

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,

Case No. 05-40272

Plaintiff,

Hon. Paul V. Gadola

v.

NORTH OAKLAND MEDICAL CENTER,

Defendant,

_____ /

CONSENT DECREE

This matter is before the Court for entry of this judgement by consent of the parties in order to effectuate a compromise and settlement of this claim. After careful review and consideration, the Court believes that entry of this judgement is in the interest of justice.

1. Plaintiff, the United States Equal Employment Opportunity Commission (“the Commission”), commenced the above entitled action in the United States District Court for the Eastern District of Michigan, Southern Division, on August 26, 2005, alleging that the Defendant North Oakland Medical Center (“NOMC”), engaged in discriminatory employment practices in violation of the Americans with Disabilities Act (“ADA”) by refusing to allow Barbara Poland to return to work following a medical leave of absence because of her disability.
2. Defendant NOMC denies all allegations in the Complaint, including any allegation that it

discriminated against Poland.

3. As a result of settlement discussions, the Commission and NOMC have resolved their differences and have agreed that this action should be settled by entry of this Consent Decree. It is the intent of the parties that this Consent Decree be a final and binding settlement in full disposition of any and all claims alleged against NOMC or which might have been alleged against NOMC in the Complaint filed on behalf of Poland.
4. 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 all matters in controversy between the parties as provided in paragraphs 5 through 18 below.

NON-ADMISSION

5. This Decree, being entered with the consent of all parties, shall not constitute an adjudication or finding on the merits of the case and shall not be construed as an admission by NOMC of a violation of the Americans with Disabilities Act.

NON-DISCRIMINATION

6. NOMC, its officers, agents, employees, successors, assigns and all persons in active concert or participation with them shall comply with the provisions of the Americans with Disabilities Act, 42 U.S.C. §12101, *et seq.*, with regard to discrimination on the basis of disability as defined by the Act.

NON-RETALIATION

7. NOMC shall not take any action against any person which constitutes intimidation,

retaliation, harassment or interference with the exercise of such person's rights under federal law because of the filing of a charge of discrimination with the Commission, which forms the basis for the present case, or because such person gave testimony or assistance or participated in any manner in any investigation or proceeding in connection with this case under the ADA.

MONETARY COMPENSATION

8. NOMC shall pay monetary damages to Barbara Poland in the amount of \$50,000.00. NOMC shall issue a 1099 form payable to Barbara Poland, 5735 Clinton River Drive, Waterford, MI 48327. NOMC shall mail full payment to Poland by certified mail within ten (10) days after this Consent Decree has been entered by the Court. Within thirty (30) days of this payment, NOMC shall send a photocopy of the check sent to Poland, along with a photocopy of the certified mail receipt, to the Commission's attorney of record.

TRAINING

9. NOMC agrees to provide mandatory training on the ADA to Human Resources employees, which will include disability awareness and sensitivity training. In addition, the training shall focus on the requirements and prohibitions of the ADA, including the prohibition of discrimination with respect to any terms, conditions, opportunities or privileges of employment on the basis of disability as defined by the Act. The training shall be completed within three (3) months after the execution of this Decree. Upon completion of the training, NOMC shall certify to the Commission the specific training which was undertaken and the dates of the training and shall provide the Commission with a roster of all employees who attended such training.

POSTING OF NOTICE

10. NOMC agrees that it shall post a copy of the Notice attached as Exhibit A in a conspicuous location where employee notices are posted. The notice shall be posted for one (1) year from the date this Decree is entered by the Court. Should the posted notice become defaced, marred or otherwise made unreadable, NOMC agrees to post a readable copy of the notice as soon as practicable thereafter.

DURATION

11. The injunctive provisions of this Decree shall remain in full force and effect for one (1) year and shall expire at the first anniversary of the entry of this Decree.

SENIORITY

12. The Commission and NOMC acknowledge that Poland was reinstated in April of 2006. Poland's seniority hours shall be adjusted so that her present seniority hours will reflect the seniority level she would have held had she been allowed to return to work on January 6, 2004.

DISPUTE RESOLUTION AND COMPLIANCE

13. The Court shall retain jurisdiction and will have all available equitable powers, including injunctive relief, to enforce this Decree. Upon motion by any party, 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, and shall be required to give notice to each other ten (10) days before moving for such review. All parties may conduct expedited discovery under the Federal Rules of

Civil Procedure for purposes of determining compliance with this Decree or defending against a claim of non-compliance, with fifteen (15) business days notice for depositions, entry to premises and access to documents and, with fifteen (15) business days for responses to written discovery.

MISCELLANEOUS

14. All parties shall bear their own costs and expenses of litigation, including attorney fees.
15. If any provision(s) of this Consent 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.
16. The terms of this Consent Decree are and shall be binding upon the present and future officers, directors, creditors, agents, trustees, administrators, successors, representatives, and assigns of NOMC.
17. This Consent 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, NOMC and AFSCME.
18. All parties request that this Court approve this Consent Decree and, pursuant to Fed. R. Civ. P. 41(a)(2), dismiss this case with prejudice, without costs to any party, and reserve jurisdiction only as necessary to enforce this Consent Decree.

APPROVED:

**EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION**

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Dated: December 17, 2007

**NORTH OAKLAND MEDICAL
CENTER**

By: BARLOW, P. C.

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Dated: December 17, 2007

IT IS SO ORDERED:

December 17, 2007
Date

s/Paul V. Gadola
PAUL V. GADOLA
United States District Judge