

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

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DISTRICT COURT
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TEXAS-EASTERN
BY *[Signature]*

FOREST HENRY SHIPES, ET AL

§
§
§
§
§

VS.

CA NO. TY-80-462-CA-TJW

TRINITY INDUSTRIES, INC.

MOTION TO DISMISS ACTION

TO THE HONORABLE COURT:

COMES NOW, the defendant, TRINITY INDUSTRIES, INC., pursuant to F.R.C.P. 23 and moves this court to dismiss the above-entitled and numbered cause in accordance with the agreement resolving all remaining controversies in this matter executed on December 17, 2001, a copy of which is attached as Exhibit "A."

With the resolution of Plaintiffs' Third Motion for Contempt and the implementation of the personnel actions outlined in the parties' Agreement Resolving Plaintiffs' Third Motion for Contempt of Provisions Requiring Application Procedure for Vacant Positions, there are no remaining matters before this Court that would necessitate the continuance of the class action.

Accordingly, Trinity respectfully requests that the Court dismiss case number TY-80-462-CA, giving notice to all parties thereto.

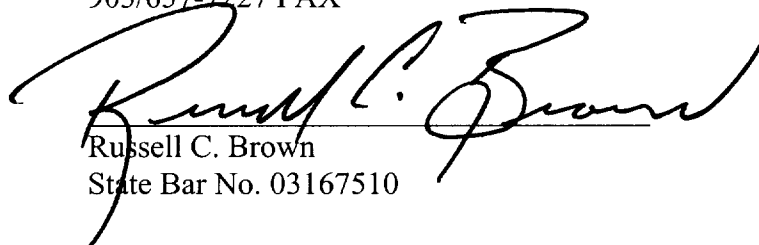
Respectfully submitted,

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Russell C. Brown
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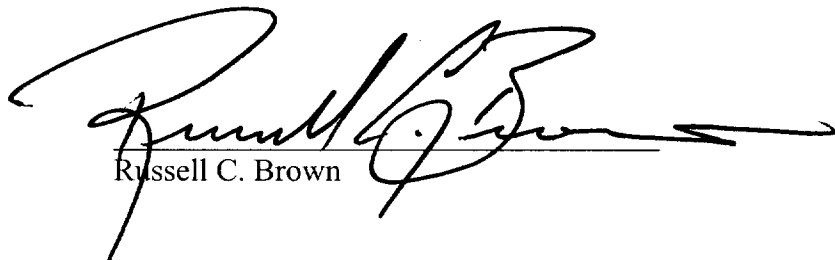
ATTORNEYS OF THE DEFENDANT

CERTIFICATE OF SERVICE

I certify that I served a copy of the foregoing instrument by facsimile to counsel for the plaintiffs, listed below, on the ~~14th~~ day of January, 2002.

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Russell C. Brown

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

FOREST HENRY SHIPES, ET AL.,	§	
	§	
Plaintiffs	§	
v.	§	C.A. No. TY-80-462-CA
	§	
TRINITY INDUSTRIES, INC.	§	
	§	(WARD)
Defendant	§	

AGREEMENT RESOLVING PLAINTIFFS' THIRD MOTION
FOR CONTEMPT OF PROVISIONS REQUIRING APPLICATION
PROCEDURE FOR VACANT POSITIONS

On October 12, 2001 Plaintiffs filed their Third Motion for Contempt of Provisions Requiring Application Procedure for Vacant Positions in the above-referenced case. The Plaintiff Class and Defendant Trinity Industries, Inc. hereby enter into this agreement to resolve that pending Motion.

Counsel for the parties have met, conferred and exchanged information sufficient to permit the resolution of the pending Motion.

1. Defendant Trinity Industries makes the following material representations and the Plaintiff Class relies on those representations in entering into this agreement:

- a. Defendant Trinity's East Plant in Longview, Texas currently has 12 Foreman positions, one of which is held by an African-American.

- b. Defendant Trinity's East Plant in Longview, Texas has undergone significant reductions in force and anticipates additional reductions in force in the near future.
 - c. Defendant Trinity will in the future make promotions to the Foreman positions in the East Plant in a fair, race-neutral manner. Therefore, absent explanation, it is expected that the proportion of African-Americans holding Foreman positions at Defendant Trinity's East Plant will correspond closely to the proportion of African-Americans in the qualified work force. Explanations for any variance can include business conditions and other objective relevant circumstances beyond Defendant Trinity's control.
 - d. Defendant Trinity will make good faith efforts to attract, retain and promote African-Americans throughout its work force and specifically within Foreman and other positions in its East Plant.
2. In order to resolve the pending Motion for Contempt, Defendant Trinity Industries agrees to:
- a. Promote Class Member Elvis Fletcher to a Foreman/Supervisor position in the Stencil Touch-up area of the Exterior Paint Department, East Plant within three days of entering into this agreement;

b. In the event that Elvis Fletcher is removed from the position of Foreman/Supervisor within six (6) months of his promotion for reasons other than a reduction in force due to economic downturn, or Elvis Fletcher's voluntary termination, Trinity agrees to report this occurrence to the Court along with an explanation.

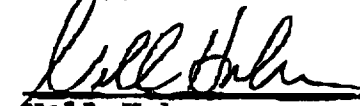
3. In reliance on Defendant Trinity's representations and in exchange for Defendant Trinity's actions agree to above, Plaintiffs will seek to withdraw the pending Motion for Contempt, the only remaining dispute between the Class and Trinity.

4. The parties and the Court agree that the Court will retain jurisdiction over any enforcement action regarding this agreement.

Signed and entered this _____ day of _____, 2001.

Hon. T. John Ward
Judge Presiding

AGREED TO IN FORM AND SUBSTANCE:



Neil Hahn
Counsel for Plaintiff Class



Russell C. Brown
Counsel for Trinity Industries