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U.S. DISTRICT COURT ED. N.Y.

★ JAN 8 2003 ★

P.M. _____

TIME A.M. _____

July 17, 2002

BY FAX

Honorable Cheryl L. Pollak
United States Magistrate Judge
United States Courthouse, Eastern District of New York
225 Cadman Plaza East, Room 538
Brooklyn, New York 11201

Re: EEOC, et al. v. TWA, et al.
98 Civ. 4142 (CLP)

Dear Judge Pollak:

We are writing with regard to two issues in connection with the settlement of the above matter and Your Honor's Orders dated July 8, 2002. The first issue relates to the confidentiality of the names of claimants who will receive payments from the Claim Fund, and the amounts they will receive. The Settlement Agreement entered into between TWA and the EEOC (a copy of which is attached for Your Honor's convenience) provides that: "[t]he EEOC and the Settlement Administrator shall keep confidential the names of all Eligible Claimants and the gross sum that each Eligible Claimant was offered and/or received." ¶ 13.

The Settlement Agreement did not contemplate anything other than a final order from the Court dismissing the case with prejudice. See ¶ 19. Because the Court's July 8, 2002 Order contains an attachment ("Attachment A") titled Disbursement of Claim Fund that lists every claimant and the total amount of each individual award, we would respectfully request that Attachment A should be deleted from any dissemination of the Court's Opinion and Order dated July 8, 2002, as well as from the Court's Order, also dated July 8, 2002 (a copy of which is attached). Alternatively, Attachment A could be placed under seal in order to protect the confidentiality of such information pursuant to the Settlement Agreement. We are authorized to advise the Court that the EEOC is in agreement, and joins in this request.

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Second, we wish to avoid any confusion or misunderstanding with respect to tax withholdings on the 20 awards designated (in whole or in part) as "backpay" by the EEOC. Specifically, we want to make clear that both the employee and employer portions of FICA, SUI, and FUTA taxes must be paid from the Claim Fund.

We, and the EEOC, are in agreement that these sums should be deducted from the gross amounts designated as "backpay" by the EEOC. In order to avoid any misunderstanding on this issue, the parties would request that the Court issue an amended or supplemental Order to reflect such an understanding. Specifically, we would jointly propose adding a new Paragraph 3 to Your Honor's two-paragraph Order of July 8, 2002 (which is attached to this letter), the language of which would read:

3) with respect to those individuals designated by the EEOC as receiving, in whole or in part, backpay awards, the total amount of applicable taxes (including, but not limited to the employee's and the employer's share of FICA, SUI, and FUTA) shall be withheld from the backpay award by the Escrow Agent.

If this amended or supplemental Order is satisfactory to Your Honor and can be signed this week, it will permit us, as Escrow Agent, to properly issue all checks on Friday, July 19.

Very truly yours,



Allen I. Fagin

Enclosure

cc: Kam S. Wong, Esq., EEOC Trial Attorney (w/o enclosure)