

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

CITY OF ECORSE, MICHIGAN,

Defendant.

Civil Action No. 2:08 cv 13100

Judge: Nancy G. Edmunds

Magistrate Judge: Steven D. Pepe

CONSENT DECREE

This action was brought by the United States against the City of Ecorse, Michigan (the “City”) to enforce the provisions of Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e, *et seq.*, as amended (“Title VII”), following receipt by the United States from the Equal Employment Opportunity Commission (“EEOC”) of a charge of discrimination filed by Katina Haynes (“Haynes”) against the City. This Court has jurisdiction of the action under 42 U.S.C. § 2000e-5(f) and 28 U.S.C. §§ 1331 and 1345.

In its Complaint, the United States alleges that the City has discriminated against Haynes and Tresa Thomas (“Thomas”), a similarly situated individual formerly employed by the City, on the basis of their sex, female, in violation of Section 703(a) of Title VII, among other ways, by:

- (a) subjecting them to sexual harassment by a supervisor, Gary Sammons, thereby creating and maintaining a hostile work environment that adversely affected the terms, conditions and privileges of Haynes’ and Thomas’ employment; and
- (b) failing or refusing to take appropriate action to prevent and promptly correct the discriminatory treatment of Haynes and Thomas.

The City denies that it has discriminated against Haynes or Thomas in violation of Title VII. Nevertheless, the United States and the City, desiring that this action be settled by an appropriate Consent Decree (“Decree”), and without the burden and risks of protracted litigation, agree to the jurisdiction of this Court over the parties and the subject matter of this action. The United States and the City also hereby waive, for purposes of this Decree only, hearings and findings of fact and conclusions of law on all issues, and further agree to the entry of this Decree as a final and binding agreement between them with regard to the issues raised in the Complaint filed by the United States in this case.

This Decree, being entered into with the consent of the United States and the City, shall in no way constitute an adjudication or finding on the merits of the case, nor be construed as an admission by the City or a finding of wrongdoing or violation of any applicable federal law or regulation.

In resolution of this action, the parties hereby AGREE to, and the Court expressly APPROVES, ENTERS and ORDERS, the following:

I. PARTIES

1. The parties to this Decree are the United States and the City.
2. The City includes its current, former and future agents, employees, officials, designees and successors in interests.

II. PURPOSES OF CONSENT DECREE

3. The purposes of this Decree are to ensure that:
 - (a) The City does not subject any employee to employment discrimination based on sex in violation of Title VII (employment discrimination based on sex as used in

this Decree includes harassment based on sex);

- (b) The City provides adequate training to all employees and supervisors of the City concerning: (1) Title VII's prohibitions against employment discrimination based on sex; (2) the City's policies prohibiting employment discrimination based on sex; and (3) the procedures by which City employees may submit complaints of employment discrimination based on sex; and
- (c) The City provides Haynes remedial relief.

III. SCOPE OF DECREE

4. This Decree resolves all legal and equitable claims arising out of the United States' Complaint filed against the City in this action.

IV. GENERAL RELIEF

5. The City, its employees and supervisors shall not engage in any act or practice that unlawfully discriminates against any person on the basis of sex in violation of Title VII.

V. POLICIES AND PROCEDURES

6. Within fifteen (15) calendar days from the date of entry of this Decree, the City shall distribute to all employees and supervisors for the City copies of its policies prohibiting sex discrimination and procedures by which City employees may submit complaints of sex discrimination. Each employee and supervisor shall sign an acknowledgment that he or she received a copy of such policies and procedures. The signed acknowledgment shall be placed in the employee's or supervisor's personnel file. Also within fifteen (15) calendar days from the date of entry of this Decree, the City shall publicize such policies and procedures by, *inter alia*, posting them in all City buildings, offices and facilities used for posting equal employment

opportunity information.

7. Within thirty (30) calendar days of the distribution of the policies and procedures required by Paragraph 6, above, the City shall provide the United States with written verification that the distribution has been completed in the manner prescribed by Paragraph 6, above.

8. The City shall ensure that each new employee and supervisor for the City receives a copy of the written policies and procedures referenced in Paragraph 6, above, at the time of the new employee's or supervisor's hire or appointment. Each new employee or supervisor for the City shall sign an acknowledgment that he or she has received a copy of such policies and procedures. The signed acknowledgment shall be placed in the employee's or supervisor's personnel file.

VI. TRAINING

9. Within ninety (90) calendar days following the entry of this Decree, the City shall provide, at its own expense, mandatory training regarding Title VII's prohibitions against discrimination based on sex to all employees and supervisors for the City. Such training shall be conducted live with an instructor(s) and shall include, at a minimum, a discussion of Title VII's prohibition on employment discrimination based on sex, the City's written policies against sex discrimination and the procedures by which City employees may submit complaints of sex discrimination, including the name of the person(s) to whom complaints of discrimination may be submitted.

10. Within forty-five (45) calendar days prior to the commencement of such training, the City shall select, with the approval of the United States, a qualified individual or group of individuals to conduct the training outlined in Paragraph 9, above. The United States shall also review for approval the City's proposed training program, including the training topics and

materials to be used, prior to the training's first administration. If the City and the United States are unable to agree upon a trainer or training program, including the training topics or materials to be used, the parties shall submit the dispute to the Court, as provided for in Paragraph 17, below, of this Decree. Nothing in this paragraph shall negate the City's obligation to provide training as set forth in Paragraph 9, above.

11. Within thirty (30) calendar days following the completion of the training required by Paragraph 9, above, the City shall provide to the United States written verification that the training has been completed and that all employees and supervisors required by Paragraph 9, above, to attend such training, did so. All persons who undergo training as required by Paragraph 9, above, shall sign an acknowledgment of attendance at the training. The City shall retain the signed acknowledgments for the duration of this Decree.

VII. SPECIFIC RELIEF FOR KATINA HAYNES

12. Without admitting the allegations of the United States as set forth in its Complaint and in settlement of the claims of the United States for relief on behalf of Katina Haynes, as well as in settlement of the claims of Haynes who by her signature to the attached Release has agreed to accept the relief, the City shall to do the following:

(a) Within thirty (30) days of the date of entry of this Decree, the City shall pay to Haynes a monetary award of fifteen thousand dollars (\$15,000). This payment shall be made by check and shall be considered compensatory damages. To obtain this relief, Haynes has executed a release, a copy of which is attached hereto as Appendix A. Within thirty (30) calendar days from the date of entry of this Decree, the City shall contact Haynes by letter and inform her that Haynes may pick up her monetary award from the City Contoller's Office at

3869 W. Jefferson Avenue, Ecorse, Michigan 48229.

(b) The City shall issue to Haynes the appropriate Internal Revenue Service tax form reflecting the amount paid to Haynes.

VIII. TRESA THOMAS

13. The City and Tresa Thomas have separately settled all claims related to Thomas' employment with the City, and Thomas has executed a release of claims, including any claim for relief the United States' would seek on behalf of Thomas. Accordingly, Thomas will not receive further relief under this Decree.

IX. RECORDS RETENTION AND COMPLIANCE MONITORING

14. The City shall retain the following records during the term of this Decree or for the period of time required by applicable federal record retention requirements, whichever is longer:

- (a) all posted notices and posters displayed in City buildings, offices and facilities work areas pursuant to Paragraph 6, above; and
- (b) all documents that come into the City's possession relating to written or verbal complaints of employment discrimination based on sex, from any employee of the City, including documents relating to the City's investigation and resolution of any such complaints.

15. The United States may review compliance with this Decree at any time, and shall have the right to inspect and copy any documents it deems necessary to monitor the City's compliance with this Decree, upon thirty (30) calendar days written notice to the City, without further order of this Court.

16. The City promptly shall report to the United States any complaint of employment

discrimination based on sex made by any employee of the City pursuant to the written policies and procedures as referenced in Paragraph 6, above, or made to the Equal Employment Opportunity Commission, or any other state or local agency charged with enforcement of anti-discrimination laws pertaining to employment.

X. DISPUTE RESOLUTION

17. The parties shall attempt to resolve informally any dispute that may arise under this Decree. If the parties are unable to resolve the dispute expeditiously, either party may move the Court for a resolution of the issue.

XI. GENERAL PROVISIONS

18. The parties shall bear their own costs in this action, including attorney's fees, incurred by them prior to entry of this Decree by the Court. However, the parties shall retain the right to seek costs for any matter which, in the future, may arise under this Decree and require resolution by the Court.

19. All documents required to be delivered under this Decree to the United States, including but not limited to any report required by Paragraph 16, above, shall be sent by overnight mail to the attention of:

Chief
Employment Litigation Section
U.S. Department of Justice
Civil Rights Division
601 D Street, N.W., Room 4040
Washington, D.C. 20004

20. All documents required to be delivered under this Decree to the City shall be sent to the attention of:

Donald J. Gasiorek, Esq.
Gasiorek, Morgan & Greco P.C.
30500 Northwestern Highway
Suite 425
Farmington Hills, MI 48334

XII. JURISDICTION OF THE COURT

21. The Court shall retain jurisdiction over this Decree for the purpose of resolving any disputes or entering any orders that may be necessary to implement the relief provided in the Decree.

22. At the end of two (2) years from the date of entry of this Decree, this Decree shall be dissolved and this action shall be dismissed without further order of the Court.

IT is so **ORDERED**,

s/Nancy G. Edmunds
Nancy G. Edmunds
United States District Judge

Dated: April 9, 2009

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on April 9, 2009, by electronic and/or ordinary mail.

s/Carol A. Hemeyer
Case Manager

AGREED AND CONSENTED TO:

For plaintiff United States of America:

LORETTA KING
Acting Assistant Attorney General

Civil Rights Division

By:

/s John M. Gadzichowski

JOHN M. GADZICHOWSKI (WI Bar No. 1014294)
Chief

/s Karen D. Woodard

/s Hector F. Ruiz, Jr.

KAREN D. WOODARD (MD Bar – No Number Issued)
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/s Judith E. Levy

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Eastern District of Michigan
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For defendant City of Ecorse, Michigan:

By:

Herbert Worthy
Mayor of Ecorse

/s Donald J. Gasiorek

DONALD J. GASIOREK (Mich. Bar No. P24987)

Gasiorek, Morgan & Greco, P.C.
30500 Northwestern Highway, Suite 425
Farmington Hills, Michigan 48334
Telephone: (248) 865-0001

Attorney for Defendant

APPENDIX A

RELEASE

STATE OF MICHIGAN

COUNTY OF WAYNE

For and in consideration of the acceptance of the monetary award of fifteen thousand dollars (\$15,000) to be given to me by the City of Ecorse, Michigan pursuant to the provisions of the Consent Decree to be submitted to the Court for approval and entry in *United States v. City of Ecorse, Michigan*, Civil Action No. 2:08 cv 13100 (E.D. Mich), I, Katina Haynes, hereby release and forever discharge the City of Ecorse, Michigan, its past, current and future officials, employees and agents, of all legal and equitable claims arising out of the above-referenced case, and any other claims of employment discrimination based on state or federal law related to my employment with the City of Ecorse, Michigan, including but not limited to, any claims of employment discrimination arising out of EEOC Charge No. 471-2006-01633, or any claims that could have been made based on the incidents described in EEOC Charge No. 471-2006-01633.

I understand that the relief to be given to me in consideration for this release does not constitute an admission by the City of Ecorse, Michigan of liability, sex discrimination, violations of law, or wrongdoing and does not constitute an admission by the City of Ecorse, Michigan of the validity of any claims raised by me or on my behalf.

This Release constitutes the entire agreement between the City of Ecorse, Michigan and me, without exception or exclusion and is subject to the Court's approval and entry of the Consent Decree.

I acknowledge that a copy of the Consent Decree entered in *United States of America v. City of Ecorse, Michigan*, Civil Action No. 2:08 cv 13100 (E.D. Mich.) has been made available to me.

I HAVE READ THIS RELEASE AND UNDERSTAND THE CONTENTS THEREOF AND I EXECUTE THIS RELEASE OF MY OWN FREE ACT AND DEED.

Date: _____

Katina Haynes

Subscribed and sworn to me this ____ day of _____, 2009.

Notary Public