

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

EQUAL EMPLOYMENT OPPORTUNITY)
COMMISSION,)
)
Plaintiff,)
)
v.)
)
WBS BROAD RIPPLE, INC.,)
d/b/a WILD BEAVER SALOON,)
)
Defendant.)
_____)

CIVIL ACTION NO.
1:11-cv-00373-TWP-DKL

CONSENT DECREE

This action was instituted by the Equal Employment Opportunity Commission (“Commission”) under the authority granted to it under Section 706(f)(1) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e-5(f)(1). The Commission’s action was brought to correct alleged unlawful employment practices on the basis of sex. Specifically, the Commission alleged in its Complaint that WBS Broad Ripple, Inc., d/b/a Wild Beaver Saloon (“WBS”) terminated Heather Gibson because of her pregnancy.

The Commission and Defendant WBS hereby stipulate to the jurisdiction of the Court over the parties and the subject matter of this action.

The parties have advised the Court that they desire to resolve the remaining allegations in the Complaint without the burden, expense, and delay of further litigation.

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 Title VII will be promoted and effectuated by the entry of this Consent Decree; and (3) this Consent Decree resolves all the matters in controversy between the parties as provided in

paragraphs 1 through 12 below.

It is therefore ORDERED, ADJUDGED AND DECREED as follows:

1. WBS Broad Ripple, Inc., d/b/a Wild Beaver Saloon is hereby enjoined from:
 - a. discriminating against employees because they are pregnant;
 - b. engaging in any act, policy or practice that has the purpose or effect of discriminating against employees or applicants for employment on the basis of sex;
and
 - c. discriminating or retaliating in any way against any person because of opposition to a practice made unlawful under Title VII 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 Title VII.

2. WBS Broad Ripple, Inc., d/b/a Wild Beaver Saloon shall pay \$45,000.00 to Heather Gibson in settlement of this cause of action. Of this amount, \$7,000.00 shall be treated for tax purposes as back pay damages. The remaining amount of \$38,000.00 shall be treated for tax purposes as claimed compensatory and/or punitive damages. WBS agrees not to deduct from the claimed compensatory and/or punitive damage settlement amount of \$38,000.00 the amount of the employer's share of any costs, taxes or social security required by law to be paid by WBS. WBS further agrees to issue a form 1099 for the amount of damages that have been deemed claimed compensatory and/or punitive damages. All payments shall be made by check and made payable to Heather Gibson. Thirty days from the entry of this Consent Decree by the Court, the Commission will forward a release to Heather Gibson for her execution. A copy of the release is attached hereto as Appendix A. The Commission will notify counsel for WBS on receipt of the release executed by Heather Gibson. Then, within forty-five days from the entry of this Consent Decree by the Court, or

within five days of the Commission's notification that it has received the release signed by Ms. Gibson, whichever is later, WBS shall mail the settlement check to Ms. Gibson at 604 Willow Brook Drive, Fisher, Indiana, 46038. WBS shall mail a copy of Ms. Gibson's check and proof of its delivery to her (a signed certified mail receipt) to the Commission in the care of Laurie A. Young, Regional Attorney, or her successor, Equal Employment Opportunity Commission, 101 W. Ohio Street, Suite 1900, Indianapolis, Indiana, 46204. The Commission shall forward Ms. Gibson's executed release to WBS's counsel upon receipt of proof of delivery of the settlement check to Ms. Gibson.

3. WBS shall post the Notice of Non-Discrimination Policy attached as Appendix B to this Decree in a conspicuous place on its premises. Said notice shall remain posted throughout the term of this Decree.

4. WBS shall eliminate from the record of Heather Gibson all reference to her charge of discrimination and participation in this suit. WBS further agrees that if it is contacted for references, it will execute the letter of reference on behalf of Heather Gibson attached as Appendix C. WBS further agrees that it will disclose only the information contained in Appendix C to any prospective employers of Heather Gibson, who make inquiries to WBS. WBS explicitly agrees that it shall make no reference to Gibson's charge or participation in this lawsuit to any prospective employer of Heather Gibson. This provision survives the expiration of the Consent Decree.

5. WBS shall notify all of its current and future employees who possess hiring and firing authority that discrimination because of pregnancy violates Title VII and that pregnancy is not a factor to be considered in any employment decision.

6. WBS shall require its managers and supervisors to attend a training seminar regarding sex discrimination (including but not limited to pregnancy discrimination). Said individuals must

attend a seminar within twelve (12) months from the date of entry of this Decree. Thirty (30) days prior to the date of the seminar, WBS shall provide notice to the Commission regarding the date, time and place of the seminar, and shall send the Commission a copy of the seminar program. The Commission may provide reasonable input on the content of the program.

7. WBS shall submit reports to the Commission detailing its compliance with this decree, as follows:

- a. Within sixty (60) days of the date of this Decree, WBS will certify to the EEOC Regional Attorney Laurie A. Young, that it has informed its employees that pregnancy is not a factor to be considered when making any employment decision;
- b. In addition, three (3) annual reports shall be submitted during the term of this decree. The first report shall be due on December 30, 2011 and the subsequent reports shall be mailed to the Commission no later than December 30th of each year covered by the decree. The report shall include the following information for the twelve (12) month period preceding the report: the name, position, home address, home telephone number and reason for discharge or lay off of all employees who are discharged during their pregnancy.

Reports shall be sent to the attention of Laurie A. Young, Regional Attorney, or her successor, Equal Employment Opportunity Commission, 101 W. Ohio Street, Suite 1900, Indianapolis, Indiana, 46204.

8. Within forty-five days from the entry of this Decree, WBS shall pay \$100.00 to the EEOC for its failure to post the required EEO poster. The check shall be made out to the U.S. Treasury and shall be sent to Laurie A. Young, or her successor, Equal Employment Opportunity Commission, 101 W. Ohio Street, Suite 1900, Indianapolis, Indiana, 46204.

9. In the event that the Commission alleges that a violation of this Decree has occurred, prior to exercising any remedy provided by law, the Commission will give notice in writing by certified mail, specifically identifying the alleged violation to WBS, with a copy to its counsel. As part of its review of an alleged violation, at a mutually agreeable time, the Commission may inspect the premises, interview employees, and examine and copy documents. WBS will have thirty (30) days in which to investigate and respond to the allegation. Thereafter, the parties will have a period of thirty (30) days, or such additional period as may be agreed upon by them, in which to negotiate and confer regarding such allegation, before the Commission exercises any remedy provided by law.

10. The Commission and WBS shall each bear its own costs and attorney fees.

11. The term of this Decree shall be for thirty months years following the date of the entry of this Decree.

12. RETENTION OF JURISDICTION BY COURT The Court will retain jurisdiction of this cause throughout the duration of this Decree for purposes of monitoring compliance with this Decree and entry of such further orders as may be necessary or appropriate.

Date

Judge, United States District Court

Copies to:

Jo Ann Farnsworth, Senior Trial Attorney
EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION
101 W. Ohio Street, Suite 1900
Indianapolis, IN 46204

M. Edward Krause
COHEN GARELICK & GLAZIER
8888 Keystone Crossing Blvd., Ste. 800
Indianapolis, Indiana 46240

APPENDIX A

RELEASE

In consideration of the payment to me by WBS Broad Ripple, Inc., d/b/a Wild Beaver Saloon, of \$45,000.00 (less any applicable taxes or withholdings), and in consideration of the Consent Decree agreed to by me, the Equal Employment Opportunity Commission and WBS in Civil Action No. 1:11-cv-00373-TWP-DKL, entered by the Court on the _____ day of _____, 2011, of which this Release is a part, I, Heather Gibson, for myself and for my heirs, assigns, agents and representatives, hereby fully and forever release and discharge and discharge WBS Broad Ripple, Inc., d/b/a Wild Beaver Saloon, its successors and assigns, including its present and former shareholders, directors, officers, employees and agents, from any claim, loss, cost, expense or obligation based on the claim that WBS Broad Ripple, Inc., d/b/a Wild Beaver Saloon, terminated me because of my pregnancy in violation of Title VII, as raised in Civil Action No. 1:11-cv-00373-TWP-DKL.

I agree that I will be solely and individually responsible for paying any and all taxes which may be due and owing, if any, that are my responsibility, as a result of Defendant's payment of the sum set forth above. I acknowledge that I have not relied on any representations made by Defendant, its counsel, or the EEOC, or its counsel, including without limitation, any representation as to the tax treatment of the payments pursuant to this agreement.

I have read this Release and I execute it voluntarily, without coercion or threat of reprisal.

IN WITNESS WHEREOF, this Release is signed and executed by me on the _____ day of _____, 2011.

Heather Gibson

County of)
) SS
State of)

Subscribed and sworn to before me this _____ day of _____, 2011.

Notary Public

APPENDIX B
**EMPLOYEE
NOTICE**

NOTICE OF NON-DISCRIMINATION POLICY

This Notice is being distributed and posted as a result of a Consent Decree signed by the United States District Court for the Southern District of Indiana, Indianapolis Division pursuant to a lawsuit entitled *EEOC v. WBS Broad Ripple, Inc., d/b/a Wild Beaver Saloon*, Civil Action No. 1:11-cv-00373-TWP-DKL. In the lawsuit the EEOC alleged that the Wild Beaver Saloon discriminated against an employee by terminating her due to her pregnancy.

Federal law requires that there be no discrimination against any employee or applicant for employment because of the employee's race, color, religion, sex, national origin, age (over 40) or disability.

Federal law also prohibits discrimination in the workplace against employees because of their pregnancy. More specifically, pregnancy is not a factor to be considered in any employment decision.

WBS Broad Ripple, Inc., d/b/a Wild Beaver Saloon, supports and will comply with such Federal law in all respects and will not take any actions against employees because they have exercised their rights, reported an alleged violation under the law or have given testimony, assistance or participation in any investigation, proceeding or hearing conducted by the U. S. Equal Employment Opportunity Commission.

An employee has the right, and is encouraged to exercise that right, to report allegations of employment discrimination in the workplace. An employee may contact the U. S. Equal Employment Opportunity Commission for the purpose of filing a charge of employment discrimination.

Questions concerning this notice may be addressed to:

**Equal Employment Opportunity Commission
101 W. Ohio St., Suite 1900
Indianapolis, Indiana 46204-4203
Telephone: (317) 226-7212
EEOC 800 # 1-800-669-4000
TDD (317) 226-4162**

APPENDIX C

To Whom It May Concern:

Heather Gibson was employed by WBS Broad Ripple, Inc., d/b/a Wild Beaver Saloon, from October 2008 through January 2010 as a server/bartender.

Manager
WBS Broad Ripple, Inc.,
d/b/a Wild Beaver Saloon