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THE HONORABLE THOMAS S. ZILLY

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AUG 29 2001

AT SEATTLE
CLERK U.S. DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
BY DEPUTY

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AT SEATTLE
CLERK U.S. DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
DEPUTY

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

EQUAL EMPLOYMENT OPPORTUNITY)
COMMISSION,)
) plaintiff,

CIVIL NO. C00-1651 Z

ANGELA MEJIA,

CONSENT DECREE

Plaintiff-Intervenor,

v.

ABM INDUSTRIES INCORPORATED
and AMERICAN BUILDING
MAINTENANCE CO.-WEST, d/b/a
ABM JANITORIAL SERVICES

Defendants.

I. INTRODUCTION

1. The Equal Employment Opportunity Commission ("EEOC" or "the Commission") filed this action on September 27, 2000 under Title VII of the Civil Rights Act of 1964, as amended, and Title I of the Civil Rights Act of 1991 ("Title VII") to correct unlawful employment practices on the basis of sex and retaliation, and to provide appropriate relief to Angela Mejia who was allegedly adversely affected by such practices.

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CYan, TSD, CDE, RSM

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1 2. On December 13, 2000, the Court granted Angela Mejia ("Ms. Mejia"
2 or "Plaintiff-Intervenor"), the right to intervene as a party Plaintiff to assert
3 individual claims under Title VII and Washington state law.

4 3. On May 18, 2001, the Court granted the parties' joint stipulation to
5 allow the EEOC and Plaintiff-Intervenor to amend their complaints to add as
6 defendant American Building Maintenance Co.-West ("ABM Co.-West").

7 4. The EEOC now agrees to withdraw its claims against ABM Industries
8 Incorporated, which was not Ms. Mejia's employer.

9 5. In its amended complaint, the EEOC alleges that American Building
10 Maintenance Co.-West, d/b/a ABM Janitorial Services, ("ABM Co.-West")
11 violated Title VII by sexually harassing Ms. Mejia, thereby creating a hostile work
12 environment, and that ABM Co.-West also violated Title VII by retaliating against
13 Ms. Mejia because she complained of discrimination and otherwise opposed ABM
14 Co.-West's discriminatory practices, in violation of Title VII of the 1964 Civil
15 Rights Act, as amended.

16 6. The defendants filed answers denying the allegations in the amended
17 complaints.

18 7. The EEOC, ABM Co.-West and Plaintiff-Intervenor, (collectively,
19 "the Parties") want to conclude all claims arising out of the above complaints
20 without expending further resources in litigation. The Parties agree that entry of
21 the Consent Decree will be in the best interest of the Parties and will further the
22 objectives of equal employment opportunity as set forth in Title VII.

23 8. ABM Co.-West and Plaintiff-Intervenor have separately resolved Ms.
24 Mejia's personal claims, including all state law claims, asserted against ABM Co.-
25 West and arising out of her employment by ABM Co.-West.

1 **II. NONADMISSION OF LIABILITY AND NONDETERMINATION BY**
2 **THE COURT**

3 9. This Consent Decree is not an admission of wrongdoing nor an
4 adjudication or finding on the merits of the case and shall not be construed as an
5 admission by ABM Co.-West of any violation of Title VII or Washington state
6 law.

7 **III. GENERAL PROVISIONS**

8 10. Wherever ABM Co.-West is referred to in this Consent Decree, it
9 refers to defendant American Building Maintenance Co.-West, d/b/a/ ABM
10 Janitorial Services in King County, Washington.

11 11. Nothing in this Consent Decree shall be construed to limit or reduce
12 ABM Co.-West's obligation to fully comply with Title VII of the 1964 Civil
13 Rights Act, as amended, the Equal Pay Act, the Age Discrimination in
14 Employment Act, the Americans with Disabilities Act, or the regulations
15 promulgated pursuant thereto.

16 12. ABM Co.-West agrees that its employees are protected by Title VII
17 from retaliation for providing information or assistance to the EEOC, or filing a
18 charge, or receiving relief pursuant to this Decree. The EEOC agrees that this
19 paragraph in no way is intended to prevent ABM Co.-West from complying with
20 the statutes and regulations enforced by the Immigration and Naturalization
21 Service.

22 13. This Consent Decree in no way affects the EEOC's right to process,
23 in accordance with standard Commission procedures, charges filed by individuals
24 against ABM Co.-West alleging violations of Title VII. Charges include those
25 pending as of the effective date of the agreement and those filed in the future.

1 Processing includes the administrative investigation, conciliation and
2 commencement of civil actions on the basis of such charges.

3 14. This Consent Decree is not designed to provide any additional, non-
4 statutory rights to any person or entity not a party to this Decree.

5 15. If the EEOC concludes that ABM Co.-West has failed to comply with
6 this Consent Decree, the EEOC may move this Court to enforce this agreement
7 pursuant to Section XIII after compliance with the terms in Section X, Dispute
8 Resolution Procedures.

9 **IV. SETTLEMENT SCOPE**

10 16. This Consent Decree constitutes the complete understanding between
11 ABM Co.-West, the EEOC and Plaintiff-Intervenor with respect to matters herein.
12 No waiver, modification or amendment to any provisions of this Consent Decree
13 will be effective unless it is agreed to in accordance with provisions of Section XI,
14 Amendment Procedures.

15 17. This Consent Decree is the final and complete resolution of all
16 allegations of unlawful employment practices contained in Angela Mejia's
17 discrimination charge, in the EEOC's administrative determination, and in the
18 complaints filed herein, and it includes all claims that could have been asserted
19 against defendants by the EEOC on Ms. Mejia's behalf or by Ms. Mejia under
20 Title VII arising out of her employment by ABM Co.-West.

21 18. The provisions of this Consent Decree shall apply only to the
22 operations and employees of King County, Washington, branches of ABM Co.-
23 West.

24 **V. MONETARY RELIEF**

25 19. In settlement of the claims asserted by the EEOC and/or Ms. Mejia

1 under Title VII, ABM Co.-West agrees to pay Ms. Mejia the sum of \$50,000
2 (Fifty Thousand Dollars).

3 **VI. INJUNCTIVE RELIEF**

4 **A. TRAINING AND AWARENESS PROGRAM**

5 20. To further the purposes and requirements of this Consent Decree,
6 ABM Co.-West will provide training to all staff, management, and employees
7 regarding the applicability of Title VII.

8 21. The objectives of this training will be to convey ABM Co.-West's
9 commitment to the personnel policies and procedures established by this Consent
10 Decree and to provide information and guidance on how to carry out those
11 policies.

12 22. Each training session will begin with a presentation in person or via
13 video by ABM Co.-West Vice President Jack Smith emphasizing ABM Co.-
14 West's commitment to the provisions of the Consent Decree and specifically
15 explain ABM Co.-West's policy in accordance with Title VII, on sexual
16 harassment, reporting and retaliation.

17 23. Each training session at which there are employees who speak
18 Spanish and do not understand English will be orally translated into Spanish and
19 all written materials explaining Title VII and ABM Co.-West's Title VII policy
20 will be distributed to all employees in Spanish and English.

21 24. ABM Co.-West will utilize professional outside resources to assist
22 with the development of this training.

23 25. Within sixty days (60) after the effective date of the Consent Decree,
24 the EEOC, ABM Co.-West's Consent Decree Administrator, or other
25 representative and individuals involved in developing the training will discuss the

1 objectives of the training.

2 26. ABM Co.-West will provide to the EEOC, within one hundred and
3 twenty days (120) of the effective date of this Consent Decree, a detailed outline
4 of the training to be given. Within thirty (30) days of receipt of the outline the
5 EEOC may provide any comments to ABM Co.-West with respect to the
6 substance of the training as outlined, which ABM Co.-West will consider.

7 27. ABM Co.-West will provide the EEOC with a copy of the materials to
8 be used in the training and a copy of its policy for the EEOC's review and
9 approval within one hundred and eighty days (180) of the date of entry of this
10 Decree. Within 30 days of the date of approval by the EEOC, ABM Co.-West will
11 redistribute the policy to all current employees, including all new hires, both
12 management and non-management.

13 28. ABM Co.-West will provide to the EEOC information concerning the
14 scheduled training locations, dates, and times.

15 29. ABM Co.-West shall use a video recorded in both English and
16 Spanish, which describes in detail the provisions of Title VII, and ABM Co.-
17 West's Title VII policy, including reporting and complaint procedures . The video
18 will be shown to all current employees during ABM Co.-West's Title VII training
19 sessions and to all new hires at the time of their orientation.

20 30. ABM Co.-West will conduct the training outlined above annually
21 during the two (2) year period of this Consent Decree. No provision of this
22 Consent Decree will provide any additional, non-statutory rights to any person or
23 entity after the date the decree expires.

24 **B. REPORTING AND COMPLAINT PROCEDURE**

25 31. ABM Co.-West will implement or continue to implement an effective

1 written equal employment opportunity policy ("EEOC policy") which sets forth
2 the requirements of federal laws against employment discrimination and
3 specifically those provisions which make sexual harassment and retaliation
4 unlawful.

5 32. The policy will include a statement of ABM Co.-West's commitment
6 to ensuring that the practices and the conduct of its employees will comply with
7 the requirements of federal laws against employment discrimination. It will
8 include a provision stating that those who violate the policy will be subject to
9 appropriate discipline, up to and including termination.

10 33. The policy will include an internal complaint procedure for
11 employees to report suspected incidents of discrimination so that ABM Co.-West
12 can investigate and take appropriate action if it determines that any employee has
13 violated its EEO policy.

14 34. The internal complaint procedure shall include the following
15 provisions:

- 16 a. A description of the appropriate persons to whom an individual
17 should report allegations of discrimination in the workplace,
18 including those that are unlawful under Title VII.
19 b. An explanation of how to make a complaint and what an
20 investigation will involve, including informing the affected
21 individuals of the outcome of the investigation.

22 35. ABM Co.-West will establish a procedure for management to
23 investigate employee complaints of discrimination, specifically, sexual harassment
24 and retaliation. The management complaint procedure shall include the following
25 provisions:

- 1 a. Training of management staff on an annual basis.
- 2 b. A record of the discrimination complaint shall be maintained
- 3 in ABM Co.-West's local management files and shall include
- 4 details of how the investigation was conducted, the outcome
- 5 of the investigation and the basis for the outcome of the
- 6 investigation.
- 7 c. The investigation shall be conducted confidentially to the
- 8 extent possible.
- 9 d. ABM Co.-West management shall promptly acknowledge the
- 10 employee's complaint and assure the complaining employee,
- 11 in writing, that the investigation will be conducted swiftly
- 12 and confidentially to the extent possible.
- 13 e. Within seven (7) days of the completion of the investigation,
- 14 ABM Co.-West management shall inform the complaining
- 15 employee of the outcome, and what steps, if any, it will take
- 16 to discipline the employee found to have committed the
- 17 discriminatory conduct against the complaining employee.
- 18 f. For the period covered by this Consent Decree, upon
- 19 reasonable notice, ABM Co.-West shall make its
- 20 investigation files (see paragraph 35(b) above) available for
- 21 inspection by the EEOC.

22 **VII. ADMINISTRATION OF THE CONSENT DECREE**

23 36. ABM Co.-West will be fully responsible for implementing this

24 Consent Decree and will appoint a Consent Decree Administrator.

25 37. To assist the Consent Decree Administrator in assuring compliance

1 with the Consent Decree, ABM Co.-West will make available outside resources on
2 equal employment law or practice.

3 38. ABM Co.-West will provide the Consent Decree Administrator
4 with all support necessary to carry out his or her duties under the Consent Decree,
5 including:

- 6 a. Preparation of all reports required by the Consent Decree
7 Administrator;
- 8 b. Administrative and professional support as needed; and,
- 9 c. Access to personnel officials, managers, and other
10 employees.

11 39. The Consent Decree Administrator's major areas of responsibility
12 will include:

- 13 a. Preparation and submission to EEOC of the reports on
14 compliance with this Consent Decree as set forth in Section
15 VIII, Reporting and Record Keeping;
- 16 b. Providing information to employees concerning ABM Co.-
17 West's obligations under the Consent Decree;
- 18 c. Responding to employee inquiries concerning the
19 provisions of this Consent Decree;
- 20 d. Participating in training sponsored by ABM Co.-West as
21 provided for in this Consent Decree;
- 22 e. Investigating complaints regarding possible violations of
23 the Consent Decree and reporting the results of the
24 investigations to appropriate supervisors at ABM Co.-West;
- 25 f. Reporting discipline to supervisors, managers, and any

1 other employees for Consent Decree violations and
2 violations of ABM Co.-West's non-discrimination policy;

3 g. Participating in discussions held among the parties to
4 implement the Consent Decree, to resolve disputes under
5 the Consent Decree or to otherwise amend the Consent
6 Decree; and,

7 h. Annually reviewing the operation of policies as they relate
8 to this Consent Decree and identifying in writing to EEOC
9 any modifications or enhancements which serve to advance
10 the purposes of this Consent Decree.

11 **VIII. REPORTING, RECORD KEEPING AND COMPLIANCE REVIEW**

12 40. ABM Co.-West will provide the EEOC with an annual report of all
13 training activities held during the term of this Consent Decree. This annual report
14 will be submitted so as to arrive at the EEOC within thirty (30) days after the close
15 of the reporting period.

16 41. After the expiration of this Consent Decree, records will be maintained
17 by ABM Co.-West as required by law. Except as provided in this paragraph, after
18 the expiration of this Consent Decree, ABM Co.-West will have no obligation
19 arising out of this Decree, directly or indirectly, other than its statutory
20 obligations.

21 **IX. SETTLEMENT NOTICE**

22 42. ABM Co.-West shall post a notice expressing, among other things,
23 ABM Co.-West's support of and compliance with federal laws enforced by the
24 EEOC. The notice shall be posted on centrally located bulletin boards at each
25 ABM Co.-West leased or owned facility in King County, Washington, while the

1 Consent Decree is in effect. A copy of the Notice is attached hereto as Exhibit A.

2 43. In any employment advertisements that it may run, ABM Co.-West
3 shall include information that it is an equal opportunity employer.

4 **X. DISPUTE RESOLUTION PROCEDURES**

5 44. EEOC shall have the right to file a motion pursuant to the Court's
6 continuing jurisdiction for an unresolved dispute or for non-compliance regarding
7 any provision of the Consent Decree for three hundred (300) days following the
8 alleged failure to comply with the Decree, as follows:

- 9 a. If the EEOC believes that there is an issue to resolve, it
10 shall promptly give notice, in writing, to ABM Co.-West
11 regarding (1) the specific provision which it
12 believes has not been met, and (2) a complete factual
13 statement of the issue.
- 14 b. The parties shall promptly undertake efforts to resolve
15 the areas of dispute for a period of thirty (30) days
16 following the date of the written notification by the EEOC
17 to ABM Co.-West.
- 18 c. If one party determines that efforts to resolve the matter
19 have failed, the party so finding shall notify the other
20 party in writing of such failure to resolve the matter
21 and may file a motion with the Court for such relief as is
22 provided by this Decree within thirty (30) days of the
23 dispute resolution period (see paragraph (b) above).

24 **XI. AMENDMENT PROCEDURES**

25 45. This Consent Decree may be modified only by mutual written agreement

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1 between the EEOC and ABM Co.-West, or by motion to the Court.

2 46. The parties may mutually agree in writing to one extension of thirty (30)
3 days of any deadline set forth in Section X of this Consent Decree without further
4 approval by the Court. Except as specifically provided in this paragraph, any
5 modification to the Consent decree is subject to approval by the Court.

6 **XII. DURATION OF THE AGREEMENT**

7 47. This Consent Decree will become effective on the date the Consent
8 Decree is entered by the United States District Court, Western District of
9 Washington at Seattle, and will remain in effect for a period of two (2) years from
10 date entered. If any party petitions the Court for breach of the Decree, and the
11 Court finds a violation of the terms of the Decree, the Court may extend the
12 duration of the Decree.

13 **XIII. RETENTION OF JURISDICTION**

14 48. The United States District Court, Western District of Washington at
15 Seattle, shall retain jurisdiction over this matter for the duration of the Consent
16 Decree.

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2 DATED this 27th day of August, 2001.

3 A. LUIS LUCERO, JR.
4 Regional Attorney

GWENDOLYN YOUNG REAMS
Acting Deputy General Counsel

5 BARBARA J. STANDAL
6 Supervisory Trial Attorney

7 ZULEMA HINOJOS-FALL
8 Senior Trial Attorney

9 BY: *A. Luis Lucero Jr*

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11
12 Attorneys for Plaintiff

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15 4400 Two Union Square
16 601 Union Street
17 Seattle, WA 98101-2352

18 BY: *Susan K. Stahlfeld*
Attorneys for Defendant

19 Approved for entry:

20 Stephen P. Connor
21 Daniel F. Johnson
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25 BY: *Daniel F. Johnson*
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NOTICE TO ALL EMPLOYEES

This notice is being posted pursuant to an agreement between American Building Maintenance Co.-West, d/b/a/ ABM Janitorial Services ("ABMCo.-West") and the Equal Employment Opportunity Commission as the result of a Consent Decree entered in settlement of a lawsuit in the federal district court for the Western District of Washington at Seattle, Case No. C00-1651 Z.

Title VII of the Civil Rights Act of 1964, as amended, the Age Discrimination in Employment Act of 1967, the Equal Pay Act of 1963, and the Americans with Disabilities Act of 1990 are enforced by the EEOC and require the following:

That there be no discrimination against any employee or applicant for employment because of the employee's race, sex, color, religion, national origin, age (over age 40), or disability with respect to hiring, firing, compensation, or other terms, conditions or privileges of employment.

It is an unlawful employment practice for an employer to retaliate against any employees or applicants for employment because they have opposed a practice or because they have made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under these statutes.

ABMCo.-West will maintain a training program to train its managers and employees regarding the requirements of the above statutes. ABM has specifically developed a sexual harassment policy and reporting procedures in compliance with Title VII and will provide training on the policy in both Spanish and English to all its employees, both orally and in writing.

This notice is being posted because ABMCo.-West supports and will comply with these federal laws in all respects and will not take any retaliatory action against employees because they have exercised their rights under the law.

DATED this ____ day of _____, 2001.

**AMERICAN BUILDING MAINTENANCE CO.-
WEST, d/b/a ABM JANITORIAL SERVICES**

By: _____

Its: _____

EXHIBIT A

1
2 ORDER APPROVING CONSENT DECREE

3 The Court having considered the foregoing stipulated agreement of
4 the parties,

5 IT IS HEREBY ORDERED THAT the foregoing Consent Decree
6 be, and the same hereby is, approved as the final decree of this Court in full
7 settlement of this action. This lawsuit is hereby dismissed with prejudice, and all
8 claims the EEOC asserted or could have asserted on Angela Mejia's behalf against
9 the defendants are also dismissed with prejudice. The Court retains jurisdiction of
10 this matter for purposes of enforcing the Consent Decree approved herein.

11 DATED this 29th day of August, 2001.

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14 THOMAS S. ZILLY
15 UNITED STATES DISTRICT JUDGE
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