

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
FOURTH DIVISION**

Gerald Carter, et al.,

Case No. 4-70 Civ. 399 PAM/JGL

Plaintiffs,

vs.

**STIPULATION AND ORDER
TERMINATING JURISDICTION**

Hugh Gallagher, et al.,

Defendants.

The parties, through their attorneys, hereby stipulate and agree as follows:

WHEREAS:

The Plaintiff Class has scheduled a Motion for Contempt concerning the Defendants' use of a selection device known as the Employment Inventory/Customer Service Inventory;

The Plaintiff Class alleges that the Employment Inventory/Customer Service Inventory had an adverse impact against African American candidates for the position of Firefighter Cadet and that the selection device has not been properly validated pursuant to E.E.O.C. guidelines;

The Defendants deny that the Employment Inventory/Customer Service Inventory resulted in any adverse impact against any Carter class groups;

The Defendants maintain that the Employment Inventory/Customer Service Inventory has been properly validated in accordance with E.E.O.C. guidelines;

The above-captioned case has been an active federal court case since 1970. In 1971, the Federal District Court entered a Decree in the above-captioned case, which provided for continuing jurisdiction by the Court. Civ. No. 4-70-399 (D. Minn. 1971);

FILED **NOV 15 2000**
FRANCIS E. DOSAL, CLERK
JUDGMENT ENTD _____
DEPUTY CLERK _____

The parties have, from time to time, entered into stipulations and consent decrees and this Court has signed several orders and entered judgments pursuant to the parties' motions;

There have been substantial changes in the factual circumstances concerning the composition of the Minneapolis Fire Department and in the Defendants' practices and procedures for hiring entry-level firefighters as a result of the parties' implementation of the Court's orders. These changes include:

The racial composition of the Minneapolis Fire Department has changed since 1971, when there were no Carter Class employees. At the present time there are 113 (25.6%) Carter Class employees in the Minneapolis Fire Department, and there are 67 (34.7%) Carter Class employees at the rank of Firefighter;

The Defendants have adopted improved recruiting procedures;

The Defendants have adopted selection devices that, with the exception of the EI/CSI examination, discussed herein, have not had an adverse impact on Carter Class applicants; and

The Defendants believe they have substantially complied with the original mandate of this court - the successful integration of the Minneapolis Fire Department;

THE PARTIES NOW AGREE on the following terms for resolving the pending Motion for Contempt and terminating the Court's jurisdiction in this case:

1. The Plaintiff Class' pending Motion for Contempt regarding the Employment Inventory/Customer Service Inventory is dismissed.
2. The Court shall retain jurisdiction of this case until the first group of cadets (Cadet Class I) is hired from the 2000 eligibility list and begins training as Firefighter

Cadets, which is currently scheduled for January 2, 2001. The Court shall retain jurisdiction for the sole purpose of monitoring and enforcing compliance with the portions of the Court's orders dealing with the hiring of Firefighter Cadets, including specifically the administration of the post-offer examinations, such as psychological exams, medical exams and background checks for Cadet Class I only. Upon the execution of this Stipulation and Order Terminating Jurisdiction, the Court's jurisdiction to enforce any of its other orders or consent decrees is terminated.

3. When Cadet Class I begins training as Firefighter Cadets, the Court's remaining jurisdiction, as described in ¶2, above, is terminated. Upon the termination of the Court's jurisdiction in this case, the Legal Aid Society's and the Firefighter Advisory Steering Committee's oversight of the Defendants' recruiting and testing processes is terminated, and no further data classified as private or confidential data pursuant to the Minnesota Government Data Practices Act will be provided to the Court or the Legal Aid Society, except as provided in the Minnesota Government Data Practices Act, and except as set forth in this Stipulation and Order Terminating Jurisdiction.
4. The Defendants agree to test the next two highest-ranking African American candidates on the Stage I eligibility list, as determined solely by their performance and resulting ranked score on the Employment Inventory/Customer Service Inventory. Those two candidates will be tested on the Work Simulation and the Structured Interview, and will be placed on the final ranked list of eligible candidates, according to their score, if they pass the remaining selection devices. The additional applicants will be provided a reasonable time to prepare for the tests and the tests

shall be held under reasonable weather conditions, as soon as reasonably possible in 2001.

5. The Defendants agree to continue using expanded certification in the 2000 hiring process, as previously directed by the Minneapolis Civil Service Commission and as stipulated by the parties and ordered by the Court.
6. When the 2000 eligibility list is established, the Defendants may make conditional offers of employment from that eligibility list without restriction as to the number of conditional offers made.
7. After the 2000 eligibility list expires, and when the Defendants test the next group of applicants for the position of Firefighter Cadet, the Defendants agree to administer the Employment Inventory/Customer Service Inventory and the e-Selex.com Firefighter Biodata Instrument to all applicants who pass the ABLE reading test. The Defendants will study the impact of both tests on minority groups, and will present the results of the study to the Minneapolis Civil Service Commission at a public meeting. After the 2000 eligibility list expires, and for the next testing process only, the Defendants must provide the results of the adverse impact study for each selection device at issue to the attorney for the Plaintiff Class in sufficient time for the Plaintiff Class to hire its own expert, at its own expense, to analyze the impact of each selection device, and report to the Civil Service Commission regarding the analysis at the above-mentioned public meeting. The Civil Service Commission will decide which selection device will be used as the Stage I ranking instrument, based on the evidence regarding adverse impact, as submitted at the public meeting.

8. After the 2000 eligibility list expires, and when the Defendants administer the Employment Inventory/Customer Service Inventory to the next group of applicants, the Defendants will rank all candidates who take that selection device based on their score on each scale. After the 2000 eligibility list expires, and when the Defendants administer the Employment Inventory/Customer Service Inventory to the next group of applicants, there will be no pass/fail screen-out for either scale on the Employment Inventory/Customer Service Inventory.
9. Prior to making any changes to any of the current selection devices for the next round of testing and hiring, after the 2000 eligibility list expires, the Defendants shall present all of the current selection devices, including any proposed changes to any of the current selection devices, to the Minneapolis Civil Service Commission at two consecutive open meetings. The Minneapolis Civil Service Commission must approve all of the selection devices to be used by the Defendants in the next round of testing, after the 2000 eligibility list expires, including any changes to any of the current selection devices.
10. For the next round of testing and hiring, after the 2000 eligibility list expires, any change in the current process for verifying the tribal enrollment data of any applicant who claims Native American ancestry must be presented to the Minneapolis Civil Service Commission for comment at a public meeting. The Defendants shall provide copies of the proposed changes to the attorney for the Plaintiff Class and Ronald Edwards at least ten (10) business days before the proposed changes are presented to the Minneapolis Civil Service Commission.


11. After the 2000 list expires, and prior to the next recruiting period for the position of Firefighter Cadet, the Defendants will submit their plan for recruitment, including the number of full-time Fire Department recruiters to be used during active recruiting, to the Minneapolis Civil Service Commission for comment at a public meeting.
12. After the 2000 eligibility list expires, and prior to submitting a proposed recruiting plan for the next recruiting period, the Defendants shall conduct an evaluation of the recruiting procedures used to recruit applicants for the 2000 eligibility list, which evaluation shall include recommendations concerning procedures which should be continued and new procedures which should be implemented in the future. The Defendants shall submit the evaluation to the Minneapolis Civil Service Commission for comment at a public meeting. The Defendants shall provide copies of the evaluation to the attorney for the Plaintiff Class and Ronald Edwards at least five (5) business days before the evaluation is presented to the Minneapolis Civil Service Commission.
13. After the 2000 eligibility list expires, and at least 10 business days before the first public meeting described in ¶9, above, the Defendants shall provide a copy of the following documents to the attorney for the Plaintiff Class and to Ronald Edwards:
 - A. Proposed examination plan, including a copy of the proposed plan;
 - B. The recruitment plan;
 - C. Any changes in the selection devices, including all post-offer selection devices (such as psychological examination, medical examination and background check) to be used in the 2002 hiring process, including providing copies of any new selection devices;

14. After the 2000 eligibility list expires, and during the next round of testing and hiring, the Defendants shall provide copies of all eligibility lists, including Stage I and final eligibility lists, to the extent the data is public data pursuant to the Minnesota Government Data Practices Act, to the attorney for the Plaintiff Class and to Ronald Edwards.
15. The Defendants agree to pay the Plaintiff Class counsel \$20,000 in attorneys fees and expenses incurred in bringing the pending Motion for Contempt.

FOR THE PLAINTIFF CLASS:

Dated: 13 November 2000

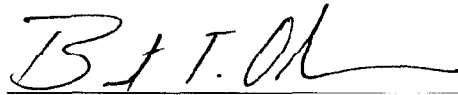
Legal Aid Society of
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FOR THE DEFENDANTS:

Dated: Nov. 13, 2000

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FOR THE PLAINTIFF-INTERVENOR:

Dated: _____

Minneapolis Commission on
Civil Rights
By


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ORDER OF THE COURT

The Court adopts the parties' agreement as its Order in this case, and on the date when the Defendants hire Cadet Class I, the Court's jurisdiction over this case is hereby terminated.

IT IS SO ORDERED.

Date: November 15, 2000



Hon. Paul A. Magnuson
Judge of the Federal District Court