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U.S. SETTLES CIVIL RIGHTS LAWSUIT WITH NEW YORK CITY
REGARDING HARASSMENT OF WELFARE-TO-WORK EMPLOYEES

MICHAEL J. GARCIA, the United States Attorney for the Southern District of New York, announced today that the Government has settled a civil rights lawsuit brought against the City of New York, alleging that the City violated the federal civil rights laws against employment discrimination by harassing women in the City's welfare-to-work program. A Consent Decree incorporating the terms of the settlement was approved today by United States District Judge RICHARD CASEY.

The Consent Decree resolves allegations filed in a 2001 complaint by the United States that supervisors at City agencies had harassed three women referred to those agencies as part of the City's Work Experience Program ("WEP"). The WEP is the program by which the City seeks to comply with the Personal Responsibility and Work Opportunity Reconciliation Act, the federal welfare reform statute.

The Government alleged that two of these women, Tammy Auer and Maria Gonzalez, had been sexually harassed by their supervisors when they were referred through the WEP to work at City agencies, Ms. Auer at the Department of Sanitation and Ms. Gonzalez at the City's Human Resources Administration. Both women were alleged to have been subject to unwanted touching and inappropriate comments and/or verbal abuse. The Government also alleged that a third woman, Theresa Caldwell-Benjamin, who had been referred through the WEP to the City's Department of Parks & Recreation, was harassed by a hangman's noose and a racist caricature that her WEP supervisor failed to remove from her work site. These three women also joined in the Government's lawsuit. A fourth woman, Tonja McGhee, who had complaints about sexual harassment while working in the WEP for the New York City Housing Authority settled her claims against the housing authority and the City in 2003.

The City had sought to dismiss the United States' complaint, arguing that because they were welfare recipients, the women were

not "employees" protected by the federal civil rights laws from unlawful employment discrimination. When the district court agreed with the City, the United States appealed.

In a case of first impression, the United States Court of Appeals for the Second Circuit ruled in favor of the United States, concluding, based on the allegations of the Government's complaint, that the three women were employees entitled to the protection of the federal civil rights laws, including protection from racial and sexual harassment.

As part of the Consent Decree, the City, while admitting no wrongdoing or liability, has agreed to convey notice to WEP workers, and to the City agencies that assign work to them, that (i) WEP participants are protected from unlawful employment discrimination under Title VII of the Civil Rights Act, the Americans with Disabilities Act and the Age Discrimination in Employment Act; (ii) those City employees who direct or oversee the performance of individuals working in the WEP are required to treat these workers in a manner consistent with the treatment of other City employees as mandated by these federal civil rights laws; and (iii) if any WEP participant believes that he or she has been discriminated against or harassed in violation of these federal civil rights laws, he or she may file a complaint with the Equal Employment Opportunity Commission (the "EEOC").

In addition, the City has agreed to pay monetary settlements to Ms. Auer, Ms. Gonzalez, and Ms. Caldwell-Benjamin. Pursuant to the Consent Decree, the City will pay Ms. Auer \$110,000; Ms. Gonzalez will receive \$40,000; and Ms. Caldwell-Benjamin will receive \$18,000.

The Consent Decree also provides for a two-year period of monitoring and oversight by the United States to ensure compliance with the terms of the settlement.

"Employees have a right to be free from discrimination in the public workplace, no less than in the private workplace. In particular, the law protects employees from sexual and racial harassment while they work. This protection is fundamental for WEP employees who will not receive welfare benefits for their families unless they continue to work," stated Mr. GARCIA. "We are pleased that the City of New York, which provides important employment opportunities to people on welfare, has taken steps to ensure that welfare recipients who work for the City are protected from harassment."

Assistant United States Attorneys NEIL M. CORWIN, SARAH S. NORMAND, and MELANIE R. HALLUMS are in charge of the case.

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