

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Equal Employment Opportunity Commission,	)	Case No. 05-3034-PHX-FJM
	)	
Plaintiff,	)	
vs.	)	
	)	
The Boeing Company, a Delaware corporation,	)	
	)	
Defendant.	)	

This court granted judgment in favor of the defendant Boeing and against the plaintiff EEOC on August 16, 2007 (docs. 130 and 131). The United States Court of Appeals for the Ninth Circuit reversed and remanded for trial on June 18, 2009 (doc. 145). We set the case for trial, but the parties announced settlement and ask us to enter a consent decree which Boeing has volunteered to impose on itself (doc. 157). This is their requested decree.

The United States Equal Employment Opportunity Commission (the “Commission” or “EEOC”) filed this action against The Boeing Company, a Delaware corporation (“Defendant”), on September 30, 2005, to enforce Title VII of the Civil Rights Act of 1964 and Title I of the Civil Rights Act of 1991. In the Complaint, the Commission alleged that Boeing discriminated against Renee Wrede and Antonia

1 Castron on the basis of their sex, female, and retaliated against Castron after she
2 complained about the discrimination, in violation of Title VII.

3 In the interest of resolving this matter, and as a result of having engaged in
4 comprehensive settlement negotiations, the Parties have agreed that this action should be
5 finally resolved by entry of this Decree. The scope of this Decree, including any duties
6 or obligations set forth in Paragraphs 2, and 7 through 31 herein, is Defendant's
7 employees and premises in the Rotocraft Systems Division at its Mesa, Arizona location.
8 The Parties do not object to the jurisdiction of the Court over this action and waive their
9 rights to a jury trial and the entry of findings of fact and conclusions of law. The parties
10 agree that this Consent Decree is fair, equitable, and reasonable, and does not violate the
11 law or public policy.

12 Defendant specifically denies and does not admit that it has violated any federal,
13 state, or local law, or that it has any liability in this civil action. Defendant maintains that
14 it complies with all applicable employment laws, including those pertaining to sexual
15 discrimination, harassment, and retaliation. This Decree does not constitute a finding of
16 liability or wrongdoing on the part of Defendant. Defendant states that it is entering into
17 this Decree solely for the purposes of avoiding the expense and inconvenience of further
18 investigation and litigation.

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

20 1. This Decree resolves all claims of the Commission in this case against
21 Defendant, including, but not limited to, back pay, compensatory and punitive damages,
22 attorneys' fees, costs, interest, and injunctive relief arising out of the issues in this
23 lawsuit.

24 **INJUNCTION**

25 2. Defendant and its officers, agents, employees, successors, assigns, and all
26 persons in active concert or participation with them, both at the time that this Decree
27 becomes effective and for the duration of this Decree, are permanently enjoined from: (a)
28 sexually harassing any employee; or (b) retaliating against any employee, including but

1 not limited to, Renee Wrede and Antonia Castron, because he or she: (i) opposes or
 2 opposed discriminatory practices made unlawful by Title VII; (ii) files or filed a charge
 3 of discrimination or assists, assisted, participates, or participated in the filing of a charge
 4 of discrimination; or (iii) assists, assisted, participates or participated in an investigation
 5 or proceeding brought under the federal laws prohibiting discrimination or retaliation.

6 **MONETARY RELIEF**

7 3. Judgment is entered in favor of the Commission and against Defendant in the
 8 amount of \$ 280,000.00.

9 4. No later than ten business days from the date of the Court's entry of the
 10 Consent Decree, Defendant shall pay the sum of \$140,000.00 to Ms. Wrede and \$
 11 140,000.00 to Ms. Castron by check or money order. The respective checks or money
 12 orders shall be made payable to Ms. Wrede and Ms. Castron and mailed to addresses
 13 provided by the Commission. The respective payments to Ms. Wrede and Ms. Castron
 14 represent settlement of compensatory damages. No later than January 31, 2011,
 15 Defendant will issue United States Internal Revenue Service ("IRS") Forms 1099 to Ms.
 16 Wrede and Ms. Castron for tax year 2010 for the respective payments.

17 5. Within three business days of the issuance of the checks or money orders,
 18 Defendant shall submit copies of the checks or money orders and all related
 19 correspondence to Mary Jo O'Neill, Regional Attorney, Equal Employment Opportunity
 20 Commission, 3300 North Central Avenue, Suite 690, Phoenix, Arizona 85012.

21 6. Defendant will not condition the receipt of monetary relief on Ms. Wrede's or
 22 Ms. Castron's agreement to: (a) maintain as confidential the facts and/or allegations
 23 underlying their charges and complaints and the terms of this Decree, (b) waive their
 24 respective statutory rights to file a charge with any governmental agency; (c) refrain from
 25 reapplying for a job with Defendant; or (d) agree to a non-disparagement and/or
 26 confidentiality agreement.

27 **OTHER RELIEF**

1 9. The training for managers shall be no less than two hours and shall include a
2 procedure for questions and answers. For the duration of this Decree, Defendant shall
3 create and maintain a roster identifying all managers who attended or took the training.

4 10. Prior to the first training for managers, Defendant's Site Executive for the
5 Rotocraft Systems Division shall speak to the managers about the importance of
6 maintaining an environment free of sex discrimination, including sexual and gender
7 harassment, and retaliation. This message will be communicated by the Mesa Site
8 Executive to all managers. Defendant shall make the training available for review by the
9 Commission.

10 11. In addition to the management training set forth in paragraphs 8-10, Defendant
11 will provide training on Title VII's prohibition of sex discrimination, including sexual
12 and gender harassment, and retaliation to all non-management employees for the duration
13 of this Decree. The employee training shall beginning within six months of the effective
14 date of this decree and taking place at least once each year of the decree, shall be no less
15 than one hour and shall contain a procedure for questions and answers.

16 12. Defendant shall retain and pay an outside consultant/lecturer to provide the
17 training to its employees and management personnel. Defendant shall obtain the EEOC's
18 approval of the consultant/lecturer's training materials prior to each training session
19 unless the EEOC has already approved the materials. The training may be provided
20 online. If the training is provided live, Defendant may videotape the training.

21 13. At least sixty (60) days prior to each proposed live training seminar, Defendant
22 shall submit the name(s), address(es), telephone number(s) and resume(s) of the proposed
23 consultant/lecturer(s), if not previously approved by the EEOC, to the Regional Attorney
24 of the Phoenix District Office of the EEOC, at the address provided in paragraph 5 above.

25 14. The Commission, at its discretion, may designate Commission representatives
26 to attend and participate in the training sessions, and the representative shall have the
27 right to participate fully in the sessions. Defendant shall give written notice of the time
28

1 and location of each live training to the EEOC's Regional Attorney at the address
2 provided in Paragraph 5 at least two (2) weeks prior to each live training.

3 **WRITTEN POLICIES AND PROCEDURES**

4 15. Within sixty (60) days of the entry of this Decree, Defendant shall develop
5 written policies and procedures or revise existing policies and procedures, to the extent
6 necessary to comply with this Decree, concerning sex discrimination, including sexual
7 and gender harassment, and retaliation to conform with the law. The written policies and
8 procedures must include at a minimum:

9 A. Clear and complete definitions of sex discrimination, including
10 sexual and gender harassment, and retaliation.

11 B. A clear statement that physical contact between employees that may
12 be construed as sexual is prohibited on all premises of Defendant.

13 C. A statement that sex discrimination, including sexual and gender
14 harassment, and retaliation are illegal, prohibited, and will not be tolerated.

15 D. A clear and strong encouragement of persons who believe they have
16 been subjected to sex discrimination, including sexual and gender harassment, and/or
17 retaliation to report the alleged behavior.

18 E. The identification of internal procedures of Defendant through
19 which employees can report sex discrimination, including sexual and gender harassment,
20 and retaliation.

21 F. An assurance that Defendant will investigate allegations of sex
22 discrimination, including sexual and gender harassment, and retaliation promptly, fairly,
23 reasonably and effectively, using trained investigators, and that corrective action will be
24 taken by Defendant when and as appropriate.

25 G. Corrective action policies and guidelines for the imposition of
26 appropriate disciplinary action, up to and including termination of employment, of any
27 manager at Defendant's Mesa site against whom a claim of sex discrimination, including
28 sexual and gender harassment, or retaliation is substantiated by an internal investigation.

1 H. Corrective action policies and guidelines that provide for discipline,
 2 up to and including discharge, of management-level employees who witness or receive an
 3 allegation of sex discrimination, including sexual and gender harassment, or retaliation
 4 but fail to take steps to initiate appropriate investigative or remedial action.

5 I. A procedure requiring a representative of Defendant's Human
 6 Resources organization to review and pre-approve an employee's annual performance
 7 evaluation or assessments for Reduction in Force when that employee has brought forth
 8 an allegation for sex discrimination, including sexual and gender harassment, or
 9 retaliation that has been substantiated against his/her manager. The purpose of the review
 10 and pre-approval is to ensure that the manager against whom the complaint has been
 11 substantiated provides an objectively fair and unbiased assessment of the employee's
 12 performance and skills.

13 J. An assurance of maximum feasible confidentiality for persons who
 14 believe that they have been subjected to sex discrimination, including sexual and gender
 15 harassment, or retaliation.

16 K. An assurance of non-retaliation for persons and witnesses who report
 17 to Defendant that they believe they have been subjected to sex discrimination, including
 18 sexual and gender harassment, or retaliation.

19 16. Defendant shall post in a prominent place frequented by its employees at
 20 Defendant's Mesa site notices that inform employees of these policies and procedures
 21 and how they may be accessed electronically. This notice shall be the same type, style
 22 and size as Exhibit A. Defendant will inform new hires about these policies and
 23 procedures during new-hire orientation.

24 **DISCIPLINE FOR FUTURE VIOLATIONS**

25 17. Defendant shall take immediate, appropriate corrective action to discipline
 26 employees, including managers, who engage in sex discrimination, including sexual and
 27 gender harassment, or retaliation, through consequences that include termination under
 28

appropriate circumstances and in accordance with Defendant's policies and guidelines for corrective action.

EVALUATION OF MANAGERS

18. Defendant's existing performance management process evaluates its managers on their leadership attributes, including upholding Defendant's commitment to equal employment opportunity principles and laws, creating an environment of respect and inclusion, and demonstrating equal and fair treatment of everyone. Defendant shall continue to evaluate its managers in this manner during the term of this Decree which shall include consideration of the managers' enforcement of Defendant's anti-discrimination policies and their handling of discrimination complaints.

INVESTIGATION POLICIES AND PROCEDURES

19. Pursuant to its policies and procedures, Defendant shall promptly and appropriately investigate all complaints of sex discrimination, including sexual and gender harassment, and retaliation.

20. The investigation must include a finding whether sex discrimination, including sexual and gender harassment, and/or retaliation, occurred; a credibility assessment, if necessary; to the extent possible, interviews of all potential victims and witnesses identified; and concurrent notes of the investigation.

21. Where a complaint is substantiated, Defendant shall take immediate, appropriate corrective action to make sex discrimination, including sexual and gender harassment, and/or retaliation victims whole, to discipline those who engaged in the discrimination, including sexual and gender harassment, and/or retaliation, and to remedy the misconduct. If Defendant determines that a victim of sex discrimination, including sexual and gender harassment, and/or retaliation has been denied a tangible employment benefit as a result of the discrimination, harassment, or retaliation, Defendant shall take such actions as are reasonably necessary to place the employee in the position the employee would have been in absent the discrimination, harassment and/or retaliation.

22. Defendant shall not retain documents related to the investigation in any of the complainants' personnel files. All disciplinary actions taken against employees for violation of Defendant's sex discrimination, sexual and gender harassment, and anti-retaliation policies will be retained in the investigator's file and in the harasser's personnel file in accordance with Defendant's corrective action policies and guidelines. Where no disciplinary action is taken, the documents related to the investigation shall remain in the investigator's files in accordance with Defendant's document retention policies and procedures.

23. Within sixty (60) days of entry of this Decree, Defendant shall revise its written policies and procedures regarding investigations, to the extent necessary to comply with this Decree, to include the information in Paragraphs 19 to 22 above and distribute the revised policies and procedures to all individuals in Defendant's Global Diversity and Employee Rights Department responsible for conducting EEO investigations at its Mesa site.

24. Defendant shall follow up with complainants at appropriate intervals to ensure that sex discrimination, including sexual and gender harassment, and retaliation, do not recur.

NOTICE

25. Beginning no later than thirty (30) days of entry of this Decree, Defendant shall post for the duration of this Decree, in a prominent place frequented by its employees at Defendant's Mesa site, the notice attached as Exhibit B. The notice shall be the same type, style, and size as Exhibit B.

REDUCTION IN FORCE

26. Since the filing of this action, Defendant has revamped its reduction in force process, including the manner in which employee assessments are conducted. Assessments are based on a combination of the employee's most recent year-end performance evaluation and his/her assessing manager's rating of the employee on general and technical skill competencies that are directly associated with the employee's

1 job classification. Skill competencies are selected by a skill team captain who leads a
 2 meeting of all the assessing managers in a particular job classification and level to reach a
 3 consensus on the ratings and assessment order of employees in the particular job
 4 classification under consideration for reduction. Assessing managers may receive input
 5 from various sources who are familiar with the employee's work performance,
 6 knowledge, skills, and abilities to support completion of the assessment, including
 7 functional managers, assigned managers, prior managers if the employee has worked for
 8 the current manager for less than 6 months, and customer/business partners. The
 9 Reduction in Force process includes an opportunity for employees to appeal their
 10 selection for layoff. If the employee's layoff effective date occurs prior to the completion
 11 of the RIF appeal process, and the appeal thereafter concludes that the employee should
 12 not have been identified for layoff, the employee shall be reinstated with backpay.

13 27. For all Reduction in Force (RIF) assessments that are scheduled to occur
 14 during the duration of this Consent Decree at Boeing's Mesa site, each employee who is
 15 subject to a RIF assessment shall be evaluated/assessed by individuals who have actual
 16 knowledge of the employee's past and current work performance and qualifications. This
 17 may require that multiple individuals, such as past and present managers, provide input to
 18 or assess the employee's skill competencies.

19 **RECORD EXPUNGEMENT**

20 28. Defendant shall expunge from the respective personnel files of Ms. Wrede and
 21 Ms. Castron: (a) all references to the charges of discrimination filed against Defendant
 22 that formed the basis of this action; and (b) all references to Ms. Wrede's and Ms.
 23 Castron's participation in this action, if any exist.

24 **ETHICS/GLOBAL DIVERSITY** 25 **& EMPLOYEE RIGHTS OFFICERS**

26 29. Defendant's Mesa site will maintain an Ethics Advisor and a representative in
 27 the Global Diversity & Employee Rights (GDER) office. Each of these individuals or
 28 functions receives complaints of discrimination, harassment, and/or retaliation. In

1 addition, Defendant will post throughout the Mesa site “800” numbers that employees
 2 may use to report discrimination, harassment, and/or retaliation to either or both the
 3 Ethics and GDER organizations. The GDER organization will be responsible for
 4 investigating such complaints, making determinations regarding corrective action when
 5 appropriate, keeping records of its investigations and findings, and following-up with
 6 reporting parties.

7 **REPORTING BY DEFENDANT AND ACCESS BY EEOC**

8 30. In addition to any other reporting requirements set forth herein, Defendant
 9 shall provide the following information in writing, confirmed by affidavit, to the
 10 Regional Attorney of the Commission’s Phoenix District Office at the address set forth in
 11 Paragraph 5 above within six (6) months from the date of the entry of this Decree and
 12 again upon the yearly anniversary of this Decree for the duration that it is in force:

13 A. Upon their completion, a copy of the revised policies and procedures
 14 created in accordance with the requirements of this Decree;

15 B. The registry of persons attending the training sessions required by this
 16 Decree and documents signed by new managers reflecting that they have viewed the
 17 video tape of the training; and

18 C. A confirmation that (i) the policies and procedures required by this Decree
 19 were distributed to managers as required and posted on the Boeing-Mesa site intranet; (ii)
 20 the evaluation process for managers includes criteria for evaluating managers on their
 21 leadership attributes, including upholding Defendant’s commitment to equal employment
 22 opportunity principles and laws, creating an environment of respect and inclusion, and
 23 demonstrating equal and fair treatment of everyone; (iii) the Notice required by this
 24 Decree was posted, the date of posting, and the locations in which it was posted; (iv) the
 25 expungement from Ms. Wrede’s and Ms. Castron’s respective personnel files required by
 26 this Decree took place, the date of the expungements, and the documents expunged.

27 31. The Commission, upon ten business days’ notice, shall have the right to enter
 28 and inspect Defendant’s premises at its Mesa site to ensure compliance with this Decree.

PROCEDURES AND REMEDIES FOR NON-COMPLIANCE

32. In the event the Commission believes that Defendant has failed to comply with any provision(s) of this Consent Decree, it shall notify Defendant in writing of the non-compliance by fax and by overnight mail to Defendant's legal counsel and to the Head of Human Resources at Defendant's facility in Mesa, Arizona, or to his or her successor, and afford Defendant twenty (20) business days after service of the notice to remedy the non-compliance.

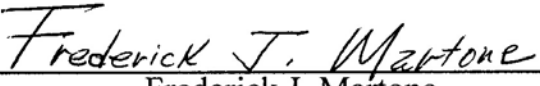
33. If Defendant has not remedied the alleged non-compliance in twenty (20) business days after service of notice, the EEOC may petition this Court to enforce the terms of the Decree at any time during its duration.

34. In the event the Court finds that Defendant has violated this Decree, as evidenced by a final judgment against Defendant, the Court may order reasonable relief to remedy the non-compliance, including taxable costs, daily fines, appropriate injunctive relief, and extension of this Consent Decree for such period as may be necessary to remedy its non-compliance. In the event the Court determines that no violation of this Decree has occurred, it may order EEOC to pay to Defendant its attorneys' fees and taxable costs reasonably incurred in defense of the enforcement action.

DURATION

35. This Decree shall expire by its own terms at the end of two (2) years after entry of the Decree, without further action by the parties or the Court.

Dated this 27th day of January, 2010.



Frederick J. Martone
United States District Judge

APPROVED AND CONSENTED TO BY:

MARY JO O'NEILL
Regional Attorney

PETER ROSENBLOOM
Corporate Counsel
The Boeing Company

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EXHIBIT A
BOEING POLICIES AND PROCEDURES
ON EQUAL EMPLOYMENT OPPORTUNITY

The Boeing Company is committed to providing a workplace free of discrimination, harassment, and retaliation. Boeing has established policies and procedures mandating a work environment free from discrimination and harassment (POL-5 and PRO-4332). These policies and procedures may be accessed and viewed electronically at <http://policyplus.boeing.com/SimpleSF.aspx>. These policies prohibit harassment or discrimination based on, and mandate that all terms and conditions of employment (including recruiting, training, hiring, transfers, promotions, terminations, compensation, and benefits) be administered without regard to, race, color, religion, national origin, gender, sexual orientation, gender identity, age, physical or mental disability, or veteran status. Discrimination against or intimidation of any person based on any of these factors is strictly prohibited.

Boeing's Corporate Global Diversity and Employee Rights (GDER) office has oversight of the development and implementation of the company's EEO policies and procedures. All complaints regarding violations of these policies will be thoroughly investigated, and appropriate corrective action will be taken in accordance with PRO-1909. Retaliation for filing a complaint or cooperating with an investigation is strictly prohibited and will not be tolerated.

All leaders are required to support our commitment to a harassment-free work environment by preventing and addressing discrimination and harassment. Every employee is responsible for maintaining a harassment-free work environment. Employees are expected and encouraged to immediately report any possible violations of these policies or complaints of discrimination to a manager, Equal Employment Opportunity focal, Regional EEO office, or Human Resources representative. You may also contact the Boeing Corporate EEO Hotline at 1-800-617-1442.

EXHIBIT B

NOTICE TO ALL EMPLOYEES AT BOEING MESA

This Notice is posted pursuant to a Consent Decree entered into between Boeing and the Equal Employment Opportunity Commission ("EEOC")

It is unlawful under federal law, Title VII of the Civil Rights Act and state law to discriminate against an employee on the basis of sex, including sexual harassment, in the recruitment, hiring, firing, compensation, assignment, or other terms, and conditions or privileges of employment. Sexual harassment includes unwelcome or offensive sexual advances or touching, requests for sexual favors, or other verbal or physical conduct directed at a person because of her/his sex. Sexual harassment may include conduct between persons of the opposite sex, as well as conduct between persons of the same sex. It is also unlawful to retaliate against any person because the person protested or reported the discriminatory practices to management or the EEOC.

Boeing shall not discriminate against any employee on the basis of sex, including sexual or gender harassment, and shall not retaliate against any employee for (1) opposing sexual harassment or other discriminatory practices made unlawful by federal or state law; (2) filing a charge or assisting or participating in the filing of a charge of discrimination; or (3) assisting or participating in an investigation or proceeding brought under Title VII.

If you believe you have been discriminated against or sexually harassed, you have the right to seek assistance from:

EEOC, 3300 North Central Avenue, Suite
690, Phoenix, Arizona 85012
Telephone: (602) 640-5000
TTY: (602) 640-5072
Website (national): www.eeoc.gov

You have the right to file a charge with the EEOC if you believe you are being discriminated against, retaliated against or sexually harassed.