UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION, Plaintiff, and DAVID BELL, JOSEPH JONES, TORRIS WILLIAMS, FRANK EARL, III, DeLEON PIGGEE, and KARL SMITH, Plaintiff-Intervenors, v. FEDEX FREIGHT EAST, INC., formerly known as AMERICAN FREIGHTWAYS, INC., Defendant.	)	NO. 4:03-CV-1393 (CEJ)

CONSENT DECREE

Plaintiff Equal Employment Opportunity Commission ("EEOC") has instituted this action alleging that American Freightways, which was subsequently acquired and is now operated by FedEx Freight East, Inc., (FXFE), violated Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000 *et seq.*, by discriminating against twenty of its African-American employees at its St. Louis terminal. Specifically, the EEOC has alleged that American Freightways, Inc., which was subsequently acquired and is now operated by Fed Ex Freight East, has discriminated against African-American employees in the selection of full-time employees from part-time employees, their terms and conditions of employment, including work assignments, training, and skills development, and in promotions.

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DeLeon Piggee, Torris D. Williams, David L. Bell, Sr., Karl A Smith, Frank Earl, III, and Joe N. Jones have intervened in this action, making similar allegations as the Commission, and in addition asserting claims under 42 U.S.C. §1981. FXFE specifically denies each of these allegations by the EEOC and Plaintiff-Intervenors. The parties have reached a settlement and compromise of the claims in this action and have advised the Court that they wish to resolve the instant controversy between them in order to avoid the significant expense, delay, and burden of further litigation.

THEREFORE, it is the finding of this Court, made on the pleadings and on the record as a whole and upon agreement of the parties, that: (i) this Court has jurisdiction over the parties to and the subject matter of this action, (ii) the requirements of Title VII and 42 U.S.C. § 1981 will be carried out by the implementation of this Decree, (iii) this Decree is intended to and does resolve all matters in controversy in this lawsuit among the parties, and (iv) the terms of this Decree constitute a fair and equitable settlement of all issues in this lawsuit.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED as follows:

I. GENERAL PROVISIONS

A. This Decree is entered with the consent of the parties for purposes of settlement and shall not constitute an adjudication on the merits of the lawsuit. Nothing in this Decree shall in any respect be construed as an admission by FXFE of an act of discrimination or any violation of Title VII. FXFE specifically denies that it has engaged in any racial discrimination. This Decree resolves all claims raised by Plaintiff EEOC in its complaint, including all claims raised by EEOC on behalf of the individuals identified as additional aggrieved parties in Attachment A ("additional aggrieved parties"), and all claims raised and which could have been raised by Plaintiff-Intervenors DeLeon Piggee, Torris D. Williams, David L. Bell, Sr., Karl A. Smith, Frank Earl, III, and Joe N. Jones in

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their complaint. Plaintiff EEOC states that none of the additional aggrieved parties have filed a charge with the EEOC concerning the claims raised in this action and that the 300-day time-period for doing so expired prior to the filing of this suit.

B. FXFE agrees that it will not discriminate or retaliate against any person because he or she has opposed any practices alleged as unlawful under Title VII or 42 U.S.C. § 1981 in this complaint, has participated in an investigation conducted under Title VII with respect to this complaint, or because he or she has participated in this lawsuit or has benefited in any way as a result of this Consent Decree.

II. MONETARY RELIEF

A. FXFE agrees to pay in settlement of all claims alleged against it by DeLeon Piggee, Torris D. Williams, David L. Bell, Sr., Karl A. Smith, Frank Earl, III, and Joe N. Jones (hereinafter collectively "the Plaintiff-Intervenors"), and by the EEOC on behalf of the Plaintiff-Intervenors and the additional aggrieved parties, the sum of five hundred thousand dollars ($500,000.00).

B. Each Plaintiff-Intervenor shall receive an amount as stated in the release to be signed by him as a condition to receive such payment. This sum represents compensation for compensatory damages and for attorney's fees and costs. The payments to be made to Plaintiff-Intervenors shall be made by check jointly payable to each Plaintiff-Intervenor and Weinhaus, Dobson, Goldberg & Moreland. The checks shall be delivered to Plaintiff-Intervenor's counsel of record, Jerome Dobson, within seven (7) days after receipt by FXFE of a release signed by each Plaintiff-Intervenor or the entry of the Consent Decree, whichever is later. FXFE shall issue forms 1099 to Plaintiff-Intervenors in accordance with the terms of the releases to be signed by Plaintiff-Intervenors.

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C. Each additional aggrieved party shall receive an amount as stated in the release to be signed by him as a condition to receive such payment. This sum represents compensation for compensatory damages for physical and emotional injuries. The payments to be made to each additional aggrieved party shall be made by one check payable to Weinhaus, Dobson, Goldberg & Moreland as trustees for the non-intervenors identified in Exhibit A in the agreed upon amount. Weinhaus Dobson will advise FXFE in writing of the sums paid to each individual. FXFE shall issue a form 1099 for each such payment. The check shall be delivered within seven days after the receipt by FXFE of executed releases or filing of the approved consent decree. If after 60 days from the entry of this decree any additional aggrieved party has not provided a release, then he shall lose the right to such payment and any other relief or claim provided by this Consent Decree. A copy of each check provided to an additional aggrieved party shall be delivered to plaintiff EEOC's counsel of record, C. Felix Miller, within five days after its mailing.

D. Any monies which are not distributed because of the failure of an additional aggrieved party to provide a release within 60 days of the entry of this decree shall be equally divided among those Plaintiff-Intervenors and additional aggrieved parties who have provided releases and distributed to them by check by Weinhaus, Dobson, Goldberg & Moreland within 70 days after entry of this decree. The validity of the releases provided by the Plaintiff-Intervenors and additional aggrieved parties is not contingent upon this payment. A copy of each check provided pursuant to this paragraph shall be delivered to plaintiff EEOC's counsel of record, C. Felix Miller, within five days after its mailing.

III. INJUNCTIVE RELIEF

A. Quarterly Reports

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Three months after the date of the entry of this Decree, and every three months thereafter during the term of this decree, FXFE shall prepare and submit to the EEOC a written report including the following information: (1) A list of all persons who worked at any time during the preceding three-month period as a part-time or full-time dock worker, containing name, address, telephone number, date of hire, race, date became full-time (if applicable), and date of termination of employment (if applicable); and (2) a list of all persons who became City Drivers during the preceding three-month period, including name, address, telephone number, date of hire, race, date became a full-time employee and date of termination of employment (if applicable).

B. Employee Survey

For a period of two years following the entry of this consent decree, Defendant will provide a written survey to its part-time and full-time dock workers at its St. Louis terminal every six (6) months to ask if they believe that dock assignments are being allocated fairly. These surveys will not expressly mention race. In these written surveys, the dock workers shall have an opportunity to respond in writing and provide their response(s) to management. The complete results and responses of these four (4) surveys shall be promptly provided to C. Felix Miller, counsel of record for the EEOC, but no later than 45 days after the end of each six-month period.

C. FXFE shall allow representatives of the EEOC to review FXFE's compliance with this Decree by providing copies of relevant documents and records to the EEOC within ten (10) business days of a written request by EEOC for such records. FXFE shall also provide written answers to any questions concerning implementation of this Decree submitted to it in writing by EEOC, and if after review of FXFE's answers the EEOC determines that additional information is needed to determine FXFE's compliance with this decree, FXFE shall within ten (10) business days

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of written notice from EEOC, make available the appropriate management employees for interviews at a mutually agreeable location and time. FXFE retains the right to have legal representation at all interviews of its management employees.

D. This Decree shall be binding upon the parties hereto, their successors and assigns. Any notification or report required of FXFE by this Decree shall be mailed to the following address:

C. Felix Miller
Senior Trial Attorney
Equal Employment Opportunity Commission
St. Louis District Office
Robert A. Young Federal Building
1222 Spruce Street, Room 8.100
St. Louis, Missouri 63103

or such other address as specified by the Commission in writing.

IV. TERM OF THE DECREE

This Decree shall be in effect for a period of three (3) years and may be extended for good cause shown. During the Decree's term the Court shall retain jurisdiction of this cause for purposes of compliance.

V. COSTS

Each party shall bear its own costs.

DATE: October 31, 2005

CAROL E. JACKSON
UNITED STATES DISTRICT JUDGE

BY CONSENT:

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Respectfully submitted,

FOR DEFENDANT:

/s/ William A. Blue (by consent)
WILLIAM A. BLUE
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Nashville, Tennessee 37203
(615) 320-5200

FOR PLAINTIFF:

/s/ Robert G. Johnson
ROBERT G. JOHNSON
Regional Attorney

/s/ C. Felix Miller
C. FELIX MILLER, No. 10549
Senior Trial Attorney

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FOR PLAINTIFF-INTERVENOR

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