

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION**

**EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,**

PLAINTIFF

v.

4:17cv624-BRW

**R WINGS R WILD d/b/a
BUFFALO WILD WINGS,**

DEFENDANT

CONSENT DECREE

INTRODUCTION

Plaintiff Equal Employment Opportunity Commission (Commission) and Defendant R Wings R Wild d/b/a Buffalo Wild Wings (RWRW) reached an agreement to resolve this case after entering into settlement negotiations. The Commission and RWRW jointly submit this Consent Decree (Decree) for the Court's approval and entry to resolve the claims of sex discrimination filed under Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e et seq.

The Commission, an agency of the United States of America, enforces federal laws prohibiting discrimination in the workplace. Title VII of the Civil Rights Act of 1964 (Title VII) represents one of the federal laws enforced by the Commission.

The Commission filed this lawsuit on September 28, 2017, to remedy the alleged unlawful employment practices in violation of Title VII. The Commission alleges in the Complaint that RWRW failed to hire David Golden and a class of male applicants into bartender positions because of their sex, male.

This Decree does not constitute a finding on the merits of the case and does not constitute an admission by RWRW of the allegations in the Complaint. The Commission and RWRW have consented to entry of this Decree to avoid the additional expense and other burdens that continued

litigation of this case would involve.

This Decree constitutes the complete and exclusive agreement between the Commission and RWRW with respect to the matters referred to in the Decree. No waiver, modification, or amendment of any provision of this Decree shall be effective unless made in writing. The parties have made no representations or inducements to compromise this action other than those recited or referenced in this Decree. The Commission and RWRW stipulate the terms and conditions of this Decree serve to effectuate the purposes of Title VII.

FINDINGS

This Court has jurisdiction over the subject matter of this action and the parties. After a careful examination of the Decree, the pleadings, and the record, this Court finds the terms of this Decree are adequate, fair, reasonable, equitable, and just. The terms of the Decree also serve the public interest in eradicating discrimination based on sex. The Decree furthers the objectives of Title VII and adequately protects the rights of the Commission, RWRW, Golden and a class of male applicants, and the public interest.

If the Court does not approve this Decree, the parties agree not to admit the Decree into evidence in any subsequent proceeding in this lawsuit.

It is hereby **ORDERED, ADJUDGED, AND DECREED:**

SCOPE AND DURATION OF THIS DECREE

This Decree resolves all issues and claims arising out of the Commission's Complaint which arose from Charge No. 493-2014-01341 filed by Golden. This Decree does not impact any pending charges, if any, that may currently exist before the Commission in the United States. Further, this Decree does not affect the Commission's right to process any other pending or future charges that any employee may file against RWRW and to commence civil actions on any such charges.

The parties agree the United States District Court for the Eastern District of Arkansas, Western Division, has jurisdiction over the Commission and RWRW and the subject matter of this litigation for the duration of the Decree. Neither the Commission nor RWRW shall contest the jurisdiction of this Court to enforce this Decree or the rights of the Commission to monitor RWRW's compliance with the Decree and to bring an enforcement action in the event RWRW fails to comply with the terms of the Decree.

Upon the date the Court enters the Decree, the provisions of this Decree become immediately effective and binding upon the parties to this lawsuit for 18 months after the effective date of this Decree.

This Decree covers RWRW 's operations in Little Rock, Arkansas and Del City, Oklahoma only.

INJUNCTIVE RELIEF

RWRW, its officers, agents, servants, managers, employees, and all persons in active concert are enjoined from failing to hire males into bartender positions because of their sex.

RWRW is enjoined from retaliating against any employee for participating in any proceeding under Title VII.

Within 10 days of the entry of this Decree, RWRW will post Attachment A for 18 months at RWRW's Little Rock, Arkansas and Del City Oklahoma locations in a conspicuous place that RWRW customarily posts notices to employees. RWRW will continue to conspicuously post the most recent notice (poster) required by Title VII.

TRAINING

During the duration of this Decree, RWRW will conduct two mandatory training sessions for management employees at the local and regional levels for the Little Rock, Arkansas and Del City, Oklahoma locations.

Prior to each training session, RWRW's Chief Operating Officer or other high-level official will appear onsite or via video and announce at the training session to all management employees that RWRW prohibits sex discrimination in hiring and prohibits sex discrimination of any kind in the workplace.

RWRW's Chief Operating Officer or other high-level official will also note that RWRW will discipline any employee, including terminating any employee, found engaging in sex discrimination.

RWRW will conduct the first training session within 90 days of the entry of the Decree for all management employees at the local and regional levels for the Little Rock, Arkansas and Del City, Oklahoma locations.

RWRW will conduct the second training session within 16 months after entry of the Decree for all management employees at the local and regional levels for the Little Rock, Arkansas and Del City, Oklahoma locations.

RWRW will retain a qualified consultant having specialized knowledge of Title VII sex discrimination and retaliation to conduct a two-hour training session.

Each training session will last two hours and will include the following:

- a. a discussion of Title VII of the Civil Rights Act of 1964,
- b. a discussion of what constitutes sex discrimination,
- c. a discussion of RWRW's policy against sex discrimination
and examples of sex discrimination that may violate Title VII.

RWRW will maintain proof of attendance for each person trained.

RWRW will notify the Commission of the date, location, and time of the training at least 30 days prior to the training.

REPORTING

RWRW will submit to the Commission three reports as follows:

1. RWRW will provide the first report within 30 days following the first training session.
 - the report will contain a copy of the training materials;
 - the location and date of the training,
 - the name(s) of the trainer(s), and
 - the names of the training attendees.
2. RWRW will provide the second report within nine months after the entry of the Decree. The report will contain:
 - the names of all applicants for bartender at the Little Rock, Arkansas and Del City, Oklahoma locations; and
 - the name and hire date of any males hired and/or promoted from within into bartender positions at the Little Rock, Arkansas location and the Del City, Oklahoma location.
3. RWRW will provide the third report within 17 months after the entry of the Decree. The report will contain:
 - the names of all applicants for bartender at the Little Rock, Arkansas and Del City, Oklahoma locations; and
 - the name and hire date of any males hired and/or promoted from within into bartender positions at the Little Rock, Arkansas location and the Del City, Oklahoma location.
4. RWRW will submit the report to EEOC-MEDO-decree-monitoring@eoc.gov with a statement by RWRW that it submits the report

as required by this Decree.

INDIVIDUAL AND CLASS RELIEF

To resolve this matter, RWRW will pay a total of \$30,000 in damages to three claimants. The Commission will provide RWRW with the names, addresses, and monetary amounts following the entry of the Decree. RWRW will mail cashier's checks or business checks to the claimants within 45 days after the entry of the Decree. RWRW will issue 1099 forms to the claimants for the monetary amounts paid to them.

Late payment of the checks will be subject to the accrual of interest pursuant to 28 U.S.C. § 1961.

RWRW will email photocopies of the front and back of all checks issued to the claimants to EEOC-MEDO-decree-monitoring@eoc.gov.

NOTIFICATION OF SUCCESSORS

RWRW will provide prior written notice to any potential purchaser of RWRW's business, a purchaser of all or a substantial portion of RWRW's assets, or to any other potential successor, of the Commission's lawsuit and the existence and contents of the Decree. Any surviving entities that exist upon completion of the acquisition, merger, or consolidation will remain fully liable for compliance with this Decree.

ENFORCEMENT

If RWRW fails to comply with the terms of this Decree, in whole or in part, the Commission has a right to enforce the obligations under the Decree. The Commission will provide 10 days' notice to RWRW of any deficiency in complying with the terms of the Decree. If the parties are unable to reach agreement regarding resolution of any such deficiency in RWRW's compliance with the terms of the Decree, the Commission will then have the option of petitioning the Court for relief. Any notice by the Commission regarding and deficiency of the Decree will be emailed

to Jeromy Howard at jhoward@howardcompanies.org and sent by regular mail to Jeromy Howard, 8045 SW 36th St., Oklahoma City OK 73179.

MISCELLANEOUS PROVISIONS

This Decree becomes effective immediately upon entry by the Court and remains in effect for 18 months after the Effective Date.

If the Court finds any provision of this Decree unlawful, the Court will sever only such provision and the remainder of the Decree will remain in full force and effect.

Each party will bear its own costs, attorneys' fees, and expenses.

IT IS SO ORDERED this 8th day of January 2019.

/s/ Billy Roy Wilson _____
UNITED STATES DISTRICT JUDGE

APPROVED FOR ENTRY BY THE PARTIES:

For Plaintiff

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Acting General Counsel

GWENDOLYN YOUNG REAMS
Associate General Counsel

/s/Faye A. Williams _____
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ATTACHMENT A

NOTICE

1. RWRW has agreed to post this notice for two years to reinforce the company's commitment to Title VII.
2. RWRW has agreed to conduct training at its Del City, Oklahoma location and its Little Rock, Arkansas location on the prevention of sex discrimination in hiring and employment.
3. RWRW is committed to complying with Title VII.
4. RWRW will not take any action against employees because they have exercised their rights under the law by filing charges with the EEOC and/or testified, assisted, or participated in any manner in any investigation, proceeding, or hearing under Title VII.
5. If you believe you have been discriminated against because of sex or retaliated against, please follow the complaint procedures set forth in the employee handbook. You may also contact the EEOC at www.eeoc.gov

THIS IS AN OFFICIAL NOTICE AND MUST NOT BE DEFACED BY ANYONE

This notice must remain posted for 18 months from the date below and must not be altered, defaced, or covered by any other postings.

JEROMY HOWARD

DATE