

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

CONSENT DECREE AND ORDER

Plaintiff the U.S. Equal Enforcement Opportunity Commission (the “EEOC” or “Commission”) and Defendants Hospital Housekeeping Systems, Inc. and Hospital Housekeeping Systems, LLC (“Defendants” or “HHS”) (collectively, the “Parties”) hereby stipulate and agree to entry of this Consent Decree to resolve the Commission’s complaint against Defendants in U.S. Equal Employment Opportunity Commission v. Hospital Housekeeping Systems, Ltd., et al., Case No. 1:11-CV-1658 LJO-BAM (the “Action”). On September 28, 2011, the EEOC filed this Action in the United States District Court, Eastern District of California, for violations of the Americans with Disabilities Act of 1990 (“ADA”) and Title I of the Civil Rights Act of 1991. The Action alleges Defendants discriminated against Claimant/Real Party in Interest Angelica Jaime Cece by terminating Ms. Cece and denying her a reasonable accommodation because of an actual or perceived disability.

1 Defendants deny and dispute all allegations asserted by the EEOC in this Action, and also deny and
2 dispute any liability and damages asserted by the EEOC.

3 **I. PURPOSES AND SCOPE OF THE DECREE**

4 The EEOC and Defendants (collectively, the “Parties”) agree that this Action should be fully
5 and completely resolved by entry of this Decree. This Decree shall be binding on and enforceable
6 against Defendants and their officers and managers.

7 **II. RELEASE OF CLAIMS**

8 A. This Decree fully and completely resolves all issues, claims and allegations raised by
9 the EEOC against Defendants in this Action. This Decree shall be binding on and enforceable against
10 Defendants and their parents, subsidiaries, officers, directors, agents, successors (defined as any
11 corporate entity that acquires HHS, and does not include a Company that replaces HHS as a vendor
12 providing housekeeping services to a hospital and does not prohibit HHS’s ability to voluntarily
13 withdraw from any housekeeping contract), and assigns.

14 B. Nothing in this Decree shall be construed to preclude any party from bringing suit to
15 enforce this Decree in the event that any party hereto fails to perform the promises and representations
16 contained herein.

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

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

22 **III. JURISDICTION**

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

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

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

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

5 A. The provisions and agreements contained herein are effective immediately upon the
6 date which this Decree is entered by the Court (“the Effective Date”).

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

9 **V. MODIFICATION AND SEVERABILITY**

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

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

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

19 **VI. COMPLIANCE AND RESOLUTION**

20 A. The Parties agree that if the EEOC has reason to believe that Defendants have failed to
21 comply with any provision of this Decree, the EEOC may bring an action before this Court to enforce
22 the Decree. Prior to initiating such action, the EEOC will notify Defendants and their legal counsel of
23 record, in writing, of the nature of the dispute. This notice shall specify the particular provision(s) that
24 the EEOC believes Defendants have breached. Defendants shall have ninety (90) days to attempt to
25 resolve or cure the breach. The Parties may agree to extend this period upon mutual consent.
26
27
28

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

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

6 **VII. MONETARY RELIEF**

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

15 B. Defendants shall forward to Ms. Jaime-Cece, via certified mail, a check for the full
16 amount of the Settlement Sum within ten (10) days of the Effective Date of this Decree. Within three
17 (3) business days of the issuance of the settlement check, Defendants shall submit a copy of the check
18 and related correspondence to Anna Y. Park, Regional Attorney, U.S. Equal Employment Opportunity
19 Commission, 255 East Temple Street, 4th Floor, Los Angeles, California, 90012.

20 **VIII. GENERAL INJUNCTIVE RELIEF**

21 A. Anti Discrimination

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

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

B. Retaliation

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

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

Section VIII(B).

IX. INJUNCTIVE RELIEF

A. ADA Coordinator

Within thirty (30) days after the effective date, Defendants shall designate an ADA Coordinator within their Company. Defendants shall have sole authority to appoint the ADA Coordinator, and promise that this person will possess appropriate qualifications and experience for the responsibilities he/she is expected to employ (as set forth below). Defendants shall bear all costs associated with the selection and retention of the Coordinator and the performance of his/her duties.

The ADA Coordinator’s responsibilities shall include the following:

1. Implement and monitor Defendants’ compliance with the provisions of this Decree;
2. Assist Defendants in monitoring and assuring the proper investigation of all complaints of disability discrimination and/or failure to reasonably accommodate (if any),

1 including assisting Defendants in properly communicating with complainants regarding
2 the complaint procedure, status of a complaint/investigation, results of an investigation,
3 and any remedial action taken;

4 3. Ensure that all reports required by this Decree are accurately compiled and timely
5 submitted; and

6 4. Ensure compliance with the terms of this Decree.

7 B. Policies and Procedures

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

11 1. Prohibiting discrimination based on a disability and explaining how an employee may
12 complain about disability discrimination;

13 2. Prohibiting retaliation for seeking a reasonable accommodation for a disability or
14 complaining about alleged disability discrimination;

15 3. Requiring timely reasonable accommodations with regard to all terms, conditions,
16 benefits, and privileges of employment, including requirement to engage in a good faith
17 interactive process;

18 4. Explaining an employee's rights under ADA, including how to request a reasonable
19 accommodation and a manager/supervisor's responsibilities when receiving a request
20 for accommodation; and

21 5. Confirming Defendants commitment to engage in the interactive process with all
22 employees related to their requests for reasonable accommodation;

23 Within ninety (90) days of the Effective Date, Defendants shall ensure that hard copies of the
24 Policy are available in all of Defendants' California locations and in its corporate Human Resources
25 Department in Austin, Texas. Also, the online version of the Policy must include a contact name and
26
27
28

1 email address designating a person within Defendants' organization who can answer any follow up
2 questions related to the Policy.

3 C. Posting of Notice of Entry of the Decree

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

9 D. Training

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

19 Within sixty (60) days of the Effective Date, Defendants shall provide an additional training to
20 all hourly employees at Defendants' California locations. The training shall cover the Policy,
21 employee's rights pursuant to the ADA, the ADAAA, and Defendants' procedures for complaining
22 about disability discrimination and request for reasonable accommodation. This training may be
23 provided by video. This training must also provide a mechanism by which employees may direct
24 specific questions related to the subjects covered in the training (e.g., a website or specific email
25 address). All persons required to attend such training shall verify their attendance in writing. This
26
27
28

1 the execution of any agreement for acquisition or assumption of control of Defendants' business, or
2 any other material change in corporate structure. Defendants shall simultaneously inform the EEOC
3 of any such agreement for acquisition, assumption of control, or other material change in corporate
4 structure.

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

8 C. Unless otherwise stated, all notices, reports and correspondence required under this
9 Decree shall be delivered to the attention of Anna Y. Park, Regional Attorney, U.S. Equal
10 Employment Opportunity Commission, 255 East Temple Street, 4th Floor, Los Angeles, California,
11 90012; facsimile number (213) 894-1301.

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

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

14
15 **ORDER**

16 The provisions of the foregoing Consent Decree are hereby approved and entered, and
17 compliance with all provisions thereof is HEREBY ORDERED. The Court shall retain jurisdiction
18 over the above-entitled action for the duration of this Consent Decree.

19 The Clerk of the Court is directed to close this action.

20
21 IT IS SO ORDERED.

22 Dated: February 24, 2014

23 /s/ Lawrence J. O'Neill
24 UNITED STATES DISTRICT JUDGE