

United States District Court, Northern District of Illinois

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Name of Assigned Judge or Magistrate Judge	Warren K. Urbom	Sitting Judge if Other than Assigned Judge	
CASE NUMBER	99 C 3356	DATE	4/29/2003
CASE TITLE	EEOC vs. Dial Corp.		

[In the following box (a) indicate the party filing the motion, e.g., plaintiff, defendant, 3rd party plaintiff, and (b) state briefly the nature of the motion being presented.]

MOTION:

DOCKET ENTRY:

- (1) Filed motion of [use listing in "Motion" box above.]
- (2) Brief in support of motion due _____.
- (3) Answer brief to motion due _____. Reply to answer brief due _____.
- (4) Ruling/Hearing on _____ set for _____ at _____.
- (5) Status hearing[held/continued to] [set for/re-set for] on _____ set for _____ at _____.
- (6) Pretrial conference[held/continued to] [set for/re-set for] on _____ set for _____ at _____.
- (7) Trial[set for/re-set for] on _____ at _____.
- (8) [Bench/Jury trial] [Hearing] held/continued to _____ at _____.
- (9) This case is dismissed [with/without] prejudice and without costs[by/agreement/pursuant to]
 FRCP4(m) Local Rule 41.1 FRCP41(a)(1) FRCP41(a)(2).
- (10) [Other docket entry] Joint motion for entry of consent decree is granted. Enter Consent Decree. All pending motions are moot. Are scheduled events are also moot.

(11) [For further detail see order attached to the original minute order.]

<input type="checkbox"/> No notices required, advised in open court. <input type="checkbox"/> No notices required. <input checked="" type="checkbox"/> Notices mailed by judge's staff. <input type="checkbox"/> Notified counsel by telephone. <input type="checkbox"/> Docketing to mail notices. <input type="checkbox"/> Mail AO 450 form. <input type="checkbox"/> Copy to judge/magistrate judge.	courtroom deputy's initials <i>SCT</i>	INDC 1000-1010 62 14 14 8-1010 Date/time received in central Clerk's Office	number of notices	Document Number 428
			MAY 09 2003 date docketed	
			<i>JH</i> docketing deputy initials	
			date mailed notice	
			mailing deputy initials	

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

**EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION,**

Plaintiff,

Case No. 99-C-3356

v.

Judge Warren K. Urbom

THE DIAL CORPORATION,

Defendant.

**DOCKETED
MAY 09 2003**

CONSENT DECREE

1. This Consent Decree (the "Decree") is made and entered into by and between Plaintiff United States Equal Employment Opportunity Commission (hereinafter referred to as the "Commission" or "EEOC") and Defendant The Dial Corporation (hereinafter referred to as "Dial") (EEOC and Dial are collectively referred to herein as "the Parties").
2. On May 20, 1999, EEOC initiated this action by filing its Complaint against Dial. EEOC's Complaint alleged that Dial violated Title VII of the Civil Rights Act of 1964, as amended, including, but not limited to, amendments authorized by the Civil Rights Act of 1991, 42 U.S.C. §2000e et seq. ("Title VII"), by engaging in a pattern or practice of sexual harassment and sex-based harassment against a class of current and former female employees since at least July, 1988.
3. On July 20, 1999, Dial filed its Answer to EEOC's Complaint, denying the allegations contained in the Complaint.
4. In the interest of resolving this matter and as a result of having engaged in comprehensive settlement negotiations, the Parties have agreed that this action should be finally resolved by entry of this Decree. This Decree shall not constitute an adjudication and/or finding on the merits of the case, and shall not be used as evidence of liability, res judicata, or collateral estoppel in any other legal proceeding against Dial.
5. This Decree is final and binding upon the Parties, their agents, successors and assigns.
6. The Parties agree that this Decree resolves all claims arising out of the underlying complaint, as well as the allegations that were raised during this case. This Decree also finally resolves all claims arising out of the following EEOC Charge Numbers: 210961173, 210A202427, 210A203242, 32E960213, 210910630, 210910511, 21B89-0816, 210900222, 210880791, and 210891245, as well as any amendments to those charges or the charges of any other individuals who receive monetary relief under this Consent Decree, and constitutes a

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complete resolution of all claims of sexual harassment, sex-based harassment, sex discrimination, retaliation and/or constructive discharge that were made or could have been made by the EEOC in this action, under Title VII, 42 U.S.C., §2000e *et seq.*, the Pregnancy Discrimination Act, 42 U.S.C. §2000e(k) and the Equal Pay Act of 1963, 29 .S.C. §201, all as amended. The Parties further agree that this Decree does not, however, resolve any Charges that may be pending with EEOC other than the Charges specifically referred to in this paragraph or those that may be released by "Eligible Claimants" (as that term is defined herein) pursuant to this Decree. The EEOC further agrees to not pursue any merits litigation with respect to EEOC Charge Number 21BA23592.

7. This Decree constitutes the complete agreement between EEOC and Dial with respect to the matters referred to herein. No waiver, modification or amendment of any provision of this Decree shall be effective unless made in writing, approved by all parties to this Decree and approved by the Court or ordered by the Court.

NOW, THEREFORE, the Court having carefully examined the terms and provisions of this Consent Decree, and based on the pleadings, record and stipulations of the Parties, it is **ORDERED, ADJUDGED AND DECREED THAT:**

8. This Court has jurisdiction over the subject matter of this action and over the parties for purposes of entering and enforcing this Decree.

9. The terms of this Decree are adequate, fair, reasonable, equitable and just.

10. This Decree conforms with the Federal Rules of Civil Procedure and is not in derogation of the rights or privileges of any person. The entry of this Decree will further the objectives of Title VII and will be in the best interests of the Parties, those for whom EEOC seeks relief, and the public.

11. This Decree comprises the full and exclusive agreement of the parties with respect to the matters discussed herein. No representations or inducements to compromise this action have been made, other than those recited or referenced in this Decree (including the Exhibits attached hereto).

Scope of Consent Decree

12. The duration of this Decree shall be two and a half (2.5) years from the date of entry of the Decree. During that time, this Court shall retain jurisdiction over this matter and the Parties for purposes of enforcing compliance with the Decree, including issuing such orders as may be required to effectuate its purposes. Accordingly, this Decree shall expire and shall be without force and effect two and a half (2.5) years from the date of entry of this Decree.

General Injunctive Provisions

13. **Sexual Harassment.** Dial and its officers, agents, management (including supervisory employees), successors and assigns, and all those in active concert or participation with them, or any of them, agree to continue to comply with the provisions of Title VII of the Civil Rights Act of 1964, as amended, and agree in this Consent Decree to be enjoined, and are enjoined, from: (i)

discriminating against women on the basis of sex; (ii) engaging in or being a party to any action, policy or practice that is intended to or is known to them to have the effect of sexually harassing or intimidating any female employee on the basis of her gender; and/or (iii) creating, facilitating or tolerating the existence of a work environment that is sexually hostile to female employees (hereinafter referred to as "sexual harassment").

14. **Retaliation.** Dial and its officers, agents, management (including supervisory employees), successors and assigns, and all those in active concert or participation with them, or any of them, agree to continue to comply with the provisions of Title VII of the Civil Rights Act of 1964, and agree in this Consent Decree to be enjoined, and are enjoined, from: engaging in, implementing or tolerating any action, policy or practice with the purpose of retaliating against any current or former employee of Dial because he or she opposed any practice of sexual harassment made unlawful under Title VII, filed a Charge of Discrimination alleging any such practice, testified or participated in any manner in any investigation (including, without limitation, any internal investigation undertaken by Dial), proceeding, or hearing in connection with this case and/or relating to any claim of sexual harassment, was identified as a possible witness in this action, asserted any rights under this Decree, or sought and/or received any monetary and/or non-monetary relief in accordance with this Decree (hereinafter referred to as "retaliation").

Monetary Relief

Establishment of Settlement Fund

15. Dial shall pay the gross sum of Ten Million Dollars (\$10,000,000.00) (hereinafter referred to as the "Settlement Fund") to be distributed among all "Eligible Claimants" (as that term is defined in paragraph 18 herein), all in accordance with the provisions of this Decree. None of the amounts paid to Eligible Claimants shall be for back pay.

16. Within thirty (30) days after entry of this Decree, Dial shall establish and maintain a segregated account on its books, as a liability, for the Settlement Fund in accordance with generally accepted accounting principles. The Settlement Fund shall accrue interest, compounded daily, at a rate equal to the thirty (30) day Treasury Bill Rate (or the closest comparable rate thereto) as published in the Wall Street Journal on the date of entry of this Decree. The Settlement Fund shall accrue interest beginning thirty (30) days after entry of this Decree and continuing until the date of transfer, as provided for by paragraph 17 of this Decree, and the interest will be credited to the account at least once per month.

17. Dial shall appoint a Payment Agent for the administration of payments from the Settlement Fund. No later than seven (7) days before such payments are to be made to Eligible Claimants, Dial shall transfer to the Payment Agent for deposit into an account at a commercial bank both the principal of and the interest accrued to the Settlement Fund as of the date of such transfer. Such account shall accrue interest at the customary rate for such commercial bank beginning seven (7) days after transfer and continuing until all moneys have been paid out of that account. Only withdrawals authorized by this Decree may be made from the account.

Claims Process and Distribution of Settlement Fund

18. **Eligible Claimants.** The Settlement Fund shall be used solely to make payments to women who have previously been identified by EEOC in this action as class members ("Class Members") and women who timely submit claim forms (such persons are hereinafter collectively referred to as "claimants"), and further whom EEOC determines, subject to Court approval, to be eligible to receive monetary relief in this lawsuit (such persons are hereinafter referred to as "Eligible Claimants"). A non-Class Member is ineligible for consideration of a payment from the Settlement Fund unless her claim is timely received by the EEOC. No persons other than Eligible Claimants shall receive any payments from the Settlement Fund.

19. Subject only to the approval of the Special Master and/or the Court (as provided for by this Decree), EEOC shall be the sole determiner of eligibility for relief under this Decree and the amount of monetary relief to be received by any Eligible Claimant under this Decree. Dial will not participate in or object to EEOC's determinations.

20. Eligible Claimants shall include only those individuals who satisfy Paragraph 18 above, and who also satisfy each and all of the following criteria:

- (i) the individual was employed by Dial at its Montgomery, Illinois facility, at any time between January 1, 1988 and the date of entry of this Decree; and
- (ii) EEOC receives evidence credible to EEOC that the individual was subjected to sexual harassment or retaliation; and
- (iii) the individual submits an executed Release in the form of Exhibit A.

21. Acting in its discretion and subject only to final approval by the Court (or the Special Master as provided for in paragraphs 30 and 31 this Decree), EEOC shall exclusively determine the eligibility of claimants for relief under this Decree. In making such determinations, EEOC may consider whatever evidence EEOC deems appropriate, including, but not limited to, evidence received by EEOC in its investigation of the charge of discrimination underlying this action, in connection with its litigation of this action, and in connection with the claims process provided by this Decree.

22. Acting in its discretion and subject only to final approval by the Court (or the Special Master), EEOC shall assign each Class Member and each individual whose Claim Form is timely received by EEOC and whom EEOC determines to be an Eligible Claimant to one of five "claimant tiers." In assigning Eligible Claimants among these five "claimant tiers," EEOC will consider the following factors: (i) severity of sexual harassment/retaliation, (ii) duration of sexual harassment/retaliation, (iii) extent of harm, (iv) whether the Eligible Claimant was constructively discharged, (v) whether the Eligible Claimant previously signed a release of claims relating to allegations covered by this Consent Decree, (vi) whether the Eligible Claimant complained to any supervisor, manager, human resource representative, or the 1-800 hotline at Dial regarding her allegations of sexual harassment/retaliation, and (vii) whether, and if so, the extent to which, the Eligible Claimant complained to EEOC and cooperated or participated in this litigation prior to April 28, 2003. Individuals who previously advised EEOC not to seek any

relief for them in this action shall not be eligible claimants unless they in good faith provide clear and convincing reasons to the EEOC for inclusion as Eligible Claimants.

23. Acting in its discretion and subject only to final approval by the Court, EEOC shall determine the portion of the Settlement Fund that will be allocated to each of the five "claimant tiers" provided for by the immediately preceding paragraph. The amounts allocated to each of the "claimant tiers" will vary both in gross amount and on a per capita basis. Within each "claimant tier," the amount of monetary relief to be received by each Eligible Claimant shall be equal and shall reflect the factors enumerated in paragraph 22, above. This Decree contemplates that there will be significant differences in amounts individually received by Eligible Claimants assigned to each of the five claimant tiers as compared to those in other tiers. No Eligible Claimant shall receive more than \$300,000.00 in gross monetary relief.

24. This Decree further contemplates that there will be a substantially greater difference in the amounts individually received by Eligible Claimants assigned to the lowest tier, with Eligible Claimants in that lowest tier receiving much lower or nominal amounts. In assigning Eligible Claimants to that lowest tier, substantial weight shall be accorded to factor (vii) in paragraph 22, above.

Procedures To Determine Eligibility

25. **Notification of Settlement/Claims Process.** Within fourteen (14) days after entry of this Consent Decree, EEOC shall mail a Notice of Settlement to all women who are not Class Members and were employed by Dial at its Montgomery, Illinois facility at any time between January 1, 1988 and the date of entry of this Decree. Dial shall cooperate in the notification process, including, among other things, providing to EEOC last known addresses and telephone numbers of current and former female employees who are not class members, to the extent that information has not been previously provided to EEOC. All persons who are not Class Members and who wish to participate in distribution of the Settlement Fund must complete and return a Claim Form to EEOC so that it is actually received by EEOC by the close of business forty-five (45) days after the Notices of Settlement are mailed by EEOC.

26. **ANY PERSON WHO IS NOT A CLASS MEMBER, AND FROM WHOM EEOC HAS NOT ACTUALLY RECEIVED A COMPLETED CLAIM FORM BY THE CLOSE OF BUSINESS FORTY-FIVE (45) DAYS AFTER THE NOTICES OF SETTLEMENT ARE MAILED SHALL NOT BE ENTITLED TO RECEIVE ANY MONETARY RELIEF UNDER THE CONSENT DECREE, AND SHALL BE DEEMED, WITHOUT FURTHER ACT OR DEED BY ANY PERSON OR THE COURT, TO BE INELIGIBLE FOR AND FOREVER BARRED FROM RECEIVING ANY PAYMENTS UNDER THIS CONSENT DECREE.**

27. **EEOC Determination of Eligibility and Computation of Claims.** Within seventy-five (75) days after the deadline for receipt by EEOC of returned Claim Forms, EEOC shall make its determinations as to: (i) the eligibility of each claimant who has timely submitted a Claim Form to EEOC, or is a Class Member and (ii) the "claimant tier" assignment of each Eligible Claimant. EEOC shall also make at this time preliminary determinations as to the amount of monetary relief from the Settlement Fund that will be awarded to Eligible Claimants in each tier. Such

preliminary determinations may be subject to change based on (i) whether and the extent to which EEOC's determinations as to eligibility and tier placement are modified pursuant to the objection process provided for in this Decree, and/or (ii) the amount of additional interest that has accrued to the Settlement Fund between the date on which EEOC renders its determinations pursuant to this paragraph and the date on which the Settlement Fund is actually distributed to Eligible Claimants.

28. **Notification of Eligibility and Tier Assignment.** Within seventy-five (75) days after the deadline for receipt by EEOC of returned Claim Forms, EEOC shall mail to each person from whom it has received a Claim Form, or is a Class Member, a letter containing the following information: (i) whether she has been designated an Eligible Claimant; (ii) if so designated, the "claimant tier" to which EEOC has assigned her and the preliminary determination as to the amount of monetary relief to which such person will be entitled as a member of such tier; and (iii) her opportunity to object to EEOC's determinations in accordance with the provisions of this Decree. The letter will also inform each Eligible Claimant that any monetary payments she may receive from the Settlement Fund may be subject to mandatory federal, state and local income tax withholding.

29. **Confidentiality.** Claim Forms received by EEOC shall be treated as confidential and not disclosed to Dial or any other person or entity, except that such Claim Forms may be submitted confidentially to the Special Master or the Court in accordance with the claims process set forth in this Decree.

30. **Objection Procedure.** Any claimant whose Claim Form is timely received by EEOC and who desires to object to an EEOC determination concerning eligibility or "claimant tier" assignment may do so by submitting to EEOC, within thirty (30) days after the date of mailing of EEOC's determination, a written objection. Any such written objection must state the basis for the objection, the tier into which the claimant believes she should have been assigned, and the specific reasons for such assignment. Within two (2) weeks after receipt of such written objection, EEOC shall review its determination as to eligibility and/or "claimant tier" assignment for the objecting claimant and either modify its determination or deny the objection and submit the objection to a Special Master, who will be nominated within 45 days by EEOC, and, if acceptable, approved by the Court.

31. The Special Master shall promptly consider each written objection he or she receives. Within twenty-one (21) days after receiving from EEOC any objections made by a claimant, or as soon thereafter as is practicable, the Special Master shall render a final determination as to whether the objecting claimant is an Eligible Claimant and/or the appropriate "claimant tier" into which such objecting claimant should be assigned. The Special Master shall notify, in writing, both EEOC and such objecting claimant of that final determination, which shall be binding upon EEOC and the objecting claimant. The Special Master shall change the "claimant tier" assignment for an objecting claimant only upon finding that EEOC's initial tier assignment for such person constituted a gross deviation from EEOC's application of the provisions contained in paragraphs 20 - 24, above.

32. **Notification of Final Distribution Amount and Release of Claims.** Within twenty-one (21) days after receiving notification of the Special Master's final determinations for all

claimants who submitted objections, the EEOC shall mail to each Eligible Claimant a letter notifying her of the amount of the payment to which such Eligible Claimant was finally determined to be entitled (hereinafter, the "Final Settlement Amount"), and further notifying each Eligible Claimant that in order to receive any monetary payments under this Decree, she must execute and deliver to EEOC a Release (a copy of which is attached hereto as Exhibit A). The letter will inform each Eligible Claimant that such Release must be signed and returned to EEOC so that it is actually received by EEOC no later than thirty (30) days after the date on which EEOC mailed the Releases to such individuals.

33. ANY ELIGIBLE CLAIMANT WHOSE EXECUTED RELEASE IS NOT ACTUALLY RECEIVED BY EEOC WITHIN THIRTY (30) DAYS AFTER THE DATE EEOC MAILED SUCH RELEASE TO SUCH ELIGIBLE CLAIMANT WILL BE INELIGIBLE FOR AND FOREVER BARRED FROM RECEIVING ANY MONETARY RELIEF UNDER THIS DECREE.

34. Court Approval of Final Distribution Amounts. Within fourteen (14) days after the time provided for returning Releases to EEOC has expired, EEOC shall file with the Court a motion for the Court's approval of the allocation of the Settlement Fund among Eligible Claimants as determined by EEOC (or, where applicable, the Special Master). In connection with this motion, EEOC shall file, under seal, a final settlement distribution list which shall contain the name, address and Final Settlement Amount for each Eligible Claimant, as well as a copy of the Release signed by each Eligible Claimant.

35. Within fourteen (14) days after the Court's approval of the allocation of the Settlement Fund among Eligible Claimants: (a) EEOC shall provide the original signed releases to Dial's counsel and (b) the Payment Agent shall draw on the Settlement Fund checks in the amounts approved by the Court, and shall mail such checks to the addresses provided by EEOC for the Eligible Claimants. Simultaneously, the Payment Agent shall send to the EEOC a listing of each payee's name and the check amount. The Payment Agent shall promptly notify EEOC in writing of any checks that are returned or are not cashed after a period of thirty (30) days has elapsed from the date on which the settlement checks were mailed by the Payment Agent. EEOC may take, at EEOC's expense, further steps to reach those Eligible Claimants who did not receive and/or deposit their settlement checks. In the event that any portion of the Settlement Fund, including accrued interest, has not been distributed as required by this Decree after a period of three hundred (300) days has elapsed from the date on which the settlement checks were mailed by the Payment Agent, then such remaining amounts from the Settlement Fund shall be paid, at the direction of the EEOC, subject to such further orders as the Court may deem appropriate, for the benefit of women's workplace interests at the Montgomery, Illinois plant, provided, however, that in no event shall there be any reversion of any part of the Settlement Fund to Dial. In the event Dial objects to an EEOC proposal with respect to the proposed distribution for the benefit of women's workplace interests at the Montgomery, Illinois plant, then Dial may file an objection to the distribution with the Court.

36. All costs associated with the distribution of the Settlement Fund to Eligible Claimants shall be paid by Dial, including without limitation, all costs associated with the creation of the Settlement Fund, all costs related to the issuance and mailing of checks from the Settlement Fund, and all costs relating to the Special Master; except, however, that in the event that the total

costs relating to the Special Master exceed \$25,000.00, such excess amount shall be paid out of the interest from the Settlement Fund. If the total excess amount of the Special Master's costs exceeds the total amount of interest from the Settlement Fund, Dial shall be responsible for any remainder amount of costs owed to the Special Master. Under no circumstances is Dial to use the principal or interest from the Settlement Fund to pay any costs associated with the distribution of the Settlement Fund other than costs relating to the Special Master as is specified in this paragraph.

37. All amounts distributed from the Settlement Fund constitute compensatory damages, under the Civil Rights Act of 1991, 42 U.S.C. § 1981a and related state law causes of action. No payment made pursuant to this Decree shall constitute or be considered to be back-pay.

Non-Monetary Relief

38. Dial affirms the following "Statement of Intolerance of Sexual Harassment":

The Dial Corporation is firmly committed to, and reaffirms its commitment to maintain a policy of intolerance of sexual harassment and retaliation against individuals who report sexual harassment or retaliation in the company's workplace; to swiftly and firmly respond to any acts of sexual harassment or retaliation of which the company becomes aware; to maintain a disciplinary system that is designed to strongly deter future acts of sexual harassment or retaliation; to eradicate any vestiges of a work environment that is sexually hostile to women; and to monitor its workplace in order to ensure tolerance, respect and dignity for all employees.

This paragraph does not create any contractual causes of action or other rights that would not otherwise exist.

Specific Non-Monetary Relief

39. In order to effectuate the objectives embodied in Dial's Statement of Intolerance of Sexual Harassment and this Decree, Dial shall make whatever specific modifications are necessary to its existing policies, procedures and practices in order to ensure that the following policies, procedures and practices are in effect:

(a) **No Harassment Policy.** Dial agrees that it shall revise its No Harassment Policy, as necessary, in order to: (i) provide examples to supplement the definitions of sexual harassment; (ii) include strong non-retaliation language with examples to supplement the definition of retaliation, and provide for substantial and progressive discipline for incidents of retaliation; (iii) provide that complaints of sexual harassment and/or retaliation will be accepted by Dial in writing and orally; (iv) provide a timetable for reporting sexual harassment and retaliation, for commencing an investigation after a complaint has been made or received and for remedial action, if any, to be taken upon conclusion of an investigation; and (v) indicate that, promptly upon the conclusion of its investigation of a complaint, Dial will communicate to the complaining party the results of the investigation and the remedial actions taken or proposed, if any, so long as the complainant agrees to keep any disciplinary action taken confidential.

(b) Complaint Procedures. (i) Dial agrees that it shall revise its complaint procedure, as necessary, in order to ensure that it is designed to encourage employees to come forward with complaints about violations of its No Harassment Policy. As part of this policy, Dial agrees that it shall provide its employees with convenient, confidential and reliable mechanisms for reporting incidents of sexual harassment and retaliation. Dial agrees that it shall designate at least two employees from the Human Resources Department as persons who may be contacted, and their names, responsibilities, work locations and telephone numbers shall be routinely and continuously posted. Also as part of its procedure, Dial agrees that it shall keep its 24-hour Complaint hotline in place, and shall take seriously anonymous complaints received on the hotline. Additionally, as part of its complaint procedure, Dial agrees that it shall maintain in the plant the presence of personnel charged with handling complaints of sexual harassment and retaliation.

(ii) Dial agrees that it shall revise its policies as necessary to enable complaining parties to be interviewed by Dial about their complaints in such a manner that permits the complaining party, at such party's election, to provide information in a confidential manner, including providing the complainant with the ability to provide the information outside of the employee's work area. Dial agrees that its complaint procedure shall not impose upon individuals seeking to make a complaint alleging sexual harassment and/or retaliation any requirements that are more burdensome than are imposed upon individuals who make other complaints of comparable gravity.

(iii) Dial agrees that it shall revise its complaint handling and disciplinary procedures as necessary to ensure that all complaints of sexual harassment and/or retaliation are investigated and addressed promptly. Specifically, Dial agrees that it shall make best efforts to investigate all complaints of sexual harassment and/or retaliation promptly and to complete investigations within three (3) weeks. Dial will further make best efforts to prepare its written findings of the results of each investigation and the remedial actions proposed, if any, within seven (7) days after completion of the investigation, and shall thereupon promptly communicate to the complaining party the results of the investigation and the remedial actions taken or proposed, if any, so long as the complainant agrees to keep any disciplinary action confidential.

(iv) Dial agrees that it shall, for the duration of the Decree, permit individual complainants to appeal Dial's findings and remedial actions proposed or taken to the "Complaint Monitor" (as that term is defined herein), in accordance with the procedures set forth in paragraphs 50 - 55 herein.

(c) Policies Designed To Promote Supervisor Accountability.

(i) Dial agrees that it shall impose discipline -- up to and including termination, suspension without pay, or demotion -- upon any supervisor or manager who engages in sexual harassment or tolerates any such conduct in his or her work area or among employees under his or her supervision, or who retaliates against any person who complains or participates in any investigation or proceeding concerning any such conduct. Dial shall communicate this policy to all of its supervisors and managers.

(ii) Dial agrees that it shall continue to advise all managers and supervisors of their duty to monitor their work areas to ensure employees' compliance with the Company's No Harassment Policy, and to report any incidents and/or complaints of sexual harassment and/or retaliation of which they become aware to the department charged with handling such complaints.

(iii) Dial agrees to use in its supervisor appraisal process, an evaluation of the supervisor's handling of equal employment opportunity ("EEO") issues, and to link such evaluations directly to supervisor salary/bonus structure.

(iv) Dial agrees to include "commitment to equal employment opportunity" as a criterion for qualification for supervisory positions.

(d) Sexual Harassment Training.

(i) Dial agrees that it shall continue to provide mandatory annual sexual harassment training at its Montgomery, Illinois facility to all supervisors; to provide mandatory sexual harassment training to all new employees at its Montgomery, Illinois facility during employee orientation; to provide mandatory sexual harassment training to all senior management officials at its Montgomery, Illinois facility; to provide mandatory sexual harassment training for all employees of The Dial Corporation who are assigned to work at Dial's facility in Montgomery, Illinois, prior to their commencing employment at Dial's facility in Montgomery, Illinois; and to provide training to all persons at its Montgomery, Illinois facility charged with the handling of complaints of sexual harassment and/or retaliation related thereto conducted by experienced sexual harassment educators and/or investigators to educate them about the problems of sexual harassment in the workplace and the techniques for investigating and responding to the complaints. The sexual harassment training programs described in this paragraph will include training regarding Dial's policy against retaliation.

(ii) Dial agrees that it shall have a senior management official introduce all sexual harassment training to communicate Dial's commitment to its Statement of Intolerance of Sexual Harassment.

(e) Consent Decree Monitors. In accordance with paragraphs 40 and 42 of this Decree, Dial and EEOC shall appoint Consent Decree Monitors who will have broad powers to effectuate the purposes of this Decree.

(f) Complaint Monitor. In accordance with paragraph 50 of this Decree, Dial shall modify its complaint procedures to provide for the appointment of one Complaint Monitor who will, for the duration of this Decree, have the responsibility for periodically reviewing complaints of sexual harassment/retaliation and investigations of same, and for resolving any appeals filed by an employee relating to Dial's investigation and resolution of complaints involving allegations of violations of Dial's No Harassment Policy.

Creation and Function of Consent Decree Monitors

40. Immediately upon entry of this Decree, Dial and EEOC will establish a panel of Independent Consent Decree Monitors (the "Decree Monitors") to oversee the implementation by Dial of the terms of this Decree.

41. The Decree Monitors will have authority, for the entire term of the Decree, under Court supervision, to review, assess, and provide recommended changes to policies, procedures and practices that should be maintained, developed, modified or implemented to meet the non-monetary relief objectives of this Decree.

42. The panel of Decree Monitors will consist of three persons: one Dial appointee, one EEOC appointee, and one appointee agreed to by the parties who will serve as chairperson. Within twenty one (21) days of the entry of this Consent Decree, Dial shall appoint one appointee and provide that person's name to the EEOC and the Court. EEOC's appointee shall be Nancy B. Kreiter. Within thirty (30) days of the entry of this Consent Decree, the parties shall agree upon a Chairperson, whose name shall be provided to the Court. In the event a Decree Monitor is unable or unwilling to continue to serve throughout the term of this Consent Decree, the appropriate designating party or the parties jointly, as applicable, shall have the authority to replace that member, subject to Court approval. If the Chairperson is unwilling or unable to continue as Chairperson, the parties shall jointly select a new Chairperson subject to court approval.

43. The panel of Decree Monitors will operate as a team and will work together in their oversight of the implementation of this Decree. The Decree Monitors will attempt to reach consensus on all recommendations; provided, however, that if they are unable to reach unanimity as to a specific recommendation, a majority shall prevail.

44. Within two (2) months after the appointment of the Decree Monitors, they will: (i) evaluate all existing employment policies, procedures and practices that are related to the objectives contained in the Statement of Intolerance of Sexual Harassment and this Decree; and (ii) after consultation with EEOC and Dial, make recommendations for any changes to such existing policies, procedures and practices that the Decree Monitors believe is necessary or appropriate. The Decree Monitors shall report their findings and recommendations to EEOC and Dial.

45. Dial shall implement each recommendation of the Decree Monitors unless, within twenty-one (21) business days after receiving a recommendation, Dial files an objection with EEOC that the Decree Monitors' recommendation, in whole or in part, involves the application of unsound business judgment or is technically not feasible. The parties will then have thirty (30) business days within which to try to resolve the objection. If they are unable to do so, Dial shall then have seven (7) business days within which to file an objection with the Court.

46. In the event that Dial files with the Court an objection to any of the Decree Monitors' recommendations, EEOC will participate in the proceedings with the Court.

47. Within one (1) year after appointment, the Decree Monitors shall complete their own review and evaluation of all current employment policies and practices, and shall submit a written report to EEOC, Dial and the Court setting forth the following information:

- (i) an assessment of whether Dial has successfully implemented each specific policy/practice agreed upon in paragraph 39 above;
- (ii) for each specific policy/practice that has not been successfully implemented, a statement discussing the reason for Dial's failure to implement such change;
- (iii) an evaluation of the impact of the specific changes made pursuant to this Decree;
- (iv) an assessment of the effectiveness of Dial's policies and practices for achievement of Dial's Statement of Intolerance of Sexual Harassment;
- (v) recommendations for any changes to existing practices, policies or programs or any additional policies, practices or programs that the Decree Monitors deem necessary or appropriate for achieving Dial's Statement of Intolerance of Sexual Harassment and the terms of this Decree; and
- (vi) timetables for implementation and completion of compliance with any of the recommendations, subject to the terms of this Decree.

At the end of the second year and then again at the end of the duration of this Consent Decree, the Decree Monitors shall submit a report to EEOC, Dial and the Court setting forth the same information described herein.

48. Dial shall implement each recommendation of the Decree Monitors except as in accordance with the provisions for making objections set forth in paragraphs 45 - 46 of this Decree.

49. Dial shall cooperate with the Decree Monitors in connection with their efforts to oversee and monitor the implementation of the non-monetary relief objectives of the Decree, including providing reasonable access to all relevant documents and other sources of information, in whatever form they are maintained in the ordinary course of business, necessary or appropriate to the exercise of his/her authority. The Decree Monitors shall make best efforts to minimize the disruption to the workplace during the course of their oversight. Nothing in this Decree shall confer on the Decree Monitors the power to require the disbandment or reorganization of any Department at Dial. Given the need of the Decree Monitors to review confidential business information of Dial, the Decree Monitors will sign a confidentiality agreement.

50. Dial shall be responsible for the implementation of all non-monetary relief under the terms of this Decree, except as otherwise provided herein. Dial shall not be precluded from developing and implementing its own programs as it may find appropriate. In formulating their determinations and recommendations, the Decree Monitors will take such programs into account.

51. Dial shall compensate the Decree Monitors, at their customary rate or upon other terms acceptable to Dial, the Decree Monitors and EEOC. Dial shall pay any and all reasonable costs necessary to fulfill the work of the Decree Monitors.

Monitoring of Complaints

52. In addition to the functions and purposes described above, the Chairperson of the Decree Monitors shall be designated as the Complaint Monitor ("Complaint Monitor"). The Complaint Monitor shall have the responsibility for periodically reviewing complaints of sexual harassment/retaliation and investigations of same, and for resolving any appeals filed by an employee relating to Dial's investigation and resolution of complaints involving allegations of violations of Dial's No Harassment Policy.

53. Upon completion of an investigation and completion of a report, Dial shall inform the complaining party of his/her right to appeal Dial's finding to the Complaint Monitor. Dial shall inform the complaining employee, in writing, of the appointment and function of the Complaint Monitor, including the name, telephone number and address at which the Complaint Monitor may be reached, and shall inform the complainant of his/her right to contact the Complaint Monitor and to appeal Dial's findings to the Complaint Monitor.

54. If an appeal is filed, Dial shall promptly prepare and provide the Complaint Monitor with a copy of a written report summarizing the investigation undertaken and any remedial actions taken or proposed by Dial.

55. If, upon receiving and reviewing an appeal from an individual complainant, the Complaint Monitor believes that the remedial action proposed by Dial is inconsistent with the terms of this Decree, the Complaint Monitor shall first attempt to resolve the disagreement with Dial. If Dial and the Complaint Monitor are unable to reach a resolution of their disagreement to the satisfaction of the Complaint Monitor, the Complaint Monitor shall report to EEOC any such inconsistency.

56. Nothing in this Decree vitiates the right of employees or their union to file grievances under the collective bargaining agreement, including but not limited to matters related to alleged sexual harassment/retaliation or alleged improper disciplinary actions. In the event any disciplinary action taken by Dial is overturned by an arbitrator as the result of a union grievance, the decision of the arbitrator shall, to the extent required by law, be final and binding. The parties to this Decree recognize that Dial and the union representing Dial's employees have certain obligations under the National Labor Relations Act; this Decree will be administered consistent with federal labor and employment discrimination laws.

57. Except for communicating as may be necessary with Dial and EEOC, the Complaint Monitor shall retain all information supplied by Dial relating to each complaint in strict confidence.

58. Dial shall compensate the Complaint Monitor as set forth in Paragraph 49.

Posting of Notice

59. Within three (3) weeks after entry of this Decree, Dial shall post notices in prominent and conspicuous locations throughout the plant, in the form of Exhibit B. The notice shall remain posted for the duration of this Decree. The notice shall include the appointment and function of the Complaint Monitor. In the event there is a change with the persons and/or departments to whom individuals should make complaints during the term of the Decree, Dial shall immediately notify EEOC, who shall then prepare and deliver to Dial a new notice that contains the correct information. Dial shall thereupon promptly replace the old notices with the revised notices.

60. Dial shall provide a copy of the Decree to any employee who requests one.

Dispute Resolution

61. In the event that either party to this Decree believes that the other party has failed to comply with any provision(s) of the Decree, the complaining party shall notify the alleged non-complying party in writing of such non-compliance and afford the alleged non-complying party ten (10) business days to remedy the non-compliance or satisfy the complaining party that the alleged non-complying party has complied. If the alleged non-complying party has not remedied the alleged non-compliance or satisfied the complaining party that it has complied within ten (10) business days, the complaining party may apply to the Court for appropriate relief. In the event that, upon the expiration date of this Decree, a dispute is pending pursuant to this paragraph, then the term of this Decree shall be extended, with respect to the issue in dispute only, until such time as such dispute is resolved by the Parties or the Court.

Enforcement of Decree

62. EEOC and Dial will make best efforts to effectuate the terms of this Decree.

63. EEOC, Dial and the Chairperson of the Decree Monitors shall each have independent authority to seek the judicial enforcement of any aspect, term or provision of this Decree and may take appropriate measures to effectuate enforcement of this Settlement Agreement and any of its terms or provisions.

64. Eligible Claimants shall not have an independent right to enforce any of the terms of this Decree.

65. In the event of a party seeking judicial enforcement of the Decree, the Court shall have the authority to resolve that dispute consistent with the terms of this Decree.

66. Nothing in this Decree is intended to confer upon any person other than EEOC, Dial and the Chairperson of the Decree Monitors the right to seek enforcement of this Consent Decree or of any of the terms contained herein.

Confidentiality

67. The Parties shall keep confidential the names of all Eligible Claimants and the Distribution Amounts that each received.

Costs

68. Dial agrees to pay all costs associated with the administration of this Decree, except as is specifically provided otherwise in this Decree.

69. Each Party shall bear its own costs and attorneys' fees associated with this litigation, including an equal sharing of the jury costs pursuant to LR 54.2, which total \$1550.00, and neither Party shall seek reimbursement for any outstanding litigation costs.

Other General Provisions

70. **Computation of Time Periods.** In computing any period of time prescribed or allowed by this Decree, unless otherwise stated, such computation shall be made consistent with the Federal Rules of Civil Procedure.

71. **Counterparts.** This Decree may be executed in one or more counterparts, and each executed copy shall be deemed an original which shall be binding upon all parties hereto.

72. **Persons Bound By Decree.** The terms of this Consent Decree are and shall be binding upon the Parties.

73. **Dial Not Required to Violate Existing Law.** Dial is not required by this Consent Decree to violate any applicable law, order, ordinance, or regulation as interpreted by controlling judicial authority. This paragraph applies to final decisions of all Federal and State courts and agencies with jurisdiction over Dial and to all court orders naming Dial. In the event of any conflict between federal law and state law, federal law shall govern.

74. **Notices.** Except as is otherwise provided for in this Decree, all notifications, reports and communications to the Parties required under this Decree shall be made in writing and shall be sufficient as faxed, e-mailed, hand-delivered or sent by first class mail to the following persons:

For EEOC:

John C. Hendrickson, Esq.
Regional Attorney
EEOC
500 W. Madison St., Suite 2800
Chicago, Illinois 60661

For Dial:

M. Margaret Banas, Esq.
Vice President, Senior Labor/Employment Counsel
The Dial Corporation
15501 North Dial Boulevard
Scottsdale, Arizona 85260

Any party may change such addresses by written notice to the other parties, setting forth a new address for this purpose. Notwithstanding the provisions for notification contained in this paragraph, the Parties may send each other such notifications, reports and communications by facsimile transmission.

75. **Construction.** The terms of this Decree are the product of joint negotiations and shall not be construed as having been authored by one party rather than another.

76. **Integration.** This Decree constitutes the entire agreement between Dial and EEOC hereto with respect to the matters herein and it supersedes all negotiations, representations, comments, contracts, and writings prior to the date of this Consent Decree.

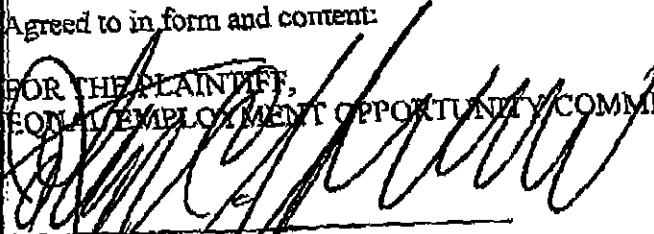
SO ORDERED, ADJUDGED AND DECREED this 29th day of April, 2003.



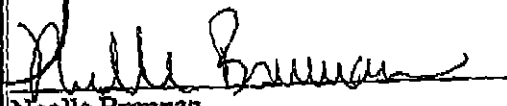
United States District Court Judge Warren K. Urbom

Agreed to in form and content:

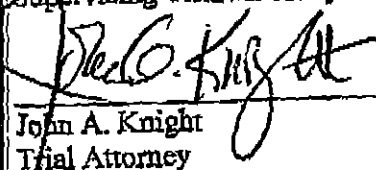
FOR THE PLAINTIFF,
EQUAL EMPLOYMENT OPPORTUNITY COMMISSION:



John C. Hendrickson
Regional Attorney



Noelle Brennan
Supervising Trial Attorney



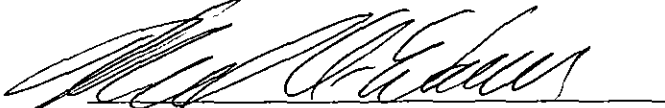
John A. Knight
Trial Attorney

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION
500 West Madison Street
Suite 2800
Chicago, Illinois 60661
(312) 353-8551

Dated: 4/29/2003

Agreed to in form and content:

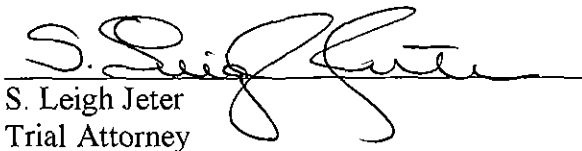
FOR THE DEFENDANT,
THE DIAL CORPORATION:



Michael A. Warner
Trial Attorney



Camille A. Olsen
Trial Attorney



S. Leigh Jeter
Trial Attorney

SEYFARTH SHAW
55 East Monroe
Suite 4400
Chicago, Illinois 60603
(312) 346-8000

Dated: 4/29/03

RELEASE OF CLAIMS

EEOC v. Dial, 99 C 3356 (N.D. Ill.)

1. **RELEASE.** In consideration for the sum (the "*Final Settlement Amount*") paid to me by The Dial Corporation, ("Dial"), pursuant to the terms of the consent decree (the "*Consent Decree*") entered by the Court in Equal Employment Opportunity Commission v. The Dial Corporation", Civil Action No. 99 C 3356 (N.D. Ill.), I hereby release and forever discharge Dial, its successors, assigns, directors, officers, agents, representatives, and employees from all claims, demands, causes of action or liabilities which I now have or have had against Dial arising under or related to Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §2000e et seq. ("Title VII"), Pregnancy Discrimination Act, 42 U.S.C. §2000e(k), Equal Pay Act of 1963, 29 U.S.C. §201 et seq. and related state law claims, including any Title VII claims asserted in any pending Charge of Discrimination, provided, however, that this Release shall not operate to release, waive, or otherwise inhibit the right of EEOC to enforce the terms and conditions of the *Consent Decree*, including, without limitation, the obligation of Dial to make payments to me pursuant to the terms of the *Consent Decree*; and, further provided, that nothing in this Release shall be construed as a waiver of any rights or claims I may have arising after the date of the entry of the *Consent Decree* or for any claims, demands, causes of action or liabilities that I now have or have had against Dial that are not described above.
2. **COVENANT NOT TO SUE.** In exchange for the promises made by Dial in the Consent Decree, I agree never to institute or be voluntarily joined as a party to any suit against Dial on any grounds covered by the release set forth in paragraph 1.
3. **TAXES ON FINAL SETTLEMENT AMOUNT.** I understand that the *Final Settlement Amount* is for emotional pain, suffering, inconvenience, mental anguish, loss of enjoyment of life and non-pecuniary losses rather than for back pay. I further understand that Dial will report the *Final Settlement Amount* to the Internal Revenue Service on a Form 1099.

I acknowledge that the *Final Settlement Amount* may be subject, in whole or in part, to federal and state income taxation. I understand that I am solely responsible for any tax payments which may be required under the law in connection with the payment.
4. **NO WAIVER OF FUTURE CLAIMS.** I do not waive any rights or claims that may accrue after the date that I sign this Release.

EXHIBIT A

THIS IS A RELEASE; READ BEFORE SIGNING

I, _____, expressly warrant and represent that:

- (a) I have carefully read the terms of this Release and am fully aware of its contents and legal effects; and
- (b) I execute this Release voluntarily, knowingly and willingly.

Executed on this _____ day of _____, 2003.

Name of Claimant

Printed Name of Claimant

EXHIBIT A

The Dial Corporation

NOTICE TO ALL EMPLOYEES POSTED PURSUANT TO A VOLUNTARY CONSENT DECREE

This notice has been posted pursuant to the voluntary agreement of the parties and an Order of the Court, approving the Consent Decree entered in resolution of a lawsuit brought by the U.S. Equal Employment Opportunity Commission ("EEOC") against The Dial Corporation ("Dial") on May 20, 1999 in the Federal District Court for the Northern District of Illinois. The Consent Decree resolves EEOC's claims of sexual harassment against Dial and enjoins Dial from certain conduct prohibited by law.

Federal law and the Consent Decree prohibit sexual harassment and sex-based harassment or other discrimination against any individual because of his or her sex.

Federal law also prohibits retaliation against any individual by an employer because the individual complains of discrimination, cooperates with any Dial or government investigation of a charge of discrimination, participates as a witness or potential witness in any investigation or legal proceeding, or otherwise exercises his or her rights under law.

Any employee who is found to have retaliated against any other employee because such employee participated in this lawsuit will be subject to progressive discipline, up to and including discharge.

Should you have any complaints of discrimination, you should contact **[TO BE INSERTED CONSISTENT WITH DIAL'S POLICY]**. You may call Dial's Employee Hotline 24 hours per day, seven days per week at the following toll-free telephone number: 1-888-662-7878. If covered by a collective bargaining agreement, you may also file a grievance.

Pursuant to the Consent Decree, and for the duration of the Consent Decree, Dial will permit individuals who complain about sexual harassment to appeal Dial's findings and remedial actions to a "Complaint Monitor."

Copies of the Consent Decree may be obtained through the Human Resources Department.

Employees have the right to bring complaints of discrimination, including sexual harassment, to the United States Equal Employment Opportunity Commission, Chicago District Office at 500 West Madison Street, Suite 2800, Chicago, Illinois 60661, (312) 353-2713, or the Illinois Department of Human Rights, 100 W. Randolph, 10th Floor, Chicago, IL 60601, (312) 814-6245

This is an official notice and shall not be defaced by anyone. This notice shall remain prominently posted in the front lobby and other prominent locations throughout the plant until _____. This Official Notice shall not be altered, defaced, covered or obstructed by any other material.

EXHIBIT B