



U.S. Equal Employment Opportunity Commission

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**PRESS RELEASE**

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## Boh Bros. Construction Co. to Pay \$125,000 for Same-Sex Harassment in EEOC Lawsuit

### ***Consent Judgment Ending Case Follows En Banc Appeals Court Determination That Actions in Question Were Sex Discrimination and Remand to Determine Damages; Significant Injunctive Relief Reinstated***

NEW ORLEANS - Boh Bros. Construction Co. has agreed with the U.S. Equal Employment Opportunity Commission (EEOC) to a consent judgment which requires the company to pay \$125,000 in compensatory damages to a former employee in a sex discrimination/same sex harassment case. The consent judgment cannot be appealed and effectively brings the litigation to a close.

The EEOC filed the suit against Boh Bros. (*EEOC v. Boh Bros. Construction Co.*, Civil Action No. 09-6460) in U.S. District Court for the Eastern District of Louisiana, in 2009 charging that a superintendent, Chuck Wolfe, harassed Kerry Woods with verbal abuse, taunting gestures of a sexual nature, and by exposing himself. The harassment took place on the I-10 Twin Span project over Lake Pontchartrain between Slidell and New Orleans, La. Woods's supervisor admitted at the trial that he harassed Woods because he thought Woods was feminine and did not conform to the supervisor's gender stereotypes of "rough iron workers."

Following a jury trial, Boh Bros was found to have permitted hostile work environment sexual harassment which is illegal sex discrimination under Title VII of the Civil Rights Act of 1964. The jury awarded Woods a total of \$451,000 in back pay and compensatory and punitive damages, which the district court reduced to \$301,000 because of statutory limits. The district court entered injunctive relief to prevent future occurrences of discrimination.

The injunction additionally required the chief executive officer of Boh Bros. to send a letter to all company employees "advising them of the verdict against Defendant in this case on the claim of sexual harassment, stating that Defendant will not tolerate sexual harassment or retaliation, and that Defendant will take appropriate disciplinary action against any manager, supervisor, or employee who engages in sexual harassment or retaliation." The court further ordered that Boh Bros. may not re-hire the harassing official during the life of the injunction.

The district court also denied Boh Bros.' motions for judgment as a matter of law and for a new trial. Boh Bros. subsequently appealed.

In April 2012, a three-judge panel of the U.S. Court of Appeals for the Fifth Circuit (case number 11-30770) reversed the jury verdict, finding that the evidence did not establish that Boh Bros. had harassed Woods "because of sex." The EEOC asked all the judges of the Fifth Circuit to rehear the case en banc. In September 2013, a 10-6 majority of the Court of Appeals found that the law and evidence supported the jury's finding that Boh Bros. had illegally harassed Woods because of sex, in violation of Title VII.

The en banc Fifth Circuit also rejected the company's appeal of the district court's entry of a judgment of injunctive relief: "The injunction is reasonably tailored to address deficiencies in [the company's] sexual harassment policies, inform and train employees regarding the relevant law, and prevent similar conduct from recurring."

Thus, the full Fifth Circuit Court of Appeals restored a jury's finding from March 2011 that Boh Bros. illegally subjected Woods to severe or pervasive harassment based on gender stereotypes. The Court of Appeals remanded the case to the district court for further proceedings, including setting the proper amount of emotional damages in light of the appellate decision.

"I am ecstatic that the full Court of Appeals ruled in our favor with this outcome," said Woods. "It's been a roller coaster. I'm grateful that the EEOC fought so hard for me over all these years. It proves to me that the government is really there to help people."

EEOC General Counsel David Lopez said, "The EEOC's recent record in winning jury trials like this one is

remarkable, and the full Fifth Circuit here reaffirmed the critical part juries play in deciding discrimination cases. This resolution remains faithful to the jury's verdict by providing meaningful relief to Mr. Woods and helping to prevent Boh Bros. from discriminating again."

New Orleans-based Boh Bros. is a major construction contractor that operates in the New Orleans and Gulf South areas. According to company information, Boh Bros. employs more than 1,300 people on projects in the transportation, municipal, industrial, manufacturing and energy sectors.

The EEOC was represented at the trial in New Orleans by attorneys Gregory T. Juge and Tanya L. Goldman.

The EEOC enforces federal law prohibiting employment discrimination. Further information is available on its web site at [www.eeoc.gov](http://www.eeoc.gov).