

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,

Plaintiff,

Case No. 1:14-cv-00973

and

Hon. Paul L. Maloney

GLENN JANISCH

Plaintiff/Intervenor

v.

ROCK TENN COMPANY & ROCK TENN
SERVICES, INC.,

Defendants.

/

CONSENT DECREE

The Equal Employment Opportunity Commission (the “Commission”) commenced this action on September 16, 2014, alleging that Defendants Rock Tenn Services, Inc., and Rock Tenn Company (collectively referred to herein as “Rock Tenn”) engaged in discriminatory employment practices in violation of Title I of the Americans with Disabilities Act of 1990 (“ADA”) by failing to reasonably accommodate the disability of Glenn Janisch (“Janisch”) and terminating his employment because of his disability. Defendants deny all of these allegations and make no admission of liability.

The Commission and Rock Tenn agree that this action should be resolved by entry of this Consent Decree. This Consent Decree shall be a final and binding settlement in full disposition of the claims arising out of the complaint filed by the Commission in Case No. 1:14-cv-00973 on behalf of Janisch.

It is therefore the finding of this Court, made on the pleadings and the record as a whole, that: 1) the Court has jurisdiction over the parties and the subject matter of this action; 2) the purpose and provisions of the ADA will be promoted and effectuated by the entry of this Consent Decree; and 3) this Consent Decree resolves the matters in controversy between the Commission and Rock Tenn as provided in the paragraphs below.

Therefore, it is hereby ORDERED, ADJUDGED AND DECREED:

NON-DISCRIMINATION AND NON-RETALIATION

1. Rock Tenn and its officers, agents, employees, and successors are enjoined from discriminating against any employee on the basis of disability. It shall not discharge any qualified individual with a disability as defined by the Americans with Disabilities Act if there is a reasonable accommodation that would allow the individual to perform the essential functions of the job, and providing that a reasonable accommodation exists and does not cause an undue hardship.
2. Rock Tenn and its officers, agents, employees, and successors are enjoined

from retaliating against any person because of opposition to a practice deemed unlawful under the ADA or because of the filing of a charge, the giving of testimony, assistance or participation in any manner in an investigation, proceeding or hearing under the ADA.

MONETARY RELIEF

3. Rock Tenn shall pay Glenn Janisch a total sum of one hundred eighty seven thousand five hundred dollars (\$187,500.00), which includes economic (i.e., back pay and front pay) and non-economic (i.e., emotional distress) damages. Rock Tenn shall not deduct from back pay or front pay the employer's share of any costs, taxes or social security required by law to be paid by the employer. The EEOC agrees that beyond the total payment of \$187,500, no additional payment by Rock Tenn is required. Rock Tenn shall issue an IRS Form 1099 to Janisch for the portions of the \$187,500 not attributable to economic damages.

4. The payments to Janisch shall be mailed directly to Janisch's attorney John David Gardiner at Kreis, Enderle, Hudgins & Borsos, P.C. 8225 Moorsbridge Road, Portage, MI 49024-7820, by certified mail within 45 days after this Consent Decree has been entered by the Court. Within 30 days of payment, Rock Tenn shall send photocopies of the checks and certified mail receipts to the Regional Attorney, c/o Omar Weaver, Trial

Attorney, 477 Michigan Avenue, Room 865, Detroit, MI 48226.

TRAINING

5. Within one year from the effective date of this Decree, Rock Tenn shall provide training on ADA compliance to all Battle Creek Plant Human Resources Managers, General Managers and all members of the Battle Creek Leadership Team. Such training shall also be provided to corporate level human resources professionals who are responsible for supporting the Battle Creek Plant, if any. The training shall be provided in accordance with the following:
 - A. The training shall include the provisions of the ADA, including the prohibition against discrimination with respect to discharge or any terms, conditions, opportunities or privileges of employment on the basis of disability. In addition, the training shall cover an employer's obligation to provide reasonable accommodations to qualified employees with disabilities and include a discussion on providing leaves of absence as reasonable accommodations.
 - B. The training session shall occur within 90 days of the date this Decree is entered by the Court. The trainer shall conduct the training session live (i.e., in person or via videoconference). All trainees shall register when they attend training. Rock Tenn shall retain all training

registries for the duration of this Decree. Within 30 days following each training session, Rock Tenn shall submit to the Commission's Regional Attorney at the address listed above a formal letter confirming that the training has taken place and furnish a copy of the training registry.

NOTICE POSTING

6. Rock Tenn shall post the Notice attached as Appendix A in a conspicuous place where employee notices are posted at its mills and other facilities. This Notice shall remain posted throughout the term of this Decree. In the event that the Notice becomes defaced, marred or otherwise made unreadable, Rock Tenn shall post a readable copy of the Notice in the same manner as soon as practicable.

DURATION

7. The provisions of this Decree shall remain in full force and effect for one (1) year following entry by the Court.

DISPUTE RESOLUTION AND COMPLIANCE

8. The Court shall retain jurisdiction and will have all available equitable powers, including injunctive relief, to enforce paragraphs 1 through 12 of this Decree. Upon motion of the EEOC, the Court may schedule a hearing for the purpose of reviewing compliance with this Decree. The parties shall

engage in a good faith effort to resolve any dispute as to compliance prior to seeking review by the Court. The Court has the discretion to determine the timing and type of discovery permitted.

MISCELLANEOUS

9. Each party shall bear its own costs and fees incurred as a result of this litigation.
10. If any provision(s) of this Decree is found to be unlawful, only the specific provision(s) in question shall be affected and the other provisions will remain in full force and effect.
11. The terms of this Consent Decree are and shall be binding upon the present and future owners, officers, directors, employees, creditors, agents, trustees, administrators, successors, representatives, and assigns of Rock Tenn.
12. This Decree constitutes the entire agreement and commitments of the parties. Any modifications to this Decree must be mutually agreed upon and memorialized in a writing signed by the Commission and Rock Tenn.

EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION

ROCK TENN

s/Omar Weaver
Omar Weaver (P58861)
EEOC, Detroit Field Office
Attorneys for Plaintiff
477 Michigan Ave., Ste. 865

s/Richard W. Warren
Richard W. Warren (P63123)
Miller Canfield Paddock & Stone
Attorneys for Defendants
150 W. Jefferson Ave., Ste. 2500

Detroit, MI 48226
(313) 226-3407
omar.weaver@eoc.gov

Detroit, MI 48226
(313) 496-7932
warren@millercanfield.com

IT IS SO ORDERED:

April 8, 2016
Dated

/s/ Paul L. Maloney
Hon. Paul L. Maloney
United States District Judge

APPENDIX A

NOTICE

This Notice is being posted to inform you of your rights guaranteed under Title I of the Americans with Disabilities Act of 1990 (“ADA”), 42 U.S.C. § 12101 *et seq.* The ADA prohibits discrimination against any applicant or employee based on his or her disability with regard to any term or condition of employment including hiring, layoff, recall, promotion, discharge, pay and fringe benefits or as a result of retaliation for the exercise of protected rights or opposition to unlawful employment practices. The Americans with Disabilities Act also requires an employer to provide a reasonable accommodation to applicants and employees with disabilities.

The U.S. Equal Employment Opportunity Commission (“EEOC”) is the federal agency which investigates charges of unlawful employment discrimination and, if necessary, brings lawsuits in federal court to enforce the employment provisions of the ADA. Any employee who believes that he/she is the victim of discrimination or harassment has the legal right to file a charge of discrimination with the EEOC. You may contact the EEOC at 800-669-4000. WestRock supports and will comply with this federal law in all respects and will not take any adverse employment action against any applicant or employee because they have exercised their rights under this law.

Date

WestRock