

ORIGINAL

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7 **Attorney for Defendant**

8 AND

9 WILLIAM R. TAMAYO -- #084965 (CA)
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11 SANYA P. HILL--#18739--(WA)
12 EQUAL EMPLOYMENT OPPORTUNITY
13 COMMISSION
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19 **Attorneys for Plaintiff**

20 **EQUAL EMPLOYMENT OPPORTUNITY COMMISSION**

21 **UNITED STATES DISTRICT COURT**

22 **EASTERN DISTRICT OF CALIFORNIA**

23 **EQUAL EMPLOYMENT OPPORTUNITY)**
24 **COMMISSION,)**

25 **Plaintiff,)**

26 **v.)**

27 **UNCLE HARRY'S NEW YORK)**
28 **BAGELRY,)**

29 **Defendant.)**

Civil Action No. CIV F-01-6252
OWW/SMS

**STIPULATION AND PROPOSED
ORDER MODIFYING THE CONSENT
DECREE AND PERTAINING TO
PLAINTIFF'S MOTION TO ENFORCE
COURT ORDER AND FOR CIVIL
CONTEMPT**

Date: October 27, 2003
Time: 10:00 a.m.
Judge: Hon. Oliver W. Wanger
Courtroom: 2

30 Plaintiff Equal Employment Opportunity Commission ("EEOC") and Defendant Uncle
31 Harry's New York Bagelry ("Uncle Harry's"), by and through their undersigned counsel, hereby
32 agree and stipulate as follows:

33 **JOINT STIPULATION TO
34 MODIFY CONSENT DECREE
35 AND RE: MOTION TO ENDFORCE**

LOP

OCT 10 2003

COURT CLERK
EASTERN DISTRICT OF CALIFORNIA
BY DEPUTY CLERK

FILED

2003 OCT 15 P 12:20

COURT CLERK
EASTERN DISTRICT OF CALIFORNIA
BY DEPUTY CLERK

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1 WHEREAS, the parties have engaged in meaningful settlement negotiations in an attempt
2 to resolve the dispute raised in Plaintiff EEOC's Motion to Enforce Court Order and for Civil
3 Contempt filed with this Court on August 25, 2003;

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5 WHEREAS, the parties agree that a resolution is in the best interests of both parties, and
6 will foster judicial economy;

7 WHEREAS, the Consent Decree filed with this Court on March 14, 2003 states in
8 Paragraph 6, page 2 that "[n]o waiver, modification or amendment of any provision of this
9 Decree shall be effective unless made in writing, approved by all parties to this Decree and
10 approved by the Court or ordered by the Court";

11 THEREFORE, to resolve the pending motion filed by the Commission, the parties request
12 the Court to modify Paragraph 15 of the Consent Decree by making the following order:

13
14 1. Paragraph 15, page 4 of the Consent Decree shall be modified, effective
15 immediately, as follows: "No later than January 5, 2004, Defendant shall
16 complete and accelerate the payment schedule described in Paragraph 15 (page 4)
17 of the Consent Decree, and pay to the Charging Party and the other claimants all
18 of the remaining monetary amounts owed to each person under the Decree as set
19 forth in Attachment A, appended hereto and filed under seal. Payments shall be
20 in the form of a check and made directly to each individual claimant. Uncle
21 Harry's agrees to provide the EEOC with proof of payment in full as specified in
22 this paragraph by cancelled check, receipt, or by a written release, waiver, or
23 acknowledgement of satisfaction in full of Uncle Harry's monetary obligations
24 required under this Paragraph 15.

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26 In addition to the above modification, the Parties request that the Court Order as follows:

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2. Uncle Harry's shall immediately rescind the Settlement and Release Agreement and Acknowledgment of Satisfaction in full, dated April 7, 2003, between Uncle Harry's New York Bagelry, LLC and Sylvia Reyes, a copy of which Settlement and Release is attached hereto and incorporated by reference as Attachment B appended hereto. The rescission is appended hereto as Attachment C.

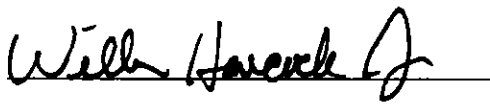
3. Uncle Harry's shall make no further ex-parte contact with the Charging Party Karla Burgueno and the other five claimants in this matter.

4. Each Party shall bear its own attorney's fees and costs pertaining to the filing of this matter.

5. The Consent Decree in all other particulars shall remain extant until its expiration as set forth in the Decree.

IT IS HEREBY STIPULATED by and through the counsel for the parties, that the Court may enter the Order as attached hereto.

Dated: October 9, 2003



WILLIAM HANCOCK, JR.
Attorney for Defendant

Dated: October __, 2003

WILLIAM R. TAMAYO
JONATHAN T. PECK
SANYA P. HILL
Attorneys for Plaintiff

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3. Uncle Harry's shall make no further ex-parte contact with the Charging Party Karla Burgueno and the other five claimants in this matter.

4. Each Party shall bear its own attorney's fees and costs pertaining to the filing of this matter.

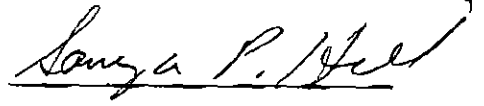
5. The Consent Decree in all other particulars shall remain extant until its expiration as set forth in the Decree.

IT IS HEREBY STIPULATED by and through the counsel for the parties, that the Court may enter the Order as attached hereto.

Dated: October ____, 2003

WILLIAM HANCOCK, JR.
Attorney for Defendant

Dated: October 9, 2003



WILLIAM R. TAMAYO
JONATHAN T. PECK
SANYA P. HILL
Attorneys for Plaintiff

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*EEOC v Uncle Harry's
New York Bagelry*

ORDER

*WF-01-6252
aww/sms*

Upon consideration of the foregoing Joint Stipulation to Modify the Consent Decree and Pertaining to the Motion to Enforce the Consent Decree and for Civil Contempt and the records and proceedings herein, IT IS HEREBY ORDERED AS FOLLOWS:

1. Paragraph 15, page 4 of the Consent Decree shall be amended, effective immediately, as follows: "No later than January 5, 2004, Defendant shall complete and accelerate the payment schedule described in Paragraph 15 (page 4) of the Consent Decree, and pay to the Charging Party and the other claimants all of the remaining monetary amounts owed to each person under the Decree as set forth in Attachment A, appended hereto and filed under seal. Payments shall be in the form of a check and made directly to each individual claimant. Uncle Harry's agrees to provide the EEOC with proof of payment in full as specified in this paragraph by cancelled check, receipt, or by a written release, waiver, or acknowledgement of satisfaction in full of Uncle Harry's monetary obligations required under this Paragraph 15.

IN ADDITION TO THE ABOVE MODIFICATION, IT IS FURTHER ORDERED:

2. Uncle Harry's shall immediately rescind the Settlement and Release Agreement and Acknowledgment of Satisfaction in full, dated April 7, 2003, between Uncle Harry's New York Bagelry, LLC and Sylvia Reyes,

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a copy of which Settlement and Release is attached hereto and incorporated by reference as Attachment B appended hereto. The rescission is appended hereto as Attachment C.

3. Uncle Harry's shall make no further ex-parte contact with the Charging Party Karla Burgueno and the other five claimants in his matter.

4. Each Party shall bear its own attorney's fees and costs pertaining to the filing of this matter.

5. The Consent Decree in all other particulars shall remain extant until its expiration as stated in the Decree.

6. Within ten (10) days of the entry of this Order by the Court, Plaintiff EEOC will file a withdrawal of its Motion to Enforce Consent Decree and Motion for Civil Contempt with this Court.

Dated: 10-19-, 2003

BY THE COURT



HONORABLE OLIVER W. WANGER
Judge of U.S. District Court

United States District Court
for the
Eastern District of California
October 16, 2003

* * CERTIFICATE OF SERVICE * *

1:01-cv-06252

EEOC

v.

Uncle Harry's

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Eastern District of California.

That on October 16, 2003, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office, or, pursuant to prior authorization by counsel, via facsimile.

Linda Susan Ordonio-Dixon
Equal Employment Opportunity Commission
San Francisco District Office
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Suite 500
San Francisco, CA 94103

OWW SMS

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