

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
NORTHERN DIVISION**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	Civil Action No. <u>2:11-cv-</u>
)	
v.)	
)	
HERTFORD COUNTY PUBLIC)	
HEALTH AUTHORITY)	
)	
Defendant.)	

CONSENT DECREE

This action was brought by the United States against the Hertford County Public Health Authority (the "Health Authority") 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 Kimberly Sathoff ("Sathoff") against the Health Authority. 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 Health Authority has discriminated against Sathoff on the basis of her sex, female, in violation of Section 703(a) of Title VII, 42 U.S.C. § 2000e-2(a), among other ways, by subjecting her to pregnancy discrimination.

The Health Authority denies that it has discriminated against Sathoff in violation of Title VII. Nevertheless, the United States and the Health Authority, 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 Health Authority 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 Health Authority, shall in no way constitute an adjudication or finding on the merits of the case, nor be construed as an admission by the Health Authority 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:

PARTIES

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

PURPOSES OF CONSENT DECREE

3. The purposes of this Decree are to ensure that:
 - (a) The Health Authority does not subject any employee or applicant for employment to employment discrimination based on sex in violation of Title VII (employment discrimination based on sex as used in this Decree and under Title VII includes pregnancy discrimination);
 - (b) The Health Authority provides adequate training to all employees with hiring responsibilities and all supervisors at the Health Authority concerning: (1) Title VII's prohibitions against employment discrimination based on sex, including

discrimination based on pregnancy; (2) the Health Authority's policies prohibiting employment discrimination based on sex; and (3) the procedures by which Health Authority employees may submit complaints of employment discrimination based on sex; and

(c) The Health Authority offers Sathoff appropriate remedial relief.

SCOPE OF DECREE

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

GENERAL INJUNCTIVE RELIEF

5. The Health Authority, its employees, supervisors, directors, agents and all individuals in active concert or participation with it, are enjoined from engaging in any act or practice that unlawfully discriminates against any person on the basis of sex in violation of Title VII.

POLICIES AND PROCEDURES

6. Within ninety (90) days after the date of entry of this Decree, the Health Authority shall implement policies and procedures that prohibit sex discrimination, including pregnancy discrimination, under Title VII. These policies and procedures shall, at a minimum, include the following information:

A. A clear statement of the Health Authority's commitment to equal employment opportunity and non-discrimination on the basis of sex;

B. An assurance that employees who make complaints of sex discrimination or provide information related to such complaints will be protected against retaliation;

C. A clearly described complaint process that provides multiple and accessible avenues by which an employee may make a written or verbal complaint of sex discrimination;

D. An assurance that the Health Authority will protect the confidentiality of

complaints of sex discrimination to the fullest extent possible;

E. A process that provides a prompt, thorough, and impartial investigation of complaints of sex discrimination; and

F. An assurance that the employer will take immediate and appropriate corrective action when it determines that sex discrimination has occurred.

7. Within sixty (60) days after the date of entry of this Decree, the Health Authority shall submit the policies and procedures described in paragraph 6 to the United States for review, comment and approval. The United States' approval will not be unreasonably withheld. If the parties cannot agree on the policies and procedures to be implemented, the issue shall be submitted to the Court for resolution prior to implementation by the Health Authority.

8. Within ten (10) days of the date in which the Health Authority implements the policies and procedures set forth in paragraph 6, the Health Authority shall distribute copies of such policies and procedures to all Health Authority employees, and post such policies and procedures in all buildings and facilities used for posting general information to Health Authority employees.

9. The Health Authority shall ensure that each new Health Authority employee receives a copy of the policies and procedures implemented pursuant to paragraph 6 at the time of the new employee's hire. Each new employee shall sign an acknowledgment that he or she has read and understood such policies and procedures, and the signed acknowledgment shall be placed in each new employee's personnel file.

TRAINING

10. No later than one hundred-twenty (120) days after the date of entry of this Decree, all Health Authority employees with hiring responsibilities and all supervisors at the Health

Authority shall be provided with live training by the Health Authority on the law of equal employment opportunity including discrimination based on sex. The training shall include, at a minimum, an explanation of the Health Authority's policies and procedures, as set forth in Paragraph 6. The Health Authority will select, with the approval of the United States, a qualified individual or group of individuals to conduct the training outlined in this paragraph. Within sixty (60) days of the entry of this Decree, the Health Authority shall submit to the United States for review and approval the name(s) and curriculum vitae of the individual(s) selected to conduct the training, and the proposed training program, including the materials to be used during the proposed training. The United States shall review this information submitted and, within thirty (30) days, notify the Health Authority as to the United States' approval of individual(s) selected to conduct the training and the proposed training program.

11. All Health Authority employees required by Paragraph 10 of this Decree to attend the training shall sign an acknowledgment of attendance. Within ten (10) days of such training, the Health Authority shall provide the United States with written confirmation that all Health Authority employees required by Paragraph 10 to attend the training did so. The Health Authority will keep on file all signed acknowledgments for the duration of this Decree.

SPECIFIC RELIEF FOR SATHOFF

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 Sathoff, as well as in settlement of the claims of Sathoff, who by her signature to the attached Release, accepts the relief provided her by this Decree, the Health Authority shall provide Sathoff the following relief:

a total monetary award of TWENTY THOUSAND DOLLARS (\$20,000), of which \$9,300 shall be attributed to back pay, and \$10,700 to compensatory damages.

13. The Health Authority shall withhold all appropriate income tax and other statutory deductions associated with the amounts attributable to back pay (\$9,300) paid to Sathoff by the Health Authority. The Health Authority shall separately pay its portion of any Social Security tax and other applicable employer-side federal, state and local taxes due on the back pay amount paid to Sathoff, and shall not deduct its portion of such taxes from the amount paid to Sathoff. The Health Authority will issue to Sathoff the appropriate Internal Revenue Service ("IRS") tax forms reflecting the amounts paid to Sathoff and the amounts withheld by the Health Authority, including issuing to Sathoff a W-2 wage and tax statement and, as appropriate, a 1099INT or 1099MISC income statement.

14. In settlement of her claims against the Health Authority, Sathoff has executed a release that is attached to this Decree. Within ten (10) days from the date of entry of this Decree by the Court, the Health Authority shall mail to Sathoff a certified check payable to "Kimberly Sathoff" for the amount described in Paragraph 12, above, less any applicable withholding and taxes. The Health Authority shall mail the check payable to Sathoff to the following address:

383 Morton Farm Road

Hubert, North Carolina 28539

15. Within fifteen (15) days from the date the Health Authority sent payment to Sathoff, the Health Authority shall provide to the United States documentary evidence of having paid Sathoff

by mailing proof of payment, including the specific amount paid to Sathoff and the amount of taxes withheld, to the address specified in Paragraph 22, below.

RECORDS RETENTION AND COMPLIANCE MONITORING

16. The Health Authority shall retain the following records during the term of this Consent 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 Health Authority buildings, offices and facilities work areas pursuant to Paragraph 8, above; and
- (b) all documents that come into the Health Authority's possession relating to written or verbal complaints of employment discrimination based on sex, from any employee of the Health Authority (or applicant for employment), including documents relating to the Health Authority's investigation and resolution of any such complaints.

17. 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 Health Authority's compliance with this Decree, upon thirty (30) days written notice to the Health Authority, without further order of this Court.

18. The Health Authority shall report to the United States any complaint of employment discrimination based on sex made by any employee of the Health Authority (or applicant for employment) pursuant to the written policies and procedures approved by the United States, 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, within twenty

(20) days of the submission of the complaint.

DISPUTE RESOLUTION

19. 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, after providing the other party with twenty (20) days written notice, either party may move the Court for a resolution of the issue.

EXPIRATION

20. This Decree shall expire and this action shall be dismissed two (2) years from the date of entry of this Decree, provided that the Health Authority has provided Sathoff with the relief required under this Decree and has otherwise complied with the provisions of this Decree.

GENERAL PROVISIONS

21. 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 Consent Decree and require resolution by the Court.

22. 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

23. All documents required to be delivered under this Decree to the Health Authority shall be

sent to the attention of:

Mitchell S. McLean, Esq.
P.O. Box 550
616 East Church Street
Ahoskie, North Carolina 27910

JURISDICTION OF THE COURT

24. 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.

IT is so ORDERED, this 18 day of March, 2011.


UNITED STATES DISTRICT JUDGE

AGREED AND CONSENTED TO:

For plaintiff United States of America:

THOMAS E. PEREZ
Assistant Attorney General
Civil Rights Division

By:

s/ Loretta King
LORETTA KING
Acting Chief (DC Bar No. 387583)

s/ Karen D. Woodard
s/ Hector F. Ruiz, Jr.
KAREN D. WOODARD (MD Bar - No Number Issued)
Deputy Chief
HECTOR F. RUIZ, JR. (TX Bar No. 24029814)
Senior Trial Attorney
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) 514-9694

For defendant Hertford County Public Health Authority:

By:

Copy with Hard Signature Attached

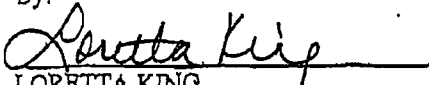
Howard Hunter III, Chairman
Board of Health for the Hertford County Public Health Authority


AGREED AND CONSENTED TO: .

For plaintiff United States of America:


THOMAS E. PEREZ
Assistant Attorney General
Civil Rights Division

By:


LORETTA KING
Acting Chief (DC Bar No. 387583)


KAREN D. WOODARD (MD Bar - No Number Issued)
Deputy Chief
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For defendant Hertford County Public Health Authority:

By: 
Howard Hunter III, Chairman
Board of Health for the Hertford County Public Health Authority