

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	Civil Action No. 13-cv-3718
v.)	
)	
READING PARKING AUTHORITY)	
)	
Defendant.)	
)	

CONSENT DECREE

This action was brought by Plaintiff United States of America (“United States”) against the Reading Parking Authority (“RPA”) 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 the United States’ receipt from the U.S. Equal Employment Opportunity Commission of a charge of discrimination that Henry Perez (“Mr. Perez”) filed against the RPA. This Court has jurisdiction of the action under 42 U.S.C. § 2000e-5(f) and 28 U.S.C. §§ 1331 and 1345.

The United States’ Complaint alleges that the RPA violated Title VII by discriminating against Mr. Perez and similarly-situated employees, including Manuel Molina, Felix Freytiz, John Mazzone, and Juan Moya (the “Relief Recipients”), based on national origin. More specifically, the United States alleges that the RPA subjected Mr. Perez and the similarly-situated employees to a hostile work environment based on national origin. The United States also alleges that the RPA retaliated against Mr. Perez in violation of Title VII for engaging in protected activity.

The United States and the RPA (also referred to collectively as the “Parties” and singularly as “Party”), wanting this action to be settled by an appropriate Consent Decree (“Decree”), without the burdens and risks of further protracted litigation, agree that this Court has jurisdiction over the Parties to, and the subject matter of, this action. For purposes of this Decree only, the Parties waive hearings and findings of fact and conclusions of law on all issues,

and they agree to entry of this Decree as a final and binding agreement between them with regard to the issues raised in the United States' Complaint in this case.

This Decree, being entered into with the consent of the United States and the RPA, shall not constitute an adjudication or finding on the merits of the case.

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

I. DEFINITIONS AND PARTIES

1. The parties to this Decree are the United States and the RPA.
2. The terms "supervisor" and "administrator" include all employees, contractors, agents, and representatives of the RPA who manage, supervise, or have authority to affect the hiring, firing, discipline, assignments, or pay rates of the RPA employees, and all persons who establish policies or procedures for the RPA.
3. "Day" or "days" refers to calendar days and not business days, unless otherwise noted.
4. "Date of entry of this Decree" refers to the date on which the Court enters this Decree as an order.
5. "Relief Recipients" refers to Henry Perez, Felix Freytiz, Manuel Molina, John Mazzone, and Juan Moya.

II. PURPOSES OF THIS DECREE

6. The purposes of this Decree are to ensure that the:
 - (a) RPA does not subject any employee to discrimination, harassment (including discrimination and harassment based on national origin), or retaliation, in violation of Title VII;
 - (b) RPA maintains clear, meaningful, and accessible policies and procedures prohibiting discrimination, harassment (including discrimination and harassment based on national origin), and retaliation;
 - (c) RPA administers appropriate discipline to correct promptly discrimination, harassment (including discrimination and harassment based on national origin), and retaliation.
 - (d) RPA administers appropriate discipline to those managers, supervisors, and other individuals required to report and/or investigate allegations of discrimination,

harassment (including discrimination and harassment based on national origin), and retaliation, where such individuals failed to report and/or investigate properly such allegations; and

- (e) RPA offers the Relief Recipients appropriate remedial relief set forth below.

III. GENERAL INJUNCTIVE RELIEF

7. The RPA, its officials, employees, contractors, supervisors, administrators, agents, and all individuals in active concert or participation with it, are enjoined from:

- (a) discriminating against any employee of the RPA (including discrimination based on his/her national origin);
- (b) creating, facilitating, or tolerating harassment or a hostile work environment (including harassment based on national origin) with regard to any employee of the RPA; and
- (c) retaliating against any RPA employee for opposing discrimination or harassment, making a complaint of discrimination or harassment based on national origin, or assisting or participating in the investigation of a complaint of discrimination or harassment based on national origin.

IV. POLICIES & PROCEDURES

8. Within thirty (30) days from the date of entry of this Decree, the RPA shall:

- (a) develop written policies and procedures that prohibit discrimination and harassment (including discrimination and harassment based on national origin), and retaliation, or review and to the extent necessary revise its existing policies and procedures that prohibit discrimination and harassment based on national origin, and retaliation; and
- (b) present to the United States, for review and consent, the new, revised, written policies and procedures prohibiting discrimination, harassment, and retaliation at the RPA that the RPA proposes it will maintain for at least the life of this Decree. Within fifteen (15) days of receiving those proposals, the United States shall provide written approval or objection of, or written comments on, the proposed policies and procedures. Within fifteen (15) days of when the RPA receives any objection(s) or input under this Paragraph from the United States, the United States and the RPA shall use their best efforts to resolve any disputes. If no such

agreement is reached, then the United States and/or the RPA may use the dispute resolution procedure set forth below in Paragraph 35 to seek judicial resolution of the dispute. Final policies developed under this Paragraph and which are consistent with this Decree shall be implemented within thirty (30) days of receipt of the United States' comments or court resolution whichever is later.

9. The RPA's policies and procedures on discrimination and harassment (including discrimination and harassment based on national origin), and retaliation shall include, at a minimum, the following:
 - (a) a description of the manner in which an RPA employee may make a complaint of discrimination, harassment, and/or retaliation, including the names and contact information for the EEO Officer(s), as provided for in Paragraph 12 below;
 - (b) a clear statement that a complaint of discrimination, harassment, and/or retaliation may be written or oral;
 - (c) the identification, by job title and telephone number, of all individuals who are authorized to accept complaints against the RPA of discrimination, harassment, and/or retaliation;
 - (d) a statement that the EEO Officer(s) designated pursuant to Paragraph 12 below will promptly review and investigate all complaints of discrimination, harassment, and/or retaliation;
 - (e) a statement that the RPA will inform the complaining party of the results of an investigation into a complaint of discrimination, harassment, and/or retaliation, in writing, as soon as possible, and no later than twenty-one (21) days after receipt of the complaint, unless a written explanation is submitted to the complainant and the United States as to the reason(s) a response to the complaint cannot be completed within this timeframe;
 - (f) appropriate discipline to correct promptly discrimination, harassment (including discrimination and harassment based on national origin), and retaliation;
 - (g) appropriate discipline to those managers, supervisors, and other individuals required to report and/or investigate allegations of discrimination, harassment (including discrimination and harassment based on national origin), and

retaliation, where such individuals failed to report and/or investigate properly such allegations; and

- (f) a statement about the RPA posting and distributing, pursuant to Paragraph 10 below, its new, revised, or existing policies and procedures.

10. Within fifteen (15) days of the RPA's implementation of the policies and procedures prohibiting discrimination, harassment, and retaliation referred to above in Paragraph 8, the RPA shall ensure that each current employee of the RPA has signed an acknowledgment that he/she has reviewed a copy of the written policies and procedures which the RPA will maintain for the life of this Decree. The RPA shall ensure that all future employees sign such an acknowledgment within fifteen (15) days of hire. RPA shall not be required to redistribute any policies which were not developed under this Consent Decree.

11. The RPA shall post—in the RPA buildings and administrative offices (located at 613 Franklin Street and 645 Franklin Street), in prominent, conspicuous, centrally located places commonly used for posting notices (*e.g.*, bulletin boards) there—the written policies and procedures prohibiting discrimination, harassment, and/or retaliation at the RPA that the RPA will maintain for the life of this Decree. The RPA shall designate one supervisory employee who is responsible for taking reasonable action to ensure that these documents remain posted, that they are not defaced or altered in any fashion, and if they are defaced or altered in any fashion, that they are immediately replaced.

V. PROCEDURES FOR ACCEPTANCE AND INVESTIGATION OF COMPLAINTS OF DISCRIMINATION, HARASSMENT AND RETALIATION

12. Within thirty (30) days after the date of entry of this Decree, the RPA shall designate an RPA Equal Employment Opportunity Officer (“EEO Officer”) and an alternative RPA employee (“Alternative EEO Officer”) (collectively, the “EEO Officers”) who are authorized to receive and investigate complaints of discrimination and harassment (including discrimination and harassment based on national origin), and retaliation, by employees, both directly from the employees themselves and via the employees’ supervisors or other officials, as provided by the RPA’s policies and procedures prohibiting discrimination, harassment, and retaliation. The designated EEO Officers shall maintain neutral roles and must remain free of conflicts of interest. Within fifteen (15) days of receipt of an initial complaint, the EEO

Officer(s) shall investigate the complaint and notify the complainant of the results of the investigation. The EEO Officers shall keep written records of all such complaints, including records of their investigations, and their responses thereto. To the extent the Parties disagree as to whether good cause exists for any delay beyond the time period for investigation and resolution of a complaint of discrimination or harassment based on national origin, and/or retaliation complaint, as specified in Paragraph 8 above, either Party may submit the issue to the Court for resolution as outlined in Paragraph 35 below.

13. Within seven (7) days of its designation of the EEO Officer and the Alternative EEO Officer, the RPA shall inform in writing all RPA employees of the names and contact information of the designated EEO Officers.

14. All EEO Officers shall be present at each training session required by Paragraphs 15 and 16 below. The names and phone numbers of both EEO Officers shall be distributed in writing to employees of the RPA during all of the training sessions held per Paragraph 15 below and during all of the training programs conducted per Paragraph 16 below.

VI. TRAINING

15. Within nine (9) months of entry of the Decree, all RPA supervisors and members of the Board of Directors must be trained, in an interactive way, about their responsibilities: under Title VII; under the RPA policies and procedures prohibiting discrimination and harassment based on national origin, and retaliation; and under this Decree (including their role, if any, in helping the RPA to comply with Paragraph 16 below). Such training shall specifically include discussion of the written policies and procedures maintained by the RPA pursuant to this Decree and must be conducted by an individual not employed by the RPA.

16. Within nine (9) months of entry of the Decree or within thirty (30) days of hire (whichever is later), the RPA must, in an interactive way, train all RPA employees about their rights and responsibilities under Title VII and under the RPA's policies and procedures prohibiting discrimination and harassment (including discrimination and harassment based on national origin), and retaliation. The interactive educational program must, at a minimum, detail: what Title VII prohibits, and what the RPA's policies and procedures prohibit, regarding discrimination and harassment (including discrimination and harassment based on national origin), and retaliation; how to report alleged discrimination, harassment and/or retaliation; how the RPA will address those complaints; and how employees can access the RPA's policies and

procedures about discrimination, harassment, and retaliation. The interactive training program must be conducted by someone who is not employed by the RPA. Any new employees, who are hired after an initial training is provided to current employees, may be trained by an individual who completed the training required by Paragraph 15 above.

17. Within sixty (60) days of the date of entry of this Decree, the RPA shall submit to the United States for review and approval: the name(s) and *curriculum vitae* of the individual(s) selected to conduct the trainings required by Paragraph 15 and 16 above, and descriptions of the proposed training programs, including the materials to be used during the trainings. The United States shall review the information submitted and, within thirty (30) days of receipt, notify the RPA in writing whether the United States consents or objects to, the individual(s) selected to conduct the training and/or the proposed training program. Within fifteen (15) days of when the RPA receives any objection(s) under this Paragraph from the United States, the United States and the RPA shall use their best efforts to resolve the dispute and agree to a proposed trainer (or group of trainers) and a proposed training program curriculum. If no such agreement is reached, then the United States and/or the RPA may use the dispute resolution procedure set forth below in Paragraph 35 to seek judicial resolution of the dispute.

18. Within thirty (30) days after fulfilling all training-related requirements in Paragraph 15 above, the RPA shall make available to the United States copies of all training materials used, as well as written attendance records reflecting that the training has been completed and that all supervisors and members of the Board of Directors required to attend such training in accordance with Paragraph 15 in fact did so.

19. Within thirty (30) days after fulfilling all training requirements in Paragraph 16 above, the RPA shall make available to the United States copies of any materials used by the trainers or disseminated to the RPA employees in connection with the program, as well as written attendance records reflecting that the training program has been completed and that all the RPA employees required to attend such program in accordance with Paragraph 16 in fact did so.

20. At least once every two years all RPA supervisors must be trained about their responsibilities under Title VII and under the RPA policies and procedures prohibiting discrimination, harassment (including discrimination and harassment based on national origin), and retaliation.

21. Within six months of becoming a supervisor or administrator at the RPA, the employee must receive training about his/her responsibilities, under Title VII and under the RPA policies and procedures relating to the prohibition of discrimination and harassment (including discrimination and harassment based on national origin), and retaliation.

VII. EXPUNGEMENT OF DISCIPLINE RECORDS

22. Within thirty (30) days after the date of entry of this Decree, the RPA shall provide the United States with copies of the discipline records of any of the Relief Recipients which the RPA proposes to expunge from their personnel files on the basis that such discipline is alleged to have been administered as a result of discrimination, harassment or retaliation. Within thirty (30) days of receipt of such documents, the United States shall consent or suggest additional documents for expungement. Within fifteen (15) days of the RPA's receipt from the United States of any additional suggestions for expungement under this Paragraph, the United States and the RPA shall use their best efforts to resolve any disputes. If no such agreement is reached, then the United States and/or the RPA may use the dispute resolution procedure set forth below in Paragraph 35 to seek judicial resolution of the dispute.

VIII. MONETARY RELIEF

23. No later than ten (10) days from the date of entry of this Decree, the RPA shall notify the Relief Recipients of the terms of this Decree by mailing them, via certified mail, return receipt requested, a Notice Letter in the form set forth in Attachment A or B as appropriate, a copy of this Decree, and a copy of a Release in the form set forth in Attachment C.

24. The RPA shall send a copy of the Notice Letter referred to in Paragraph 23 above to the United States when it sends the Notice Letter to the Relief Recipients.

25. To receive the relief provided to them under this Decree, the Relief Recipients must execute the Release form provided with the Notice Letter and return it to the RPA within thirty (30) days from when they receive the Notice Letter and Release referred to in Paragraph 23 above. As determined by the United States, that period may be reasonably extended for good cause.

26. The RPA shall provide the United States with a copy of each executed Release form within seven (7) days of receipt of the form.

27. Within ten (10) days of receipt of the executed Release forms from each of the respective Relief Recipients, the RPA shall mail, via certified mail, return receipt requested, a check for compensatory damages to each Relief Recipient in the amount as follows:

Mr. Perez: \$25,000

Mr. Molina: \$15,000

Mr. Freytiz: \$5,000

Mr. Mazzone: \$10,000

Mr. Moya: \$10,000

28. The RPA will issue to each of the Relief Recipients who receive a compensatory damages check, a Form 1099, and any other appropriate tax form(s).

29. Also within ten (10) days of receipt of an executed Release form from Mr. Perez, the RPA shall mail, via certified mail, return receipt requested, a check in the amount of \$12,500 for attorney's fees to Jill Fisher, Mr. Perez's attorney. The check shall be made out to Zarwin, Baum, Devito, Kaplan, Schaer, Toddy, P.C.

30. Within fifteen (15) days of receipt of the executed Releases from the respective Relief Recipients, the RPA will provide the United States with a copy of the checks referenced in Paragraph 27 above and proof of delivery of that check, upon receipt of such proof.

IX. COMPLIANCE MONITORING

31. For the duration of this Decree, the RPA shall send quarterly reports to the United States identifying every complaint of discrimination, harassment, and retaliation that a RPA employee makes to a designated EEO Officer. The first report is due ninety (90) days after the date of entry of this Decree, with a report due every ninety (90) days after that for the duration of the Decree. In the quarterly reports, the RPA shall identify the date of receipt and nature of the complaint, the findings and outcome of the investigation, and any actions taken as a result of such findings. The RPA shall append to its reports copies of all identified complaints that were submitted in writing. Upon request of the United States pursuant to Paragraph 34 below, the RPA shall produce additional documents relating to any complaint identified in the quarterly report. If a dispute arises under this paragraph regarding the production of documents, the Parties shall employ the dispute resolution process set forth in paragraph 35.

32. The RPA shall, within fifteen (15) days of when any disciplinary action is taken, provide the United States with written notice of any written or more severe disciplinary action

taken against Mr. Molina or Mr. Freytiz during the life of the Decree. The United States shall have the right to inspect and copy all documents related to such action upon reasonable notice to the RPA and without further order of the Court.

33. The RPA shall retain the following records during the term of this Decree, or for the period of time required by applicable RPA or state records retention requirements, whichever is longer:

- (a) the provisions and effective date of the policies and procedures implemented pursuant to Paragraph 8 above and distributed to its employees;
- (b) employees' acknowledgment that they received the policies and procedures as required by Paragraph 10 above;
- (c) all posted notices and posters displayed in its facilities and intended to convey information regarding the prohibition of discrimination, harassment, and retaliation, as set forth in Paragraph 11 above; and
- (d) all documents that come into its possession relating to any written or verbal complaint of discrimination, harassment, or retaliation, made by any employee, including documents relating to the RPA's investigation and resolution of any such complaints.

34. The United States may review the RPA's compliance with this Decree at any time and accordingly shall have the right to inspect and copy any documents related to the RPA's compliance with this Decree, upon fifteen (15) days' written notice to the RPA, without further order from this Court. If a dispute arises under this paragraph regarding inspection or copying of documents, the Parties shall employ the dispute resolution process set forth in paragraph 35.

X. DISPUTE RESOLUTION

35. The Parties shall attempt in good faith 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 dispute upon seven (7) days' written notice to the other Party.

XI. MODIFICATION OF THE DECREE

36. This Decree constitutes the entire agreement and commitments of the Parties. The Parties, without Court approval, may jointly agree to modifications of time limits set forth in

this Decree. The Parties may jointly agree to other modifications of this Decree only with the approval of the Court.

XII. JURISDICTION OF THE COURT

37. The Court shall maintain jurisdiction over this case throughout the duration of this Decree for the purposes of enforcing the terms of the Decree and resolving any disputes between the Parties with respect to the terms or implementation of the Decree.

XIII. TERMINATION DATE

38. Without further order of the Court, this Decree will expire three (3) years from the date of entry of this Decree.

XIV. GENERAL PROVISIONS

39. If any provision of this Decree is found to be unlawful, only the specific provision in question shall be affected and the other provisions shall remain in full force and effect.

40. Each Party shall bear its own costs, expenses, and attorneys' fees in this action, including the costs of compliance or monitoring, except that the Parties shall retain the right to seek costs for any matter that, in the future, may arise from this Decree and require resolution by this Court.

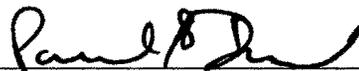
41. With the written consent of both Parties' counsel, all documents required to be delivered to the United States under this Decree may be sent via electronic mail to Lori Kisch (at Lori.Kisch@usdoj.gov). Without that written consent, documents required to be delivered under this Decree to the United States shall be sent via overnight delivery to:

Lori Kisch
Catherine Sellers
Trial Attorneys
Employment Litigation Section
Civil Rights Division
United States Department of Justice
601 D Street, N.W., PHB Room 4910
Washington, D.C. 20530

42. With the written consent of both Parties' counsel, all documents required to be delivered to the RPA under this Decree may be sent via electronic mail to Patrick Barrett at: PBarrett@evflaw.com. Without that written consent, documents required to be delivered under this Decree to the RPA shall be sent via overnight delivery to:

Patrick Barrett
Essig, Valeriano & Fudeman, P.C.
1100 Berkshire Blvd., Suite 101
Wyomissing, PA 19610

IT IS SO ORDERED this 30th day of December 2013.



The Honorable Paul S. Diamond
United States District Judge

Date: December 20, 2013

/s/ Patrick Barrett
PATRICK BARETT
1100 Berkshire Blvd.
Wyomissing, PA 19610

Counsel for Defendant

Agreed to and entered into by,

JOCELYN SAMUELS
Acting Assistant Attorney General
Civil Rights Division

DELORA L. KENNEBREW
Chief
Employment Litigation Section

LOUIS LOPEZ
Deputy Chief
Employment Litigation Section

By: /s/ Lori B. Kisch
/s/ Catherine Sellers
LORI B. KISCH
CATHERINE SELLERS
Trial Attorneys
Employment Litigation Section
Civil Rights Division
U.S. Department of Justice

ATTACHMENT A

Via Certified Mail

Mr. Henry Perez
c/o Jill Fisher
Zarwin Baum Devito Kaplan Schaer Toddy, P.C.
1818 Market Street,
Philadelphia, PA 19103

Re: *United States v. Reading Parking Authority*
Case No. 5:13-cv-3718

Dear Mr. Perez:

The United States District Court for the Eastern District of Pennsylvania has entered as an order a Consent Decree that settles a complaint of employment discrimination filed by the United States against the Reading Parking Authority (“RPA”).

Under the terms of the Consent Decree entered into in the case of *United States v. Reading Parking Authority*, Case No. 5:13-cv-3718 (E.D. Pa.), a copy of which is enclosed, you are being offered a monetary award. The award offered to you is \$25,000 in compensatory damages and \$12,500 in attorneys’ fees. This award would be payable in two checks with the compensatory damages paid to you and the attorneys’ fees paid to your attorneys at Zarwin, Baum, DeVito, Kaplan, Schaer, Toddy, P.C.

To receive the monetary award, you must release the RPA—and its current, former, and future officials, employees, and agents—from all Title VII employment discrimination claims you may have against them arising out of this case and EEOC Charge No. 846-2008-17623C.

To receive the monetary award you must complete the enclosed Release and send it to the RPA. **The Release must be signed before a Notary Public and sent to RPA, c/o Patrick Barrett, Essig, Valeriano & Fudeman, P.C., 1100 Berkshire Blvd., Suite 101, Wyomissing, PA 19610 within thirty (30) days.** If you do not send the signed and notarized Release to the RPA within thirty (30) days, you may forfeit your rights to any relief under the Consent Decree.

The monetary award will be paid to you within ten (10) days after the RPA receives the signed and notarized Release from you.

If you have any questions about this settlement, you may contact Lori Kisch at (202) 305-4422, or Catherine Sellers, at (202) 307-6491, from the U.S. Department of Justice.

Very truly yours,

[Name]

ATTACHMENT B

Via Certified Mail

Relief Recipient Name
ADDRESS

Re: *United States v. Reading Parking Authority*
Case No. 5:13-cv-3718

Dear Mr. [Relief Recipient Name]:

The United States District Court for the Eastern District of Pennsylvania has entered as an order a Consent Decree that settles a complaint of employment discrimination filed by the United States against the Reading Parking Authority (“RPA”).

Under the terms of the Consent Decree entered into in the case of *United States v. Reading Parking Authority*, Case No. 5:13-cv-3718 (E.D. Pa.), a copy of which is enclosed, you are being offered a monetary award. The award offered to you is [Award Amount] in compensatory damages.

To receive the monetary award, you must release the RPA—and its current, former, and future officials, employees, and agents—from all Title VII employment discrimination claims you may have against them arising out of this case and EEOC Charge No. 846-2008-17623C.

To receive the monetary award you must complete the enclosed Release and send it to the RPA. **The Release must be signed before a Notary Public and sent to RPA, c/o Patrick Barrett, Essig, Valeriano & Fudeman, P.C., 1100 Berkshire Blvd., Suite 101, Wyomissing, PA 19610 within thirty (30) days.** If you do not send the signed and notarized Release to the RPA within thirty (30) days, you may forfeit your rights to any relief under the Consent Decree.

The monetary award will be paid to you within ten (10) days after the RPA receives the signed and notarized Release from you.

If you have any questions about this settlement, you may contact Lori Kisch at (202) 305-4422, or Catherine Sellers, at (202) 307-6491, from the U.S. Department of Justice.

Very truly yours,

[Name of Signatory]

