

**UNITED STATES DISTRICT COURT
DISTRICT OF MARYLAND
(Northern Division)**

MELVIN NEWSOME, et al.

Plaintiffs,

v.

UP-TO-DATE LAUNDRY, INC., et al.

Defendants.

Civil Action No. 01-2257 (WDQ)

**PLAINTIFFS' MOTION TO DISBURSE UNDISTRIBUTED FUNDS
AND TERMINATE CONSENT DECREE**

The Court approved a Consent Decree resolving this class action on November 23, 2004. Paragraph 23 provided for retention of jurisdiction until defendants made all payments required under paragraph 17, which established a schedule under which defendants would pay a total of \$1,830,000 in six installments, the last of which was to be made by December 31, 2008.

Defendants made all payments required under the Consent Decree, and funds were distributed to the members of the plaintiff class in accordance with paragraph 22 and the formula set forth in Exhibit 1 to the Decree. In Round 1, class members received 100% of their back pay losses. Rounds 2 and 3 distributed compensatory damages according to the formula. There is now a remainder of undistributed funds amounting to \$29,179.28.

The remainder is the result of a number of checks sent to twelve class members that remain uncashed. The uncashed checks fall into two categories. Four class members died during the course of the distribution period, and class counsel could not locate any heirs. Eight other class members simply did not cash distribution checks, even though

some had cashed an earlier check. (Exhibit 1 provided for three separate distributions). Class counsel used their best efforts over a period of many months to locate these individuals but could not.

From the outset, class counsel repeatedly cautioned all class members to advise counsel of any change of address and set up a toll-free number for that purpose, which has been in operation since 2004. In addition, counsel:

- Searched litigation files for possible contact information;
- Spoke to class representatives about missing persons;
- Telephoned previously-listed phone numbers for missing class members;
- Mailed multiple letters to old or newly located addresses;
- Searched the Social Security Administration's Death index database for information about deceased persons;
- Searched on-line databases for information about missing persons, including "White Pages" databases, Maryland and Washington, DC court docket databases, the Maryland inmate locator database, and Lexis-Nexis public records; and
- hired an investigator to go to the previously-listed Baltimore home address of a number of missing persons in the winter of 2009.

Despite these efforts, a small number of individuals are untraceable and a remainder of \$29,179 exists. Paragraph 7 of Exhibit 1 provides for the donation of a remainder of less than \$7,500 to the NAACP Legal Defense and Education Fund, Inc., but the Decree does not address the disposition of a remainder over \$7,500, as is the case here.

Exhibit 1 to the Decree provides for three distributions to class members, and all three have been made. Rather than simply distributing the remainder to the class in accordance with the distribution formula, which would incur more administrative expense and would result in a relatively small amount for each of the 144 remaining class members, we propose terminating this Consent Decree by distributing \$1,000 apiece to the 24 individuals principally responsible for this successful litigation -- those who filed

charges of race-based discrimination against defendant Up-To-Date Laundry with the Maryland Commission on Human Relations (MCHR).

The MCHR complaints of race discrimination were originally filed in 1999, led to the above-styled federal class action discrimination complaint and involved the same factual allegations. By way of background, over a period of many months, MCHR thoroughly investigated the complaints of discrimination filed by these 24 class members. The class members played an important role in repeatedly meeting with MCHR investigators and providing critical evidence about their claims. In June 2001, MCHR issued 24 "Written Findings," finding that defendant intentionally discriminated against each complainant. Given the circumstances, redistributing the remaining 1% of the original settlement to these 24 class members is a fair method to ensure that they receive a small measure of the compensation that they deserve. Indeed, in June 2001, MCHR proposed damage assessments for these 24 persons, each of which was significantly more than \$1,000, and the current proposed distribution is in accord with those estimates.

After this proposed distribution, any remainder would be used to defray the expenses of the final distribution (which we anticipate will be less than \$1,000) or donated to the NAACP Legal Defense and Education Fund, Inc., consistent with paragraph 7 of Exhibit 1 to the Decree.

Defendants do not consent to this motion. A proposed order is attached.

/s/

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served on December 21, 2009 via
the Court's electronic notification system upon:

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