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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

U.S. EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION,

Plaintiff,

v.

HOSPITAL HOUSEKEEPING SYSTEMS
OF HOUSTON, INC., *et al.*,

Defendants.

Case No. 1: 11-cv-1658-LJO-BAM

FINDINGS AND RECOMMENDATIONS
ENTERING JUDICIAL DECREE AND
JUDGMENT

Pursuant to Federal Rules of Civil Procedure 54 and 58, having considered the proposed consent decrees by each party, Plaintiff the United States Equal Employment Opportunity Commission (“EEOC” or “Commission”) and Defendants Hospital Housekeeping Systems, Inc.’s and Hospital Housekeeping Systems, LLC’s (collectively “Defendants” or “HHS”), as well as the terms of the oral settlement agreement on the record, and having resolved all disputed language, the Court RECOMMENDS a Judicial Decree and Judgment BE ORDERED, ADJUDGED AND DECREED reflecting the resolution of the parties’ proposed consent decrees as follows.¹

¹ The full reasoning in deciding the final terms of the Judicial Decree and Judgment is described in the Court’s Findings and Recommendations filed on October 29, 2013, and January 21, 2014 and is thus not repeated here.

1 C. Nothing in this Decree shall be construed to limit or reduce Defendants' obligation to
2 comply fully with the ADA or any other federal employment statute.

3 D. This Decree in no way affects the EEOC's right to bring, process, investigate, or
4 litigate other charges that may be in existence or may later arise against Defendants in accordance with
5 standard EEOC procedures.

6 **III. JURISDICTION**

7 A. The Court has jurisdiction over the Parties and the subject matter of this Action.

8 B. This Decree conforms with the Federal Rules of Civil Procedure and the ADA, and is
9 not in derogation of the rights or privileges of any person.

10 C. The Court shall retain jurisdiction of this action during the duration of the Decree for
11 the purposes of entering any order, judgment, or decree that may be necessary to implement the
12 Decree.

13 **IV. EFFECTIVE DATE AND DURATION OF DECREE**

14 A. The provisions and agreements contained herein are effective immediately upon the
15 date which this Decree is entered by the Court ("the Effective Date").

16 B. Except as otherwise provided herein, this Decree shall remain in effect for three (3)
17 years after the Effective Date.

18 **V. MODIFICATION AND SEVERABILITY**

19 A. This Decree constitutes the complete understanding of the Parties with respect to the
20 matters contained herein. No waiver, modification, or amendment of any provision of this Decree will
21 be effective unless made in writing and signed by an authorized representative of each of the Parties.

22 B. If one or more of the provisions of the Decree are rendered unlawful or unenforceable,
23 the parties shall make good faith efforts to agree upon appropriate amendments to this Decree in order
24 to effectuate the purposes of the Decree. In any event, the remaining provisions will remain in full
25 force and effect unless the purposes of the Decree cannot, despite the Parties' best efforts, be achieved.

1 C. By mutual agreement of the Parties, this Decree may be amended or modified in the
2 interests of justice and fairness in order to effectuate the provisions of the Decree.

3 **VI. COMPLIANCE AND RESOLUTION**

4 A. The Parties agree that if the EEOC has reason to believe that Defendants have failed to
5 comply with any provision of this Decree, the EEOC may bring an action before this Court to enforce
6 the Decree. Prior to initiating such action, the EEOC will notify Defendants and their legal counsel of
7 record, in writing, of the nature of the dispute. This notice shall specify the particular provision(s) that
8 the EEOC believes Defendants have breached. Defendants shall have ninety (90) days to attempt to
9 resolve or cure the breach. The Parties may agree to extend this period upon mutual consent.

10 B. The Parties agree to cooperate with each other and use reasonable efforts to resolve any
11 dispute referenced in the EEOC notice.

12 C. After ninety (90) days have passed with no resolution or agreement to extend the time
13 further, the EEOC may petition this Court for resolution of the dispute, seeking all available relief that
14 the Court may deem appropriate.

15 **VII. MONETARY RELIEF**

16 A. In settlement of this lawsuit, Defendants shall pay to Claimant/Real Party in Interest
17 Angelica Jaime-Cece the gross sum of \$40,000.00 (forty thousand dollars and zero cents) (“Settlement
18 Sum”). Defendants shall prepare and distribute a Form 1099 to Ms. Jaime-Cece and shall make the
19 appropriate reports to the Internal Revenue Service and other tax authorities reflecting said payment.
20 Defendants make no representations to the EEOC or Ms. Jaime-Cece as to Ms. Jaime-Cece’s tax
21 liability, if any, on the Settlement Sum. The Parties agree that Ms. Jaime-Cece is fully and solely
22 responsible for any and all tax liabilities with respect to the Settlement Sum (with the exception of
23 employer-side FICA).

24 B. Defendants shall forward to Ms. Jaime-Cece, via certified mail, a check for the full
25 amount of the Settlement Sum within ten (10) days of the Effective Date of this Decree. Within three
26 (3) business days of the issuance of the settlement check, Defendants shall submit a copy of the check

1 and related correspondence to Anna Y. Park, Regional Attorney, U.S. Equal Employment Opportunity
2 Commission, 255 East Temple Street, 4th Floor, Los Angeles, California, 90012.

3 **VIII. GENERAL INJUNCTIVE RELIEF**

4 A. Anti Discrimination

5 Defendants, their officers, agents, and management, successors, assigns, and those in active
6 concert or participation with them are hereby enjoined not to discriminate against any individual in the
7 terms and conditions of employment on the basis of their disability.

8 B. Retaliation

9 Defendants, their officers, agents, and management and those in active concert or participation
10 with them are hereby enjoined not to engage in, implement or permit any action, policy or practice
11 with the purpose of retaliating against any current employee of or job applicant to Defendants because
12 he or she has in the past, or during the term of this Decree,

- 13 1. Opposed any practice made unlawful under the ADA;
- 14 2. Filed a charge of discrimination alleging such a practice;
- 15 3. Testified or participated in any manner in any investigation (including, without
16 limitation, any internal investigation undertaken by Defendants or proceeding in connection with this
17 Action or relating to any claim alleging a violation of the ADA;
- 18 4. Has been identified as a possible witness or claimant in this Action;
- 19 5. Asserted any rights under this Decree;
- 20 6. Sought and/or received any relief in accordance with this Decree; or
- 21 7. Has been associated with an employee who has engaged in the activities set forth in
22 Section VIII(B).

23 **IX. INJUNCTIVE RELIEF**

24 A. ADA Coordinator

25 Within thirty (30) days after the effective date, Defendants shall designate an ADA
26 Coordinator within their Company. Defendants shall have sole authority to appoint the ADA

1 Coordinator, and promise that this person will possess appropriate qualifications and experience for
2 the responsibilities he/she is expected to employ (as set forth below). Defendants shall bear all costs
3 associated with the selection and retention of the Coordinator and the performance of his/her duties.

4 The ADA Coordinator's responsibilities shall include the following:

- 5 1. Implement and monitor Defendants' compliance with the provisions of this Decree;
- 6 2. Assist Defendants in monitoring and assuring the proper investigation of all complaints
7 of disability discrimination and/or failure to reasonably accommodate (if any),
8 including assisting Defendants in properly communicating with complainants regarding
9 the complaint procedure, status of a complaint/investigation, results of an investigation,
10 and any remedial action taken;
- 11 3. Ensure that all reports required by this Decree are accurately compiled and timely
12 submitted; and
- 13 4. Ensure compliance with the terms of this Decree.

14 B. Policies and Procedures

15 Within sixty (60) days after the Effective Date, Defendants agree to review (and revise, if
16 necessary) their disability-related policies to ensure that the policies comply with the ADA and shall
17 include provisions:

- 18 1. Prohibiting discrimination based on a disability and explaining how an employee may
19 complain about disability discrimination;
- 20 2. Prohibiting retaliation for seeking a reasonable accommodation for a disability or
21 complaining about alleged disability discrimination;
- 22 3. Requiring timely reasonable accommodations with regard to all terms, conditions,
23 benefits, and privileges of employment, including requirement to engage in a good faith
24 interactive process;

- 1 4. Explaining an employee's rights under ADA, including how to request a reasonable
2 accommodation and a manager/supervisor's responsibilities when receiving a request
3 for accommodation; and
4 5. Confirming Defendants commitment to engage in the interactive process with all
5 employees related to their requests for reasonable accommodation;

6 Within ninety (90) days of the Effective Date, Defendants shall ensure that hard copies of the
7 Policy are available in all of Defendants' California locations and in its corporate Human Resources
8 Department in Austin, Texas. Also, the online version of the Policy must include a contact name and
9 email address designating a person within Defendants' organization who can answer any follow up
10 questions related to the Policy.

11 C. Posting of Notice of Entry of the Decree

12 Within thirty (30) days of the Effective Date, Defendants shall ensure that it has posted the
13 Notice of Entry of Decree (attached to this Decree as Attachment A) in a conspicuous place accessible
14 to all employees in Defendants' California locations and its corporate Human Resources Department
15 in Austin, Texas. Within thirty (30) days of the Effective Date, Defendants shall submit to the EEOC
16 a statement confirming the posting of the Notice of Entry of Decree.

17 D. Training

18 Within sixty (60) days of the Effective Date, Defendants shall provide training, lasting at least
19 one hour in duration, to all salaried managers at Defendants' California locations and to all Human
20 Resources employees at Defendants' corporate office in Austin, Texas. The training shall cover the
21 Policy, employee's rights pursuant to the ADA, the ADAAA, this Decree, what constitutes a request
22 for a reasonable accommodation pursuant to the ADA and ADAAA and Defendants' obligations to
23 engage in the interactive process. The training must be live and interactive. All persons required to
24 attend such training shall verify their attendance in writing. This training must also be given, within
25 sixty (60) days of the hire date, to any new salaried manager at Defendants' California locations or
26 new Human Resources employee at Defendants' corporate offices in Austin, Texas.

1 no results have been reached as of the time of the report, the result shall be
2 included in the next report.

3 **X. MISCELLANEOUS PROVISIONS**

4 A. During the term of this Decree, Defendants shall provide any potential successor-in-
5 interest (not to include any Company that replaces HHS as a vendor providing housekeeping services
6 to a hospital and does not prohibit HHS's ability to voluntarily withdraw from any housekeeping
7 contract) with a copy of this Decree within a reasonable time of not less than thirty (30) days prior to
8 the execution of any agreement for acquisition or assumption of control of Defendants' business, or
9 any other material change in corporate structure. Defendants shall simultaneously inform the EEOC
10 of any such agreement for acquisition, assumption of control, or other material change in corporate
11 structure.

12 B. During the term of this Decree, Defendants shall assure that each of its officers,
13 managers, and supervisors is aware of any term(s) of this Decree which may be related to his or her
14 job duties.

15 C. Unless otherwise stated, all notices, reports and correspondence required under this
16 Decree shall be delivered to the attention of Anna Y. Park, Regional Attorney, U.S. Equal
17 Employment Opportunity Commission, 255 East Temple Street, 4th Floor, Los Angeles, California,
18 90012; facsimile number (213) 894-1301.

19 **XI. COSTS AND ATTORNEYS' FEES**

20 Each party shall bear its own costs of suit and attorneys' fees.

21 **CONCLUSION**

22 Accordingly, **IT IS RECOMMENDED** that this Judicial Decree and Judgment be entered as
23 indicated above.

24 These findings and recommendations are submitted to the district judge assigned to this action,
25 pursuant to Title 28 of the United States Code section 636(b)(1)(B) and this Court's Local Rule 304.
26 Within fifteen (15) days of service of this recommendation, any party may file written objections to

1 these findings and recommendations with the Court and serve a copy on all parties. Such a document
2 should be captioned "Objections to Magistrate Judge's Findings and Recommendations." The district
3 judge will review the magistrate judge's findings and recommendations pursuant to Title 28 of the
4 United States Code section 636(b)(1)(C). The parties are advised that failure to file objections within
5 the specified time may waive the right to appeal the district judge's order. *Martinez v. Ylst*, 951 F.2d
6 1153 (9th Cir. 1991).

7
8 IT IS SO ORDERED.

9 Dated: January 21, 2014

/s/ Barbara A. McAuliffe
UNITED STATES MAGISTRATE JUDGE