

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

TERRANCE K. LEMONS,	:	
Plaintiff,	:	
	:	
UNITED STATES OF AMERICA,	:	
Plaintiff-Intervenor,	:	
	:	Civil Action No. 4:03CV00975 ERW
v.	:	
	:	
PATTONVILLE-BRIDGETON FIRE	:	
PROTECTION DISTRICT, <u>et al.</u> ,	:	
Defendants.	:	
_____	:	

CONSENT DECREE

On June 2, 2004, the United States moved to intervene in this action, which was originally brought by Terrence Keith Lemons ("Mr. Lemons") against the Pattonville-Bridgeton Fire Protection District ("Pattonville"), William Esterline, Daniel Bishop, Roy Bone, Steve Wolf and Herb Jacobs, in their individual and official capacities, and the International Association of Firefighters, Local 2665 (the "Union") alleging, *inter alia*, violations of Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e, *et seq.*, as amended ("Title VII"), as well as other federal and state law causes of action.

The United States sought intervention only against defendant Pattonville, in order to enforce the provisions of Title VII. The United States alleged in its Complaint in Intervention that defendant Pattonville discriminated against Mr. Lemons because of his race, black, in violation of Section 703(a) of Title VII, 42 U.S.C. § 2000e-2(a), by: (1) subjecting Mr. Lemons to a racially hostile work environment; (2) subjecting Mr. Lemons to less favorable terms and conditions of employment than white employees; (3) suspending Mr. Lemons' pay and benefits, which constituted a constructive discharge; and (4) failing or refusing to promptly investigate

and remedy the racial discrimination against Mr. Lemons. On July 13, 2004, the Court granted the United States' motion to intervene and directed that its Complaint in Intervention be filed.

Pattonville denies each and every allegation of discrimination made against it in this lawsuit, and states Mr. Lemons was not subject to a racially hostile work environment, Mr. Lemons did not receive less favorable terms and conditions of employment than white employees, Mr. Lemons was not constructively discharged, and Pattonville took prompt measures to investigate and remedy any alleged racial discrimination against Mr. Lemons. Nevertheless, the United States and Pattonville, desiring that this action be settled, and without the burden of protracted litigation, agree to the jurisdiction of this Court over the parties and the subject matter of this action. The United States and Pattonville also hereby waive, for purposes of this Consent Decree ("Decree"), hearings and findings of fact and conclusions of law on all issues, and further agree to the entry of this Decree as final and binding between them with regard to the issues raised in the United States' Complaint in Intervention in this case. This Decree, being entered into with the consent of the United States and Pattonville, shall in no way constitute an adjudication or finding on the merits of the case, nor be construed as an admission by Pattonville or a finding of any wrongdoing or violation by Pattonville of any applicable federal law or regulation with respect to the allegations in the United States' Complaint in Intervention.

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

I. PURPOSES OF THIS DECREE

1. The purposes of this Decree are to ensure that:

- (a) Pattonville not subject any employee to discrimination on the basis of race and/or retaliation in violation of Title VII (discrimination as used in this Decree includes harassment on the basis of race and/or retaliation in violation of Title VII);
- (b) Pattonville maintains clear, meaningful and well-publicized policies and procedures prohibiting discrimination on the basis of race and/or retaliation in the workplace;
- (c) Pattonville provides adequate training to all employees, supervisors and Directors concerning Title VII's prohibitions against discrimination on the basis of race and retaliation, and on Pattonville's policies and procedures prohibiting discrimination on the basis of race and/or retaliation in the workplace; and
- (d) Pattonville offers Mr. Lemons certain relief, as specified herein.

II. SCOPE OF DECREE

2. This Decree resolves all legal and equitable claims arising out of the United States' Complaint in Intervention filed against Pattonville in this action. Mr. Lemons and Pattonville have entered into a separate written agreement that contains a full release of all of Mr. Lemons' claims against Pattonville, including his Title VII claims, as well as other matters not pertinent to the resolution of the United States' claims in this case.

III. GENERAL INJUNCTIVE RELIEF

3. Pattonville, its employees, supervisors, Directors, agents and all individuals in active concert or participation with it, are enjoined from:

- (a) engaging in any act or practice that unlawfully discriminates against any person on the basis of race in violation of Title VII; and
- (b) retaliating against, or in any way adversely affecting the terms and conditions of employment of, any person because that person has engaged in practices protected under 42 U.S.C. § 2000e-3(a), including, but not limited to, cooperating with the United States' investigation or litigation of this case.

IV. AMENDMENT AND DISSEMINATION OF POLICIES AND PROCEDURES

4. Within sixty (60) calendar days from the date of entry of this Decree, Pattonville shall review and, to the extent necessary, amend its written policies and procedures that prohibit discrimination on the basis of race, to ensure the following provisions are included therein:

- (a) a description of the manner in which an employee of Pattonville may make a complaint of discrimination based on race;
- (b) a clear statement that a complaint of discrimination based on race may be written or verbal;
- (c) the identification of all individuals who are authorized to accept complaints of employment discrimination on the basis of race against Pattonville;
- (d) a statement that all complaints of discrimination based on race will be promptly and objectively investigated; and
- (e) a statement that Pattonville will provide the results of an investigation into a complaint of discrimination on the basis of race to the complaining party in writing, no later than thirty (30) calendar days from the date the complaint is received.

5. Within thirty (30) calendar days from the date of entry of this Decree, Pattonville shall designate a person who shall have responsibility for ensuring that the written policies and procedures set forth in Paragraph 4, above, are fully implemented and complied with.
6. Within ten (10) calendar days from the date upon which Pattonville implements the written policies and procedures set forth in Paragraph 4, above, Pattonville shall distribute copies of such policies and procedures to all of its employees, supervisors and Directors.
7. Within ten (10) calendar days from the date upon which Pattonville implements the written policies and procedures set forth in Paragraph 4, above, Pattonville shall publicize such policies and procedures by, *inter alia*, posting them in all buildings and facilities used for posting equal employment opportunity information, by email to all employees, and on any internet or intranet website used for posting notices or policy changes for or concerning Pattonville.
8. Pattonville shall ensure that each new employee or Director receives a copy of the written policies and procedures implemented pursuant to Paragraph 4, above, at the time of the new employee's hire or at the time of the Director's election or appointment. Each new Pattonville employee or Director shall sign an acknowledgment that she or he has read and understands such policies. The signed acknowledgment by a new employee shall be placed in the employee's personnel file; and the signed acknowledgment by a new Director shall be maintained by the Fire Chief.

V. TRAINING

9. Within one hundred and eighty (180) calendar days from the date of entry of this Decree, Pattonville shall provide live mandatory training regarding Title VII's prohibitions against discrimination based on race to all employees, supervisors and Directors. The training shall be of the type and substance previously provided by Pattonville to its employees from the Missouri

Commission on Human Rights, but such training shall specifically include discussion of the written policies and procedures maintained by Pattonville pursuant to Paragraph 4, above.

10. Within thirty (30) calendar days prior to the commencement of such training, Pattonville shall make available to the United States, upon its request, the identity of the individual or business entity that it designates to conduct the training required by Paragraph 9, above, and Pattonville shall make available a description of the qualifications of such individual or business entity.

11 Within thirty (30) calendar days following the completion of the training required by Paragraph 9, above, Pattonville shall make available to the United States, upon its request, with copies of all training materials used, as well as written attendance records reflecting that the training has been completed and that all employees, supervisors and Directors required by Paragraph 9, above, to attend such training in fact did so.

VI. SPECIFIC RELIEF FOR MR. LEMONS

12. Without admitting the allegations of the United States as set forth in its Complaint in Intervention, and in settlement of the claims of the United States for relief on behalf of Mr. Lemons, Pattonville shall:

- (a) pay Mr. Lemons a total monetary payment of FIFTY-FIVE THOUSAND DOLLARS (\$55,000.00);
- (b) no later than two weeks from the later of the date of entry of this Decree and the effective date of the separate agreement between Mr. Lemons and Pattonville, reinstate Mr. Lemons to his position as a firefighter with full seniority rights, retroactive to July 5, 1989, for all purposes, except vacation picks, order of callback for overtime and selection of shift assignments; and

- (c) provide Mr. Lemons creditable years of service in its Defined Benefit Pension Plan, for the period of February 18, 2003 to his reinstatement date. Pattonville shall amend its Defined Benefit Pension Plan to effectuate this requirement of the Decree.

VII. RECORD RETENTION AND COMPLIANCE MONITORING

13. Pattonville 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) the provisions and effective date of all written policies and procedures implemented pursuant to Paragraph 4, above;
- (b) all posted notices and posters displayed in its work areas intended to convey information regarding the prohibition of employment discrimination on the basis of race in the workplace, as set forth in Paragraph 4, above, and the dates when such policies and procedures are posted on Pattonville's internet or intranet website; and
- (c) all documents that come into its possession relating to written or verbal complaints of employment discrimination on the basis of race, from any individual against it, including documents relating to Pattonville's investigation and resolution of any such complaints.

14. 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 Pattonville's compliance with this Decree, upon thirty (30) days written notice to Pattonville, without further order of this Court.

15. Pattonville promptly shall report to the United States any complaint of discrimination on the basis of race made by any individual pursuant to Pattonville's written policies and procedures referenced in Paragraph 4, above, or made to the Equal Employment Opportunity Commission, the Missouri Human Rights Commission or an other state or local agency charged with enforcement of anti-discrimination laws pertaining to employment.

VIII. DISPUTE RESOLUTION

16. 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.

IX. GENERAL PROVISIONS

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

18. All documents required to be delivered under this Decree to the United States 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
PHB, Fourth. Floor
Washington, D.C. 20004

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

Chief
Pattonville Fire Protection District

13900 St. Charles Rock Road
Bridgeton, MO 63044

X. JURISDICTION OF THE COURT

20. 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. 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**, this 15th day of August, 2005.


UNITED STATES DISTRICT JUDGE

AGREED AND CONSENTED TO:

On behalf of plaintiff-intervenor United States of America:

BRADLEY J. SCHLOZMAN
Acting Assistant Attorney General
Civil Rights Division

By:



DAVID J. PALMER
Chief

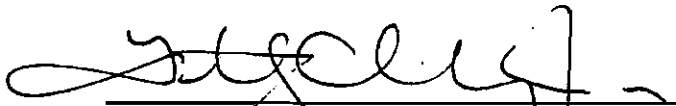


JOHN M. GADZICHOWSKI
Principal Deputy Chief
KATHLEEN T. TOOMEY [E.D. Bar # 502487]
CARL WASSERMAN [E.D. Bar # 507673]
Trial Attorneys
U.S. Department of Justice
Civil Rights Division
Employment Litigation Section
950 Pennsylvania Avenue, N.W.
PHB, Fourth Floor
Washington, D.C. 20530
Telephone: (202) 514-3834

On behalf of defendant Pattonville-Bridgeton Fire Protection District:

By:

BRYAN CAVE LLP



Charles B. Jellinsk, #57107
Timothy C. Mooney, Jr., #85574
One Metropolitan Square, Suite 3600
211 N. Broadway
St. Louis, Missouri 63102
(314) 259-2000
(314) 259-2020 FAX