



terms, conditions and privileges of employment, than similarly situated Asian employees performing the same or substantially similar work<sup>2</sup>.

On or about August 23, 2003, Sonia Borrero, Dilber Jimenez, Milton Miznaza, Olga Morales, Oscar Morales, Natalia Naranjo, Rocio Rodriguez, Erica Romero, Jhon Sanchez, Sonia Uribe, Jorge Valencia, Ruth Vidal, and Maria Zamora filed a motion to intervene, together with a complaint in intervention alleging Defendant's conduct violated Title VII and Section 296 of the New York Executive Law Section (hereinafter "N.Y.H.R.L."). Adrianna Torres filed a similar motion and complaint in intervention on January 16, 2003. The Court granted Plaintiff-intervenors' motions to intervene with respect to the Title VII claims on August 24, 2004 and Plaintiff-intervenors filed amended complaints.

The EEOC, Plaintiff-intervenors, and Defendant desire to settle this action, and therefore do hereby stipulate and consent to the entry of this Consent Decree. The Defendant has denied and continues to deny the allegations made by the Plaintiffs in this case. This Consent Decree resolves all matters raised in the complaints in this action which are filed in the United States District Court for the Eastern District of New York. Defendant, Plaintiff-intervenors, and EEOC (hereinafter "the parties") agree that this Decree is being entered into without Findings of Fact and Conclusions of Law having been made and entered by the Court.

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<sup>2</sup> The current twenty additional claimants are: Karla Aguilera, Raidy Alvarez, Idalia Araujo, Mireya Bautista, Beatriz Buitrago, Gloria Cardenas, Fidelina Caceras, Ana Castaneda, Carlos Fuentes, Beatriz Garcia, Nelly Hernandez, Ivonne Leon, Ligia Lozano, Mariana Moran, Carlos Morcillo, Blanca Penaranda, Edis Reyes, Francisca Santana, Elizabeth Santana, and Reina Vega.

In consideration of the mutual promises of each party to this Decree, the sufficiency of which is hereby acknowledged, the parties agree as follows, the Court finds appropriate, and it is therefore ORDERED, ADJUDGED AND DECREED that:

1. This Decree resolves all issues raised in EEOC Charge Numbers 16G-A1-4982, 16G-A1-4983, 16G-A1-4984, 16G-A1-04802, 16G-A2-04904, 16G-A2-04936, 16G-A2-04950, 16G-A2-04951, 16G-A2-04452, 16G-A2-04853, 16G-A2-04956, 16G-A2-04959, 16G-A2-04966, 16G-A2-04967, 16G-A2-04968, 16G-A2-04969, 16G-A2-04970, 16G-A2-04971, 16G-A2-04972, 16G-A2-04973, 16G-A2-04974, and 16G-A2-04936, and in the Complaints filed by the EEOC and Plaintiff-Intervenors in this case. This Decree in no way affects EEOC's right to process any pending or future charges that may be filed against Defendant and to commence civil actions on any such charges.

2. The parties agree and the Court finds that this Court has jurisdiction of the subject matter of this action and of the parties, that venue is proper, and that all administrative prerequisites have been met. No party shall contest the validity of this Decree, or the jurisdiction of this Court to enforce this Decree and its terms.

3. Defendant, its managers, officers, agents, successors, and assigns are enjoined from violating Title VII by discriminating against any current, future, or past employees, including on the basis of his or her race, national origin, and retaliation, and with respect to their pay, termination of employment, and all other terms, conditions and privileges of employment.

4. Defendant, its managers, officers, agents, successors, and assigns are enjoined from violating Title VII by retaliating against any individual who has participated in this action as a claimant or witness.

5. In settlement of this dispute, Defendant shall pay a total settlement amount of \$435,000 dollars in back pay and/or compensatory damages, inclusive of attorneys' fees. This amount shall be paid as set forth in Exhibit "A" filed under seal in the amounts specified therein. Defendant will make all required deductions and withholdings from the back pay amounts shown in Exhibit A and issue an Internal Revenue Service ("IRS") Form W-2 to the claimants and Plaintiff-Intervenors for this portion of the settlement. Defendant will issue IRS Forms 1099 for the amounts that represent attorney's fees and compensatory damages.

6. Defendant shall make such payments in three (3) installments, the first within thirty (30) days after receiving notice of the Court's entry of this Consent Decree. The second payment shall be made on or before June 1, 2009 and the third payment shall be made on or before April 14, 2010. Defendant shall pay each claimant the amounts as shown in Exhibit A. A release in the form identified in Exhibit B will be executed by each claimant and provided to Defendant prior to the first payment due for that claimant. Payments for the Plaintiff-Intervenors shall be mailed directly to their respective counsel, and to the other claimants directly to the addresses as set forth in Exhibit A. Copies of checks and tax forms sent to claimants shall be forwarded contemporaneously to EEOC, attention Adela Santos, at 33 Whitehall St., NY 10004-2112. If a release is not returned by any claimant within thirty (30) days of entry of the Decree by the Court, the damages owing to such claimant or claimants will be redistributed on a pro rata basis by Defendant by the date of the second installment, June 1, 2009.

7. Each party shall bear its own attorneys' fees and costs except as set forth in Exhibit A.

8. Defendant shall post the EEOC poster at its facilities in places that are visually accessible to all its employees and applicants for employment.

9. Within fourteen (14) days after receiving notice of the Court's entry of this Consent Decree, Defendant shall post at its facilities in a place that is visually accessible to all employees a copy of the notice printed on its letterhead in the form attached as Exhibit C.

10. Within three (3) months of entry of this Consent Decree, Defendant shall provide annually no fewer than eight (8) hours of training in Federal laws that prohibit discrimination in employment to all present and future officers, managers, supervisors, line leaders, and Human Resource personnel. The training shall be conducted by an outside vendor approved by the EEOC, and the EEOC's approval shall not be unreasonably withheld. A copy of the training materials to be used shall also be reviewed and approved by the EEOC. The names and titles of the persons who attend each session shall be reported to the EEOC on or before December 31<sup>st</sup> of each year throughout the term of this Consent Decree.

11. Defendant agrees that it will review its wage structure to ensure that it has a compensation system in place that does not discriminate against Hispanic employees and complies with Title VII.

12. Defendant will maintain policies that prohibit discrimination and retaliation in the workplace and will maintain effective procedures for employees to report complaints of discrimination and to have complaints investigated. Such policies and

procedures shall be distributed to all employees within thirty (30) days of entry of this Consent Decree and within thirty (30) days of the commencement of employment of any new hire throughout the duration of this Decree. All complaints of discrimination and all investigations and results of investigations shall be maintained and not destroyed throughout the duration of this Decree. A copy of Defendant's policy and complaint procedure approved by EEOC are annexed hereto as Exhibit D.

13. Defendant will provide a neutral reference letter to all claimants who make such a request. The reference letter will contain only the following information: dates of employment, positions held, and the salary or wage earned in their last position. All requests for a reference letter shall be submitted to Defendant's Director of Human Resources. No mention whatsoever of this lawsuit or charges filed will be made or transmitted by Defendant to any individual asking for an employment reference or other employment-related inquiry regarding any claimant.

14. Defendant will provide a report to the EEOC every six (6) months, starting six (6) months from entry by the Court of this Consent Decree, providing the following information: 1) name of individual(s) making an informal or formal complaint of employment discrimination, 2) date complaint was made, 3) individual(s) to whom complaint was made, 4) description of the nature of the complaint including names of any individuals alleged to be involved, 5) description of any investigation as a result of the complaint(s), and 6) resolution of any complaint(s) and any actions Defendant took to resolve the complaint(s), including discipline of employees, where applicable.

15. The EEOC may monitor and review Defendant's compliance with the terms of this Consent Decree, including but not limited to, making reasonable requests

for inspection, copying of records, and interviewing employees regarding complaints of discrimination, investigation of the complaints, and results of the investigation.

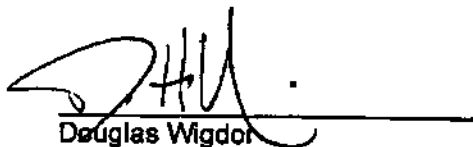
16. This Consent Decree will remain in effect until four (4) years from the date of its entry by the Court. Upon the entry of this Decree, the matter will be immediately closed, but the Court will retain jurisdiction to enforce this Decree.

Dated: New York, New York  
October 29, 2008

Dated: New York, New York  
October 29, 2008

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Dated: New York, New York  
October 24, 2008

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**PLAINTIFF-INTERVENORS**

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OSCAR MORALES, NATALIA NARANJO,  
ROCIO RODRIGUEZ, ERIKA ROMERO,  
JHON SANCHEZ, SONIA URIBE,  
RUTH VIDAL, AND MARIA ZAMORA

Dated: New York, New York  
October 28, 2008

**ATTORNEY FOR INTERVENOR**

  
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**PLAINTIFF-INTERVENOR**

ADRIANA TORRES

Application Granted. Jury selection scheduled for November 3, 2008 is cancelled. The Clerk of the Court is directed to mark this matter closed and terminate the 14 pending motions in this case.

SO ORDERED:  
15/ JOANNA SEYBERT  
Joanna Seybert, USDCJ  
Dated: 10-30-08  
Central Islip, NY