

FILED
[Handwritten signature]

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

01 JUL 12 PM 2:55

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA, FLORIDA

LEMUEL MIDDLETON, et al.,

Plaintiffs,

vs.

Case No. 8:97-CV-760-T-27TBM

PUBLIX SUPER MARKETS,

Defendant.

_____ /

ORDER

THIS CAUSE came on for consideration upon the Report and Recommendation of Magistrate Judge Thomas B. McCoun III recommending final approval of the proposed consent decree and settlement class. On January 3, 2001, this Court gave preliminary approval to a proposed Consent Decree representing a settlement of all remaining issues in this litigation. See Dkt. 349. The Magistrate Judge conducted a fairness hearing on the proposed Consent Decree on June 18, 2001, pursuant to the provisions of Rule 23(e), Federal Rules of Civil Procedure.

Upon consideration of the Report and Recommendation of the Magistrate Judge and upon the Court's independent examination of the file, the Report and Recommendation is adopted and confirmed and made a part hereof, with the following exceptions and/or additional findings:

- A. The Court makes no determination on the merits of the Plaintiff's

372

discrimination claims nor does the Court make a determination as to the liability of Publix Super Markets, Inc. on the Plaintiff's underlying claims.

- B. Associates who were discharged before their 90th day of continuous employment or before they reached age 20, but who did not opt out, are members of the Settlement Class and are bound by the terms of the settlement. Because these persons had the opportunity to opt out and seek their own legal remedies, making them ineligible for an individual monetary award from the Formula Discharge Payments pool is supportable.
- C. The Court finds that the broader scope of release provided by Class Representatives (i.e. any other allegedly illegal actions) provides additional justification for their potentially larger monetary awards than those available to Settlement Class members generally.

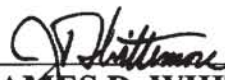
Accordingly, it is **ORDERED AND ADJUDGED:**

1. The Court hereby approves the proposed Consent Decree in its entirety subject to the additional findings stated above. The Court will enter the proposed Consent Decree contemporaneously with this Order.
2. The Court finds that Maurice E. Daniels, Theresa R. Orelus, Valentina Elena Washington, Barbara Stephens, Camille Johnson, Emmanuel

Joseph, Maurice Devon Hartage, Jewell Moore, Shunquita M. Ogletree, and Cynthia E. Moore have timely and successfully opted-out of the settlement class.

3. The Court approves Kenneth R. Hart as the awards arbitrator by way of separate order granting the Joint Motion Requesting Approval of Kenneth R. Hart as Awards Arbitrator. See Dkt. 368.
4. All pending motions are denied as moot.
5. The Clerk is directed to close this case.

DONE AND ORDERED in chambers this July 11, 2001.



JAMES D. WHITTEMORE
United States District Judge

Copies to:
Counsel of Record
Courtroom Deputy
Law Clerk

Date Printed: 07/12/2001

Notice sent to:

- ✓
Peter Kent Spriggs, Esq.
Spriggs and Davis
324 W. College Ave.
Tallahassee, FL 32301
- ✓
Walter E. Aye, Esq.
Walter Edwards Aye, P.A.
610 W. Azeele
Tampa, FL 33606
- ✓
Marvin E. Barkin, Esq.
Trenam, Kemker, Scharf, Barkin,
Frye, O'Neill & Mullis, P.A.
101 E. Kennedy Blvd., Suite 2700
P.O. Box 1102
Tampa, FL 33601-1102
- ✓
William B. Hill Jr., Esq.
Paul, Hastings, Janofsky & Walker LLP
600 Peachtree St., N.E., Suite 2400
Atlanta, GA 30308-2222
- ✓
John J. Gallagher, Esq.
Paul, Hastings, Janofsky & Walker
1299 Pennsylvania Ave., N.W.
10th Floor
Washington, DC 20004-2400
- ✓
Jeffrey R. Freund, Esq.
Bredhoff & Kaiser
1000 Connecticut Avenue NW
Washington, DC 20036
- ✓
L. Page Kennedy, Esq.
Bredhoff & Kaiser
1000 Connecticut Avenue NW
Washington, DC 20036
- ✓
Howard S. Susskind, Esq.
Sugarman & Susskind, P.A.
2801 Ponce de Leon Blvd.
Suite 700
Coral Gables, FL 33134
- ✓
Steven R. Andrews, Esq.
Steven R. Andrews, P.A.
822 N. Monroe St.
Tallahassee, FL 32303