



05-CV-01800-CNST

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NOV 1 - 2005

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON

AT SEATTLE
CLERK U.S. DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
DEPUTY

RICHARD H. WHITE,

Plaintiff,

v.

S.O.G. SPECIALTY KNIVES, INC.

Defendant.

Civil Action No. **CV5 1800P**

CONSENT DECREE

This matter is before the Court for entry of this judgment by consent of the parties to effectuate a compromise and settlement of all claims. After review and consideration, the Court believes that entry of this judgment is in the interest of justice.

1. Plaintiff Richard H. White commenced this action in the United States District Court for the Western District of Washington, alleging that Defendant S.O.G. Specialty Knives, Inc. ("SSK"), violated the Uniformed Services Employment and Reemployment Rights Act of 1994 ("USERRA") by: (1) considering White's military service in the Coast Guard and his deployment orders for Iraq as motivating factors in SSK's decision to discharge White; (2) failing to reemploy White in his prior position upon return from active duty, or into a legally appropriate alternative position; and (3) discharging White within 180 days of his reemployment without cause.

2. As a result of settlement discussions, White and SSK have resolved their differences and have agreed that this action should be settled by entry of this Consent Decree. It is

the intent of the parties that this Consent Decree be a final and binding settlement in full disposition of any and all claims alleged against SSK that could have been alleged in the Complaint filed on behalf of White. White, by his signature to this document and the attached release, has indicated his acceptance of the terms and conditions contained in this Consent Decree.

STIPULATED FACTS

3. Pursuant to USERRA, the parties acknowledge the jurisdiction of the United States District Court for the Western District of Washington over the subject matter of this action and of the parties to this case for the purpose of entering this Decree and, if necessary, enforcing this Decree.

4. Venue is proper in this district for purposes of this Decree and any proceedings related to this Decree only. SSK agrees that all statutory conditions precedent to the institution of this lawsuit have been fulfilled.

FINDINGS

5. Having examined the terms and provisions of the Consent Decree, the Court finds the following:

- a. The Court has jurisdiction over the subject matter of this action and the parties to this action.
- b. The terms and provisions of this Consent Decree are fair, reasonable, and just. The rights of SSK and White are protected adequately by this Decree.
- c. This Consent Decree conforms with the Federal Rules of Civil Procedure and USERRA, and is not in derogation of the rights and privileges of any person. The entry of this Consent Decree will further the objectives of the USERRA and other applicable law, and will be in the best interests of the parties.

NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED AS FOLLOWS:

NON-ADMISSION

6. This Decree, being entered with the consent of White and SSK, shall not constitute an adjudication or finding on the merits of the case and shall not be construed as an admission by SSK of any violations of USERRA, or any other law, rule or regulation dealing with or in connection with equal employment opportunities. SSK denies any wrongdoing.

NON-RETALIATION

7. SSK shall not take any action against any person that constitutes retaliation or interference with the exercise of such person's rights under USERRA, or White's claim herein that forms the basis for the present case, because such person gave testimony or assistance or participated in any manner in any investigation or proceeding in connection with this case.

REMEDIAL REQUIREMENTS

8. SSK shall pay White the amount of \$27,500. White shall be responsible for payment of all income taxes associated with this amount. SSK shall separately pay any additional amounts of federal or state employer taxes on the \$27,500 that represents back-pay. SSK shall provide documentary evidence of having paid White and credited him with the above amount by mailing the same to the following address within fourteen (14) days after this Consent Decree has been entered by the Court:

Carl Wasserman
United States Department of Justice
950 Pennsylvania Avenue NW
Civil Rights Division
Employment Litigation Section, PHB, Room 4500
Washington, D.C. 20530

DISPUTE RESOLUTION AND COMPLIANCE

9. The Court shall retain jurisdiction and will have all available equitable powers, including injunctive relief, to enforce this Decree. Upon motion of either party, the Court may schedule a hearing for the purpose of reviewing compliance with this Decree. The parties shall engage in good faith efforts to resolve any dispute concerning compliance prior to seeking review by the Court. The parties shall be required to give notice to each other ten (10) days before moving for review by the Court. All parties may conduct expedited discovery under the Federal Rules of Civil Procedure for the purpose of determining compliance with this Decree or defending against a claim of non-compliance.

MISCELLANEOUS

10. All parties shall bear their own costs and expenses of litigation, including attorneys' fees.

11. This Consent Decree constitutes the entry of final judgment within the meaning of Rule 54 of the Federal Rules of Civil Procedure on all claims asserted in or that could have been asserted by White in this action. The Court retains jurisdiction over this matter, however, for the purpose of entering appropriate orders interpreting and enforcing this judgment.

12. If any provision of this Consent Decree is found to be unlawful, only the specific provision in question shall be affected and the other provisions will remain in full force and effect.

13. The terms of this Consent Decree are and shall be binding upon the present and future owners, officers, directors, employees, creditors, agents, trustees, administrators, successors, representatives, and assigns of SSK and upon the heirs, successors, and assigns of White.

14. This Consent Decree constitutes the entire agreement and commitments of the parties. Any modifications to this Decree must be mutually agreed upon and memorialized in a writing signed by SSK and White.

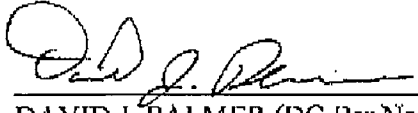
EFFECTIVE DATE

15. The effective date of this Consent Decree shall be the date upon which it is entered by the Court.

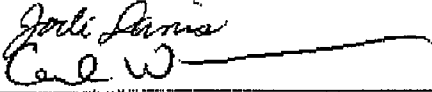
16. This Consent Decree shall expire, and this action shall be dismissed, without further order of this Court one year from the date of entry of this Consent Decree. White may move to extend the Consent Decree if the remedial relief called for herein has not been effectuated. The Consent Decree will not be extended, however, unless the Court grants White's motion. Any such extension may be granted by the Court only for such time as is necessary to effectuate the relief set forth in this Consent Decree.

APPROVED and ORDERED this 6 day of Nov., 2005.


UNITED STATES DISTRICT JUDGE



DAVID J. PALMER (DC Bar No. 417834)
Chief



JODI DANIS (DC Bar No. 453493)
Deputy Chief
CARL WASSERMAN (DC Bar No. 459038)
Trial Attorney

U.S. Department of Justice
Civil Rights Division
Employment Litigation Section
950 Pennsylvania Avenue, NW
Patrick Henry Building, Room 4036
Washington, DC 20530
Telephone: (202) 353-8015
Facsimile: (202) 514-1005

Attorneys for Richard H. White



RICHARD H. WHITE
Plaintiff

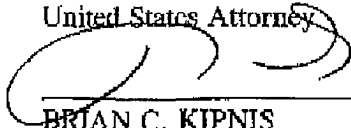


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Attorney for SSK

DATED this 27th day of October, 2005.

JOHN McKAY
United States Attorney



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Attorney for Plaintiff

APPENDIX A
RELEASE OF ALL CLAIMS

STATE OF WASHINGTON)
) ss:
COUNTY OF KING)

For and in consideration of my acceptance of the relief, or any part of it, to be provided to me pursuant to the provisions of the Consent Decree I have signed and that is to be entered in the case of Richard H. White v. S.O.G. Specialty Knives & Tools, Inc., to be filed in the United States District Court for the Western District of Washington, I, Richard H. White, hereby forever release and discharge Defendant in this case, S.O.G. Specialty Knives & Tools, Inc. ("SSK"), as well as its current, former and future officials, employees, agents, and successors from all legal and equitable claims arising out of the Complaint to be filed in this action and USERRA Case No. 10-WA-2004-00011-10-R filed with the United States Department of Labor.

I understand that the relief to be provided to me by SSK under the terms of the Consent Decree does not constitute an admission by any of the parties hereby released of the validity of any claim raised by me, or on my behalf. I further understand that SSK expressly denies having violated any of my legal rights and that the payments and other terms and conditions set forth in this release are in settlement of disputed claims.

This release constitutes the entire agreement between SSK and me, without exception or exclusion.

I acknowledge that a copy of the Consent Decree in this action has been made available to me for my review.

**I HAVE READ THIS RELEASE AND UNDERSTAND THE CONTENTS
THEREOF AND I EXECUTE THIS RELEASE OF MY OWN FREE ACT AND DEED.**

Signature: _____
Richard H. White

Date: _____

Subscribed and sworn to before me this ___ day of _____

Notary Public

My Commission expires: