
60 East South Temple
Salt Lake City, UT 84111

s/ T. Diana Chen
T. DIANA CHEN
Trial Attorney

Equal Employment Opportunity
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Attorney for Defendant

BRIAN C. HARRISON

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3651 North 100 East, Suite 300
Provo, Utah 84604

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Dated this _____ day of _____, 2007

APPROVED AND CONSENTED TO:

MARY JO O'NEILL
Regional Attorney

SALLY C. SHANLEY
Supervisory Trial Attorney



President
Body Firm Aerobics, Inc.

LUCILA G. ROSAS
Trial Attorney

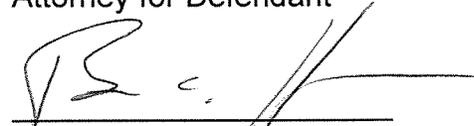
T. DIANA CHEN
Trial Attorney

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Attorney for Defendant



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ORDER OF DISMISSAL

Pursuant to the Settlement Agreement of the parties submitted to this Court, IT IS HEREBY ORDERED that this action is dismissed with prejudice with each party to bear its own costs and attorneys' fees.

Dated this _____ day of _____, 2007

HON. TENA CAMPBELL
United States District Judge

Attachment B
NOTICE TO ALL EMPLOYEES

This Notice is posted pursuant to a Settlement Agreement entered into between Body Firm Aerobics and the Equal Employment Opportunity Commission (EEOC).

Federal and state laws prohibit discrimination against employees on the basis of their sex. It is also unlawful to retaliate against any person because the person protested discriminatory practices or contacted the EEOC or the Utah Anti-Discrimination and Labor Commission (UALD).

Body Firm will not discriminate against any employee on the basis of sex, and will not retaliate against any employee. Nor will Body Firm tolerate its employees, vendors, contractors or other third parties discriminating against its employees on the basis of sex.

If you believe you have been discriminated against at Body Firm, you have the right to seek assistance from:

- (1) EEOC, 3300 North Central Avenue, Suite 690, Phoenix, Arizona 85012, (602) 640-5000; or
- (2) Utah Anti-Discrimination and Labor Commission, 160 East 300 South, 3rd Floor, Salt Lake City, Utah 84114, (801) 530-6801.

No Retaliation Clause. No action may be taken against you by any supervisory or management official of Body Firm for (1) opposing discriminatory practices made unlawful by federal law, (2) filing a charge or assisting or participating in the filing of a charge of discrimination, or (3) assisting or participating in an investigation or proceeding brought under Title VII. Should any such retaliatory actions be taken against you, you should immediately contact the EEOC or the UADL at the address or telephone numbers listed above.

THIS NOTICE MUST REMAIN POSTED UNTIL_____.

Dated:

Title of Site Manager