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EEOC v. Lawler Foods, Inc. and Lawler Foods, LTD.

Judge Lynn N. Hughes

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EEOC v. Lawler Foods, Inc. and Lawler Foods, LTD.

Keywords

eeoc, lawler foods, 4:14-cv-03588, employment law, consent decree, title vii, service, race, african-american, national origin, non-Hispanic, disparate treatment, hiring

Accordingly, EEOC and Lawler have entered into this Consent Decree to resolve the EEOC's claims, to avoid the delay, costs and risks of further proceedings, and to promote and effectuate the purposes of Title VII. The Court finds that it has jurisdiction over both the subject matter of this action and the parties for purposes of the action, entry of the Consent Decree, and all proceedings related to the Consent Decree and its enforcement.

Having examined the terms and provisions of the Consent Decree, the Court finds that it is reasonable and just in accordance with the Federal Rules of Civil Procedure and Title VII.

The Court also finds that entry of this Consent Decree will further the objectives of Title VII and will be in the best interests of the parties, those for whom the EEOC seeks relief, and the public. The Decree does not constitute an adjudication or finding on the merits, and the Parties agree that it cannot be used as evidence of liability, res judicata, or collateral estoppel in any other legal proceeding, including any proceedings against Lawler.

NOW, THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED THAT:

DURATION OF CONSENT DECREE

1. The Term of this Consent Decree is a four (4) year period commencing on the Effective Date. Special circumstances set forth within regarding good faith recruitment and hiring efforts might lessen its term by six (6) months.

GENERAL PROVISIONS AND COURT ENFORCEMENT POWERS

2. This Consent Decree constitutes full discharge and satisfaction of all claims which have been alleged or could have been alleged, whether such claims are known or unknown, in the Complaint filed by the EEOC and the Complaint in Intervention filed by the Charging Parties.

3. The EEOC and Lawler shall bear their own attorney's fees and costs incurred in connection with this action.

4. This Court shall retain jurisdiction to enforce the terms of this Consent Decree. The Commission's decisions whether or not a claimant is qualified to receive compensation and the amount of compensation to be paid to each qualified claimant are unreviewable.

5. The Qualified Settlement Fund ("QSF") of \$1,042,000 is established by the terms of this Consent Decree and it is administered by the Claims Administrator under the direction of the EEOC.

6. Release of Claims - In consideration of receiving any monetary award pursuant to this Consent Decree, as a condition of receipt of that award, all Qualified Compensation Claimants who accept monetary relief waive, release and discharge, and covenant not to sue, Lawler Foods, Inc., and Lawler Foods, Ltd., or any of their past, present, and future direct and indirect parents, affiliates, subsidiaries, divisions, predecessors, successors, partners, affiliated organizations, insurers, assigns, and each of their past, present, and future officers, directors, members, trustees, agents, employees, attorneys, contractors, representatives, and any other persons or entities acting on their behalf (the "Releasees") for any claims for discrimination or any claims or causes of action of any kind or character relating to employment with Releasees that the Qualified Compensation Claimants have or may have, whether known or unknown against the Releasees on or before the date of this Release and shall execute a Release in the form attached as **Exhibit A**.

7. Complete Consent Decree - This Consent Decree constitutes the complete understanding among the Parties with respect to the matters herein.

8. Severability - If one or more provisions of this Consent Decree are rendered unlawful

or unenforceable by act of Congress or by decision of the United States Supreme Court, the Parties shall attempt to agree upon what amendments to this Consent Decree, if any, are appropriate to effectuate the purposes of this Consent Decree. In any event, the unaffected provisions will remain enforceable.

9. No Admission of Liability - Neither this Consent Decree nor any order approving this Consent Decree is or shall be construed as an admission by Lawler of the truth of any allegation or the validity of any allegation asserted in this civil action or of Lawler's liability therefore, nor as a concession or an admission of any fault or omission of any act or failure to act by Lawler. This Consent Decree was entered into for settlement purposes only, and shall not be construed by anyone for any purpose whatsoever as an admission or presumption of any wrongdoing on the part of Lawler, nor as an admission by any party to this Consent Decree that the consideration to be given hereunder represents the relief which could have been recovered after trial.

10. No Third Party Rights - Nothing in this Consent Decree shall be deemed to create any rights on the part of Non-Parties, Intervening Parties, or Intervening-Plaintiffs to enforce this Consent Decree. The right to seek enforcement of this Consent Decree is vested exclusively with the EEOC and Lawler except that both the Commission and the Plaintiff-Intervenors solely have the right to move to enforce payment of the agreed monetary settlement for the Charging Parties and their counsel.

11. Failure To Obtain Approval Of Consent Decree – In the event this Consent Decree does not become final or effective in its current form (for whatever reason) by May 5, 2016 and is not entered by the Court, the parties will meet and confer in an effort to achieve a resolution. If this effort is deemed unsuccessful by either party, this entire Consent Decree shall become

null and void and of no force or effect.

12. Intent of Parties and Effect of Compliance with Consent Decree – It is the intent of the Parties that by virtue of the consideration agreed to herein by Lawler and subject to the enforcement provisions, this Consent Decree resolves the entire above-captioned civil action.

DEFINITIONS

A. “Defendants” or “Lawler” means and refers to Lawler Foods, Inc., and/or Lawler Foods, Ltd., and their predecessors, successors, assigns, agents, and any of their past, present, and future direct and indirect parents, affiliates, subsidiaries, divisions, predecessors, successors, partners, affiliated organizations, insurers, and assigns.

B. “Commission” or “EEOC” is the U.S. Equal Employment Opportunity Commission, an agency of the United States Government.

C. The “Plaintiff-Intervenors” or “Intervening-Plaintiffs” means and refers to Subrena Tarver, Ernie Tarver, Priscilla Menefee, themselves, and their spouses, family members, heirs, devisees, legatees, executors, administrators, successors, assignees, agents, representatives, businesses, and any of their employees and/or successors in interest, insurers, subrogees, attorneys, and any future business, employees, aliases or entities affiliated with them.

D. The “Claimants” means those persons other than the Charging Parties who seek relief under the terms of this Decree.

E. “Covered Time Period” means January 1, 2009 through December 31, 2015.

Race and Ethnic Identification

F. “Black” or “African American” shall mean a person not of “Hispanic” or “Latino” origin who is identified as “Black” or “African American” consistent with the procedure in

Exhibit D.

G. “Hispanic” or “Latino” shall mean a person who is identified as “Hispanic” or “Latino” consistent with the procedure in **Exhibit D**.

H. “Non-Hispanic” means any person who is not identified as “Hispanic” or “Latino” consistent with the procedure in **Exhibit D**.

I. “Production Jobs” for the purpose of this Consent Decree means all non-supervisory positions in the Lawler production department including, but not limited to each of the following positions: decorating, packaging, production, and sanitation.

J. The terms “hire” or “hiring” refers to the selection of an employee for a full time position in the production department by Lawler.

K. “Qualified Compensation Claimant” and “QCC” refers to a Black or other Non-Hispanic who was not hired by Lawler within one (1) month after the date of his or her first application with Lawler as a production worker in its commercial bakery in Humble, Texas, at any time during the period of January 1, 2009 through December 31, 2015. Being deemed qualified as a Qualified Compensation Claimant is not dependent on whether or not that claimant chooses to accept or reject any offer of employment extended to him or her as a consequence of this Consent Decree.

L. “Hiring authority” or “hiring authorities” refer to personnel employed by Lawler to participate in selection decisions related to recruiting, screening, interviewing, recommending for hire and/or hiring of job applicants for non-supervisory positions in the production department.

M. “Day” or “days” means calendar days.

N. “Effective Date” - The Effective Date of this Consent Decree is the date on which the

Consent Decree is entered by the Court.

O. “Court” refers to the Houston division of the United States District Court for the Southern District of Texas.

P. Agreement, Consent Decree and Decree are used interchangeably and refer to this document once it is entered by the Court.

Q. “Complaint” means the EEOC’s Complaint filed in Cause No. 4:14-cv-03588; *Equal Employment Opportunity Commission v. Lawler Foods, Inc. and Lawler Foods, Ltd*, in the United States District Court for the Southern District of Texas Houston Division and any subsequent amendments thereto.

R. “Complaint in Intervention” or “Intervenor Complaint” means the Intervening-Plaintiffs’ Complaint filed in Cause No. 4:14-cv-03588; *Equal Employment Opportunity Commission v. Lawler Foods, Inc. and Lawler Foods, Ltd*, in the United States District Court for the Southern District of Texas Houston Division and any subsequent amendments thereto.

S. Decree Compliance Monitor (“DCM”). The DCM shall be an officer or high-level management official of Lawler who shall possess the knowledge, capability, organizational authority, and resources to monitor Lawler’s compliance with the terms of the Consent Decree.

GEOGRAPHIC SCOPE

13. This Consent Decree shall apply to Lawler’s production bakery in Humble, Texas.

DURATION OF CONSENT DECREE

14. This Consent Decree shall remain in effect for four (4) years subsequent to the Effective Date of the entry of this Consent Decree. In the event the Commission determines that certain benchmarks are timely achieved regarding the hiring of non-supervisory workers in the production department, the term of this Consent Decree will be limited to three and one half

(3½) years. In order to assess whether or not it appears the Consent Decree may terminate earlier than four (4) years after its entry, the Commission and Lawler shall meet and confer at reasonable intervals, if so requested by the Commission, including within three (3) weeks of the Commission's receipt of each of Lawler's timely periodic reports concerning its compliance with the Consent Decree.

PROHIBITED DISCRIMINATION AND RETALIATION

15. During the operation of this Consent Decree, Lawler shall comply with Title VII and it shall refrain from engaging in any employment practice that unlawfully discriminates against its job applicants and employees on the basis of race or national origin in violation of Title VII. The Commission agrees that it will not file suit against Lawler for Lawler's actions in compliance with this Consent Decree, including but not limited to Lawler's compliance with the paragraphs entitled "Offers of Employment to Qualified Compensation Claimants," "Hiring Prioritization," "Hiring of QCC and Non-QCC Applicants," "Hiring and Recruitment Goals Timeline" and "Numerical Hiring Goals and Recruiting Efforts."

16. During the operation of this Consent Decree, Lawler shall not print or publish, or cause to be printed or published, any notice or advertisement relating to employment that indicates a limitation, specification or discrimination based on race or national origin in violation of Title VII, including notices and advertisements regarding career opportunities posted on any website by or for Lawler that express a preference, limitation, specification or discrimination because of race or national origin. As alleged in the Complaint, this includes a prohibition against relying solely on word of mouth recruiting and including a requirement that any applicants must speak or read Spanish. Lawler may place advertisements written in English, Spanish and other languages so long as no language preference is expressed in those

advertisements or any other recruiting material.

17. During the operation of this Consent Decree, Lawler shall refrain from engaging in any employment practice that retaliates against or otherwise discriminates against Black or Non-Hispanic job applicants who oppose a practice made unlawful by Title VII. Lawler shall not retaliate against any job applicant, employee or other person because he or she filed an EEOC charge, or participated, testified or assisted the Commission in any manner in this matter, or sought and/or received compensation, employment or other relief in this action.

MONETARY RELIEF

18. Lawler shall pay the total sum of One Million and Forty-Two Thousand Dollars and No Cents (\$1,042,000) in monetary relief into a Qualified Settlement Fund ("QSF") to be established and administered by the Claims Administrator under the direction of the EEOC, as discussed below. Of this amount, fifty percent (50%) shall constitute back pay with interest and the remaining fifty percent (50%) shall constitute compensatory damages under 42 U.S.C. Section 1981a payable to Qualified Compensation Claimants who applied at any time during the period January 1, 2009 until December 31, 2015. The payment schedule to be followed by Lawler shall be as follows:

- i. \$260,500, equivalent to twenty five percent (25%) of the monetary relief, shall be paid by Lawler within forty (40) days from the Effective Date;
- ii. \$416,800, forty percent (40%) of the monetary relief, shall be paid by Lawler, within six (6) months from the Effective Date;
- iii. \$314,700, the remaining thirty-five percent (35%), less \$50,000 shall be paid no later than nine (9) months from the Effective Date; and

- iv. Unless instructed otherwise by the Commission, no later than twelve (12) months from the Effective Date, the remaining \$50,000 of the settlement fund shall be paid by Lawler into the QSF.

In the event that Lawler has not made one or more of its mandated payments within seven (7) days after the particular payment is due, the Commission will first provide written notice to the DCM and counsel for Lawler pursuant to paragraph 61. If payment is not made within five (5) business days after receipt of such notice, the Commission may unilaterally move to enforce the Consent Decree to compel immediate payment and, at its option, it may seek an order accelerating the payment of all monies that have not yet been tendered by Lawler to the Administrator and for the QSF, requiring Lawler to establish an escrow account or take other steps to more fully assure that the QSF is fully funded by Lawler.

19. If Lawler receives: 1) the completed W-4 forms from the Intervening-Plaintiffs Subrena Tarver, Ernie Tarver and Priscilla Menefee and 2) the fully executed Confidential Settlement Agreement and Release of All Claims from the Intervening-Plaintiffs Subrena Tarver, Ernie Tarver and Priscilla Menefee, then within thirty (30) days from the entry of this Consent Decree, Lawler shall directly pay the Intervening-Plaintiffs Subrena Tarver, Ernie Tarver and Priscilla Menefee and their counsel the amounts described in paragraph 20. However, if the agreement to engage the Claims Administrator has been achieved within twenty-one (21) days of the entry of the Consent Decree and the Claims Administrator agrees he or she shall distribute to the Intervening-Plaintiffs Subrena Tarver, Ernie Tarver and Priscilla Menefee settlement funds after his or her receipt of the initial payment of the settlement fund as set forth in paragraph 18, then following Lawler's receipt of the fully executed Confidential Settlement Agreement and Release of All Claims from the Intervening-Plaintiffs Subrena Tarver, Ernie Tarver and Priscilla

Menefee, the Claims Administrator shall pay the Intervening-Plaintiffs and their counsel the amounts described in paragraph 20 within thirty (30) days from the Effective Date.

20. The amount of any agreed payments made directly by Lawler to one or more of the Intervening-Plaintiffs Subrena Tarver, Ernie Tarver and Priscilla Menefee and/or their attorneys shall be deducted from the first distribution of funds to be paid by Lawler into the QSF. If Lawler directly distributes payments from the settlement fund to the Intervening-Plaintiffs Subrena Tarver, Ernie Tarver and Priscilla Menefee, the remaining balance of the first payment shall be paid by Lawler to the settlement fund maintained by the Claims Administrator within forty (40) days after the Effective Date of the Consent Decree. If Lawler timely directly distributes payment to the Intervening-Plaintiffs Subrena Tarver, Ernie Tarver and Priscilla Menefee, it will pay the total sum of One Hundred Thousand Dollars and No Cents (\$100,000) to the Intervening-Plaintiffs to be paid as follows:

(a) Fifteen Thousand Dollars and No Cents (\$15,000) less applicable tax withholdings, in a settlement check made payable to "Subrena Tarver";

(b) Fifteen Thousand Dollars and No Cents (\$15,000) in a settlement check made payable to "Subrena Tarver";

(c) Ten Thousand Dollars and No Cents (\$10,000), less applicable tax withholdings, in a settlement check made payable to "Priscilla Menefee";

(d) Ten Thousand Dollars and No Cents (\$10,000) in a settlement check made payable to "Priscilla Menefee";

(e) Five Thousand Dollars and No Cents (\$5,000), less applicable tax withholdings, in a settlement check made payable to "Ernie Tarver";

(f) Five Thousand Dollars and No Cents (\$5,000), in a settlement check made

payable to “Ernie Tarver”;

(g) Forty Thousand Dollars and No Cents (\$40,000) in a settlement check made payable to “Moore and Associates.”

The Tax I.D. number for Moore & Associates will be provided by the Commission to Lawler in a separate letter within three (3) days from the Effective Date. If Lawler directly pays the Intervening-Plaintiffs Subrena Tarver, Ernie Tarver and/or Priscilla Menefee, it shall also report this to the EEOC and the Claims Administrator, noting the requisite amounts of the payments to Intervening-Plaintiffs Subrena Tarver, Ernie Tarver and Priscilla Menefee and their counsel.

21. Within five (5) business days of each payment to the QSF, Lawler shall notify EEOC after they have completed each separate payment into the QSF and it shall state the amount of money that has been provided by it to the QSF.

22. Distribution of monetary relief to the Qualified Compensation Claimants shall be made by the Claims Administrator in accordance with eligibility criteria to be determined by the EEOC. The EEOC shall determine the specific amount to be paid to each Qualified Compensation Claimant or, in the alternative, shall provide the Claims Administrator with a formula for the ratable distribution to a class or classes of Qualified Compensation Claimants. All distributions of monetary relief to Qualified Compensation Claimants will be determined by the EEOC. Lawler shall not have any participation or role in determining which claimants will be determined eligible for payment from the class monetary settlement fund and which specific payments shall be made to Qualified Compensation Claimants.

23. To facilitate the prompt identification and location of claimants who may be eligible to

receive settlement funds and/or employment, Lawler shall timely provide to the EEOC and the Claims Administrator relevant information and relevant documents requested, which are within its possession and not subject to attorney-client privilege.

24. In the event that certain Qualified Compensation Claimants do not accept settlements offered to them and/or additional funds remain in the QSF, the EEOC may require the Claims Administrator to make additional ratable payments to Qualified Compensation Claimants in order to expense the QSF so long as the remaining balance in the QSF exceeds Ten Thousand Dollars (\$10,000). At its option, after consultation with Lawler, the Commission may direct that remaining funds in the QSF of Ten Thousand Dollars (\$10,000) or less be disbursed to an authorized charitable organization as the recipient(s) of any residual amounts in that QSF.

25. Within two (2) weeks of the entry of this Consent Decree, in order for the Commission to assist in the identification of potential Qualified Compensation Claimants who were not hired by Lawler, Lawler shall supply the Commission the employment applications submitted to Lawler and within its possession for individuals who applied for non-supervisory positions in the production department and were not hired between January 1, 2010 and December 31, 2015. Additionally, Lawler will provide the disclosure form, if any, (a form which noted the applicant's race and gender), and a document, if any, containing around a dozen questions which could be signed by both the applicant and the interviewer. After completing this production of applications to the EEOC and subsequently consulting with the EEOC, the DCM shall, within sixty (60) days, certify to the Court that Lawler is confident that it has located all relevant applications in Lawler's possession and provided them to the EEOC or, in the alternative, the DCM shall set forth its efforts to locate all applications in his or her possession, indicating the basis for his or her degree of confidence as to each specific annual batch of

applications.

CLAIMS ADMINISTRATOR

26. The Qualified Settlement Fund, (“QSF” or “fund”), and payments made from the QSF, shall be administered by the settlement claims administrator (“Administrator” or “Claims Administrator”), a qualified third-party company to be selected by the EEOC and Lawler before or shortly after the entry of this Consent Decree. Following the selection of the Claims Administrator, the Administrator shall commence his or her duties in accordance with this Consent Decree and instructions received from the parties. The parties shall receive notice from the Administrator regarding where the fund is maintained as well as quarterly reports regarding interest earned on the fund.

27. The Administrator shall be responsible for the following:

- a) establishing the QSF and depositing the QSF in a secure banking institution at minimal cost;
- b) developing and seeking immediate approval of an implementation plan;
- c) issuing payment to the QCC from the QSF in amounts determined by the EEOC;
- d) database creation, management and report generation in Excel;
- e) logging receipt of all documents;
- f) listing potential claimants for compensation from settlement fund;
- g) listing potential claimants who express an interest in working for Lawler and
 1. promptly disseminating to these job seekers the Lawler employment application as well as other information as directed by Lawler and the Commission, including but not limited to information regarding if Lawler is accepting applications for non-supervisory positions in the production department; and
 2. contemporaneously reporting this information to the Commission and Lawler;
- h) distributing funds to claimants after certification by the Commission of the list of Qualified Compensation Claimants and the amount to be distributed to each Qualified Compensation Claimant; maintaining logs that record the Qualified Compensation Claimants negotiation (depositing, cashing and /or depositing of their respective settlement checks); issuing replacement checks in appropriate circumstances, placing mail traces; distributing additional checks to the Qualified Compensation Claimants in order to expense the settlement fund; and disbursing payment to approved charities (if any) in the event of a fund balance;
- i) making record of all payments made to Qualified Compensation Claimants and reporting of the foregoing to the Commission and Lawler on a quarterly basis;

- j) making necessary payroll tax withholdings and payments and issuing necessary tax documents;
- k) using address updating services approved by the Commission to locate potential and actual claimants, selecting the most accurate physical address(es), email addresses, telephone and cell phone numbers for claimants and, if need be, their relatives;
- l) informing the Commission of the unavailability of a claimant by reason of apparent death, absence for military service, incarceration or incompetence of claimants and distributing funds to heirs, executor or representative of deceased or incompetent claimants after approval by the Commission;
- m) Based on instruction of the Commission, informing Qualified Compensation Claimants of the status of their respective claims, including but not limited to whether or not their claims for monetary compensation have been approved;
- n) Periodic notice to Qualified Compensation Claimants of opportunity to apply for available jobs at Lawler;
- o) Developing forms and procedures to efficiently implement its assignments;
- p) Issuing periodic reports to the Commission and Lawler regarding the fulfillment of its responsibilities;
- q) Providing detailed billing periodically to Lawler for its services, maintaining a register of expenditures for services (such as purchase of postage and supplies, utilization of address locating services, etc.) and routinely copying the Commission's designated representatives and confirming receipt of payment for services;
- r) Establishing files pursuant to the Consent Decree and providing any such file to the EEOC within a week of its request if the EEOC states that the prerequisites under the Consent Decree for providing it with the file have been met;
- s) Inquiries by persons who are or believe themselves to be eligible for a payment and/or a job under the Consent Decree may be directed by the EEOC or Lawler to the Administrator. The Administrator shall answer questions posed by such persons pursuant to an agreed outline to be provided to it by Lawler and the EEOC;
- t) By February 1st of each year during the pendency of this Consent Decree, the Administrator will submit a written report to the EEOC and Lawler on the status of the completion of scope of work, stating what it has done to complete its undertakings, what remains to be completed by Administrator, an explanation of why tasks have not been completed, and a schedule for the completion of each task not completed;
- u) In addition to other reporting requirements under its contract, the Administrator shall submit periodic reports consonant with a list and schedule to be determined by the parties to the contract with the Administrator;
- v) Administrator shall notify the EEOC of any dispute between it and Lawler that might interfere with its timely performance under its contract;
- w) Within two (2) months after mailing settlement checks or receiving notice from Lawler that payments have been made pursuant to the Consent Decree, Administrator shall provide the EEOC and Lawler in Excel spreadsheet format a report of each Qualified Compensation Claimant's status and payment history;

- x) Such other and further tasks as authorized by the Commission or the Court; and
- y) At Commission's option, at the completion of the project, sending all or certain accrued documentation and records to the Commission to the attention of the EEOC's assigned trial attorney as provided for in paragraph 60.

28. The EEOC shall receive no monetary amount from the QSF Account.

29. The Administrator shall not incur any fees and expenses that in the aggregate exceed \$100,000 (the "Limit") without first obtaining explicit written approval from both the Commission and Lawler for any additional fees or expenses. If the Limit is reached, the parties will prioritize the matter of assuring that Lawler's total Administrator's fees and expenses exposure does not exceed \$125,000. As provided for in paragraph 31, accrued interest from the Qualified Settlement Fund can also be used for the Administrator's warranted fees and expenses. Under no circumstances will Lawler be required to pay the Claims Administrator for any services, fees or expenses in any amount over \$125,000.

30. Lawler shall be responsible for paying the employer's share of all applicable payroll taxes (e.g., FICA) as its own expense over and above its funding of the Qualified Settlement Fund. Lawler's payment of the employer's share of these taxes and related disbursements shall not be charged against the QSF.

31. To assure prompt implementation of its agreed services by the Administrator, Lawler will fully and timely reimburse the Administrator for agreed services up to the agreed amount of \$125,000. If the total Administrator's expenses do not exceed \$125,000, and the Administrator has been fully reimbursed by Lawler, then the Administrator will subsequently reimburse Lawler the amount of all accrued interest. In the alternative, the total accrued Administrator's expenses may exceed \$125,000 and in that event, payment of the Administrator for any expenditures in excess of \$125,000 will only be made from unexpended interest earned and credited on the settlement

funds in the QSF Account. The accrued interest will be applied toward the portion of the expense in excess of \$125,000.

32. Payment of the Administrator's fees will be made by Lawler within the time frame as set forth in the contract with the Administrator. The Administrator will routinely copy the Commission with all invoices submitted to Lawler for payment of all expenses associated with its duties and will advise the Commission in any instance where its invoice is not timely paid. Lawler's failure to timely pay the Administrator for its services and/or its failure to timely fund the QSF are sufficiently material to warrant an application by the Commission to enforce the payments as provided for in paragraph 62 of the Consent Decree.

33. Lawler and the Commission shall receive quarterly notice from the Administrator regarding where the fund is maintained and the amount of interest earned from the fund. In the event the entire claims administration expenses exceed \$125,000, the interest accruing on the QSF account will be contributed to the QSF to the extent necessary to pay those expenses and any surplus shall be paid to Lawler. In the unlikely event that the interest is sufficient to cover the full costs of claims administration, the Claims Administrator shall provide to both Lawler and the Commission an accounting of both the full claims administration expenses and the entire amount of accrued interest, and Claims Administrator shall then submit a payment to Lawler to reimburse Lawler for claims administration services, fees and/or expenses Lawler has already remitted payment to the Claims Administrator for but which shall now be fully covered by the accrued interest.

34. If the Administrator will be handling the appropriate settlement funds to one or more of the three (3) Intervening-Plaintiffs Subrena Tarver, Emie Tarver or Priscilla Menefec, the Administrator will also be responsible for the withholding of taxes for the Intervening-Plaintiffs

Subrena Tarver, Ernie Tarver or Priscilla Menefee whose payments it is handling as regarding the Intervening-Plaintiffs Subrena Tarver, Ernie Tarver or Priscilla Menefee's putative wages and generating payments to those of the three (3) Intervening-Plaintiffs Subrena Tarver, Ernie Tarver and Priscilla Menefee handled by it, and their respective attorneys. This would, at the maximum, concern that portion of the taxes that would be ordinarily withheld as the employee's contribution, not the employer's contribution.

35. No later than thirty (30) days before any distribution, the Administrator shall promptly inform Lawler and the Commission of the amounts of back pay distributed to each Qualified Compensation Claimant from the QSF and all other information necessary for Lawler to satisfy the payroll tax liabilities on the employer's part. Lawler shall be responsible for satisfying their own payroll tax obligations associated with payment of back pay. The process for Lawler to satisfy their payroll tax obligations is as follows: Lawler shall remit to the QSF all monetary amounts equal to their payroll tax liability for back pay awards based on the back pay awards to be distributed by the Administrator to QCCs and reported to Lawler pursuant to this paragraph 35. Lawler shall remit such monetary amounts not later than thirty (30) days after receiving notification of back pay amounts from the Administrator. Such monetary amounts shall be used only for satisfying Lawler's payroll tax liability. Such payroll taxes shall then be timely paid by the Administrator under the Taxpayer Identification Number for the QSF. The taxes for Lawler's employer's obligations in these regards are its own expense over and above funding the QSF and compensating the Administrator.

36. In order to determine Qualified Compensation Claimants and award amounts, Lawler will cooperate with reasonable requests for further relevant information from EEOC and the Administrator within its possession or the possession of its agent. Lawler shall use all

reasonable efforts to provide the EEOC with this information and the documents necessary to carry out its functions as provided for in this paragraph, including information to enable the Administrator to make payroll tax withholdings.

37. If either Party determines that the Administrator cannot perform his or her duties in a proficient manner or at reasonable cost in light of the work required to be performed under this Consent Decree, and there is availability of other potential Administrators that may be more cost-effective, that Party may file a motion with the Court for the appointment of a new Administrator. Prior to filing such motion, the moving Party shall confer with the non-moving Party in a good faith effort to identify a solution satisfactory to both the EEOC and Lawler for presentation to the Court.

INTERNAL CONSENT DECREE COMPLIANCE MONITORING OFFICIAL

38. Lawler shall designate a Decree Compliance Monitor (“DCM”). The DCM shall be an officer or high-level management official of Lawler who shall possess the knowledge, capability, organizational authority, and resources to monitor Lawler’s compliance with the terms of the Consent Decree. Prior to her/his selection, the DCM shall have a reasonable base of knowledge regarding equal employment opportunity law and human resource management. Lawler shall assign to the DCM the responsibility of monitoring Consent Decree compliance and shall further hold the DCM accountable for carrying out his or her responsibilities as DCM. Lawler shall ensure that the DCM receives all training and assistance necessary to carry out her/his duties in a proficient manner. If Lawler has notice that the DCM is unable or unwilling to proficiently perform his/her assigned responsibility, or the DCM is no longer employed by Lawler, it shall identify and assign a new DCM within ten (10) business days of such notice, and shall advise the Commission within ten (10) business

days of the assignment of the new DCM. With regard to his or her responsibilities as DCM, the DCM shall directly report to Lawler's president. In considering whether or not the term of the Consent Decree will be decreased, the Commission will assess the DCM's efficacy in developing and sustaining a corporate culture that will perpetuate an appreciation of equal employment opportunity practices and norms. To that end, the DCM may choose to access and utilize EEOC training and related resources.

39. Within ten (10) days of the Effective Date, Lawler shall provide written notice to EEOC regarding the DCM's full name, job title, work experience, and education/training history (including but not limited to all equal employment opportunity and human resource education/training within the last five years) and will do the same within ten (10) days of the appointment of any new DCM required by this Consent Decree. Written notice shall be provided to EEOC via email and regular mail. Similar notice as regards the appointment of the DCM and the scope of his or her responsibilities pursuant to this Consent Decree shall be provided in writing to Lawler's president.

OFFERS OF EMPLOYMENT TO QUALIFIED COMPENSATION CLAIMANTS

40. During the entire term of this Consent Decree, Lawler shall make good faith efforts to hire Black or other Non-Hispanics who apply for non-supervisory positions in the production department. This effort shall include but not be limited to making job offers to Qualified Compensation Claimants, as well as any other qualified Black or other Non-Hispanics who choose to apply for a non-supervisory job in the production department during the term of the Consent Decree. Applicants who stated in their production job applications, attached as **Exhibit C**, their desired job as "any" or "open" or did not specify a preference will be construed to have applied for a non-supervisory job in the production department.

HIRING PRIORITIZATION

41. To the extent feasible, especially during the first year of the Consent Decree, Lawler will prioritize the consideration and hiring of QCC applicants. Thus, in recognition of the fact that a high percentage of Lawler's available jobs are non-supervisory jobs in the production department, it will not presume that any Black or Non-Hispanic applicant will not accept the offer of a full time non-supervisory position in the production department in the absence of unambiguous evidence to that effect. As noted below, unless certain facts otherwise dictate, it will be presumed that QCC applicants who applied for a production job are interested in and/or would consider working for Lawler in a non-supervisory production position.

HIRING OF QCC AND NON-QCC APPLICANTS

42. A. Lawler will carefully consider all employment applications for non-supervisory positions in the production department, including those of each Black or Non-Hispanic applicant. To facilitate the hiring process, aside from receiving applications from the public at large, both the Administrator and the Commission may provide Lawler with lists of seemingly qualified Black or Non-Hispanic QCC applicants for non-supervisory positions in the production department, and both the Claims Administrator and the Commission will facilitate this process by encouraging seemingly qualified Black or Non-Hispanic QCC to submit their applications for non-supervisory positions in the production department to Lawler.

B. Thus, Lawler will be considering for employment production applications from both QCCs who have informed the Administrator and/or the Commission that they are interested in being hired by Lawler for a non-supervisory position in the production department and Lawler shall also consider production applications from QCC who self-refer for a nonsupervisory position in Lawler's production department. During the first year of the term of

this Consent Decree, to the extent feasible, until it has satisfied its stated goals set forth for the first year of the Consent Decree, Lawler shall hire for non-supervisory positions in the production department those QCC applicants who are qualified and self-referred QCC applicants who are qualified before hiring all other applicants unless Lawler needs to hire some other readily available qualified applicants to fulfill its production requirements. As part of its good faith effort to achieve the stated hiring goals, whether or not the hiring of QCC applicants who are qualified reaches the specified goals for the first year of the term of the Consent Decree, Lawler continues to have the responsibility to supplement its hiring of QCC applicants who are qualified by recruiting qualified applicants of all races for non-supervisory positions in the production department through the duration of this Consent Decree.

C. As regards to QCC applicants for employment, Lawler's responsibilities under this Paragraph 42 shall only arise if (i) a QCC has applied for a non-supervisory position in the production department and (ii) Lawler is promptly notified in writing within seven (7) calendar days of the date of the QCC's application by the Commission, the Administrator and/or the QCC applicant. Such written notice to Lawler shall be made by email and by regular U.S. Mail as provided for in paragraph 61. Within seven (7) calendar days of receipt of the written notice of an application from a QCC, Lawler will email the EEOC to advise it has received the written notice of an application from the QCC. Additional notification that an applicant is a QCC claimant is accomplished in one of the following methods: a.) By the applicant attaching to his or her employment application a statement that he or she is a QCC pursuant to this Consent Decree and; b.) By written notice from the Administrator and/or the Commission that this applicant for employment is a QCC pursuant to this Consent Decree who shortly will apply to Lawler for a non-supervisory position in the production department. The

notice by one or more of the QCC, the Administrator or the Commission will identify the QCC and provide the following information if available, namely the QCC's full legal name, last known home address, email address (if any), and last known cell and other telephone numbers; and the particular non-supervisory position in the production department being sought by this applicant. So long as a vacant non-supervisory position in the production department is available following Lawler's receipt of written notice of a QCC application, Lawler is obliged to consider this applicant for any available non-supervisory position in the production department for thirty (30) days from the date of the application that was received by Lawler. In the absence of circumstances justifying an extension of the time needed for Lawler to consider a QCC's application, it is presumed that Lawler will require a period of no more than thirty (30) days to consider a QCC's application for each available non-supervisory position in the production department. A form notice to potential QCCs for a non-supervisory position in the production department at Lawler is attached as **Exhibit B**.

D. As provided for in paragraph 42, Lawler shall offer a non-supervisory position in the production department to a QCC applicant who is qualified before hiring other applicants unless Defendant documents that the QCC applicant does not possess objective qualifications for the position, including but not limited to scheduling and availability requirements, or that it needs to hire some other readily available qualified applicants to fulfill its production requirements.

HIRING AND RECRUITMENT GOALS TIMELINE

43. As part of its good faith effort to achieve the stated hiring goals, during the first year of the term of the Consent Decree, and thereafter during the term of the Consent Decree, if it reasonably appears that the hiring of QCC applicants will not fully reach the specified goals

(i.e. the twenty-five (25%) percent Blacks and forty-five (45%) percent Non-Hispanics hiring level noted herein in paragraph 44), Lawler continues to have the responsibility to recruit and hire qualified applicants from all races, including qualified Black and Non-Hispanic applicants who apply for non-supervisory positions in the production department as regular applicants, not just as members of the QCC. If Lawler does not offer a non-supervisory position in the production department to a Black QCC applicant or other Non-Hispanic QCC applicant referred by the Commission and/or the Administrator then within thirty (30) days of the decision to not hire that individual Lawler will provide a written notice to the EEOC identifying the reason(s) for not offering the position to that individual.

NUMERICAL HIRING GOALS AND RECRUITING EFFORTS

44. Lawler shall, for the period provided for in paragraph 14 entitled “Duration of Consent Decree,” implement the following additional provisions related to hiring of persons for non-supervisory positions in the production department. “Numerical Hiring Goals” means Lawler shall make its Best Effort to ensure that the percentage of persons hired to fill full-time non-supervisory vacancies in the production department is 25% Black and 45% Non-Hispanic. “Best Effort” means reasonable steps to comply with the Numerical Hiring Goals. When Non-Hispanic Blacks are hired, their instatement is counted toward both the Black and Non-Hispanic goals. These goals may be satisfied by the hiring of QCC applicants and all other Black and other Non-Hispanic applicants.

45. Recruiting efforts: In order to encourage a diverse pool of qualified applicants, Lawler will adopt procedures to identify and attract qualified applicants. These procedures will include: 1) utilizing a specific application for non-supervisory production applicants (**Exhibit C**), 2) utilizing a production screening document (**Exhibit E**) for non-supervisory positions in

the production department, and 3) other procedures as set forth within.

46. Advertising and recruitment: Lawler may advertise available and anticipated vacancies and employment opportunities by submitting notices of employment opportunities and vacancies to the Texas Workforce Commission, newspaper(s) or staffing companies and will consider attending job fairs. Copies of all public job advertisements placed by Lawler shall be provided to the Commission as part of the periodic reporting of compliance set forth within this Consent Decree pursuant to paragraph 52.

47. Lawler is required to retain all non-supervisory production applications submitted by Black or other Non-Hispanics for the entire length of the Consent Decree and it is also required to consider those applicants for any non-supervisory position in the production department that becomes available within thirty (30) days of the submittal of the application to Lawler. The only exception that warrants discouraging an applicant from seeking a non-supervisory production job in the future is if that person's application has been reviewed and/or the applicant has been interviewed and either the review of the application or the interview provides race neutral grounds to disqualify the applicant for that job. In that event, Lawler must retain its justification for not hiring that Black or Non-Hispanic applicant for a non-supervisory position in the production department and provide that information to the Commission, if requested.

48. The advertisements for non-supervisory positions in the production department shall not restrict an applicant from applying for employment based on his or her inability or limited ability to speak Spanish. No advertisement, other job listing or posting may express a preference for non-supervisory production applicants who speak Spanish. Moreover, Lawler may not advise its employees or recruiting staff to encourage their relatives, friends, and

former Lawler employees to seek employment at Lawler before Lawler emails the EEOC that it will be hiring for non-supervisory positions in the production department.

49. Applicant Tracking System: Lawler will develop and maintain a recruitment and hiring tracking system (“System”) for all non-supervisory production applicants. This System will track the status of each non-supervisory production applicant and non-supervisory production hiree in Lawler’s production department. It shall contain at least the following information:

- i. each applicant’s full name;
- ii. job positions(s) sought and/or for which considered;
- iii. date(s) of application;
- iv. race or ethnicity as provided for on **Exhibit D**;
- v. date of hire (if applicable);
- vi. job title at time of hire (if applicable);
- vii. whether position is a full time or part time position;
- viii. hiree’s separation date (if applicable);
- ix. reason(s) for separation (if available); and
- x. rehire date (if applicable).

In the event that Lawler seeks to obtain hiring credit for the re-employment of a Black or Non-Hispanic hiree during the duration of this Consent Decree, it shall provide the Commission with information supporting its request. However, re-employment of persons who were on maternity or paternity leave will not count as a rehiring after the Effective Date.

50. For the purpose of this Consent Decree, Lawler receives credit for hiring an applicant in the production department on a full time basis and retaining that employee on a full time basis for at least thirty (30) days.

51. In order to facilitate the gathering of race and ethnicity self-identification by applicants for non-supervisory production positions, Lawler will request this information as part of its application process. The form requesting this information is attached as **Exhibit D** and is

approved and deemed appropriate by the Commission to be used by Lawler.

REPORTING TO THE EEOC

52. Commencing with the first six (6) month period immediately following the Effective Date, and for each subsequent six (6) month period throughout the duration of this Consent Decree, Lawler shall provide a report to the EEOC with a) through d) of this paragraph 52 based on information available to Lawler at the time, which will be submitted within thirty (30) days after the end of each six (6) month period:

- a) its assessment as to whether or not it has met the hiring goals during that period;
- b) information pertaining to the past six (6) month period for the production department as follows:
 - i. Information on non-supervisory applicants in the production department: by providing a summary setting forth the total number of applicants for each non-supervisory production position, the number of Black applicants, the number of other Non-Hispanic applicants and the number of Hispanic applicants (to the extent such information is provided or decipherable);
 - ii. Information on non-supervisory hires in the production department: by providing a summary of the total number of new full-time hires and part time hires for each non-supervisory position in the production department, the number of Black hires, the number of other Non-Hispanic hires and the number of Hispanic hires (to the extent such information is provided or decipherable);
 - iii. Information on the non-supervisory workforce in the production department: by providing a summary of the total number of employees (both part time and full time) for non-supervisory positions in the production department, the number of Black employees, the number of other Non-Hispanic employees and the number of Hispanic employees (to the extent such information is provided or decipherable);
 - iv. Whether or not Lawler has achieved any particular Numerical Hiring Goal, an explanation of the recruiting and related procedures that will be taken to attempt to meet its Numerical Hiring Goals, if needed, and the timetable for implementing those measures, if needed.
- c) Confirmation that the poster as referenced in paragraph 69 continues to be posted.
- d) Copies of **Exhibit E** (English and Spanish versions) separated by successful and unsuccessful applicants.

DISCRIMINATION PREVENTION MEASURES: COMPLAINT PROCESS

53. Throughout the duration of this Consent Decree, and as it relates to facilities

covered by this Consent Decree, Lawler shall implement and adhere to an internal complaint system (which may include the use of an internal hotline).

DISCRIMINATION PREVENTION MEASURES:
CONSENT DECREE COMPLIANCE AND OTHER EEO TRAINING

54. Lawler will provide sufficient training to enable the DCM to proficiently perform his or her duties under this Consent Decree, including initial training to the DCM concerning all contents of this Consent Decree; Lawler's Numerical Hiring Goals; the Applicant Tracking System and all record-retention requirements of this Consent Decree; the role of Lawler, the DCM, EEOC, and the Court in monitoring Consent Decree compliance; the requirements of Title VII, including but not limited to non-discrimination in hiring, work assignments, and advertising and EEO complaint investigations. In addition, to the extent the DCM is not reasonably familiar with Lawler's operations, Lawler shall provide such training as is required to enable the DCM to possess such familiarity. The DCM training as provided for in this paragraph 54 (except regarding technical bakery production operations) shall be provided within sixty (60) days following entry of the Consent Decree. All training described in this paragraph shall be provided by Martin, Disiere, Jefferson, & Wisdom, L.L.P. No later than thirty (30) days before the DCM's receipt of such training, the DCM will submit the name, title, and available material regarding the training to the EEOC via email. If the training materials are not acceptable to the EEOC, the EEOC shall inform Lawler in writing that the training materials are not acceptable no later than ten (10) days from the date the DCM sends notification regarding the scheduled training. The written notification from the EEOC will also provide information on materials the EEOC believes are needed for the training.

55. No later than ninety (90) days after the Effective Date, Lawler will provide training to all current Lawler Hiring Authorities, support staff for hiring in the production department,

human resources managers and production hiring managers (hereafter "Training Cohort") concerning the content of this Consent Decree, Lawler's Numerical Hiring Goals; potential consequences of failure to achieve the Goals; the Applicant Tracking System, the record-retention requirements of this Consent Decree; the proper recordkeeping techniques for accomplishing the tasks listed above; and the role of Lawler, the DCM, EEOC, the Claims Administrator and the Court in monitoring Consent Decree compliance. All training described in this paragraph shall be provided by Martin, Disiere, Jefferson, & Wisdom, L.L.P. Within thirty (30) days after such training, a list of the names, job titles, and work locations of attendees; and copies all written materials, if any, from the training shall be submitted to the EEOC via email for review. The proof of attendance shall be further documented by requiring all attendees employed by Lawler to sign an attendance form noting their respective job titles and their personal attendance.

56. In the event that any employees who should be trained are not available to attend the entire training event, Lawler shall provide the Commission with assurance that timely training of those who did not attend the training will be undertaken and that training will be provided to those newly assigned or hired employees within the Training Cohort. As noted above, these other attendees will document their training attendance by requiring them to sign an attendance form noting their respective job titles and their personal attendance.

57. In addition to other specified training set forth in this Consent Decree, Lawler shall require the DCM and its Human Resources Manager to attend at least two (2) hours of professional development training concerning equal employment opportunity and EEO investigations and acquire a certificate of attendance or other document indicating their attendance at the training.

RECORD-RETENTION REQUIREMENTS

58. After the Effective Date and for the duration of this Consent Decree, Lawler shall retain the following documents concerning its consideration of all applicants for non-supervisory positions in the production department:

- i. Applications, resumes, cover letters, interview notes, EEO form provided for in **Exhibit D** and/or hiree documents related to recruitment, pre-screening or hiring for non-supervisory production positions that were otherwise received or prepared by Lawler;
- ii. Personnel and payroll data for non-supervisory production positions;
- iii. Personnel files of non-supervisory production employees hired after the Effective Date;
- iv. Documents created or compiled by the DCM and/or any persons assisting the DCM in performing her duties in relation to this Consent Decree unless protected by the attorney-client privilege;
- v. All written complaints and/or written reports of alleged race, color or national origin discrimination against any job applicants;
- vi. All training materials and listings of attendees required by this Consent Decree; and
- vii. Copies of newspaper, internet or other public job advertisements for non-supervisory production positions and/or for general employment opportunities at Lawler which includes the date of the advertisement's publication, the text, and the name of the publication in which it appeared.

59. Lawler will comply with all other applicable record-keeping requirements of Title VII and the Commission's regulations, including but not limited to, 29 C.F.R. Parts 1602 and 1607. The specification of record retention and production requirements as set forth herein does not constitute a waiver of any regulatory or statutory responsibilities as to which Lawler and other employers are meant to comply, including those required by the Commission, including, but not limited to its required annual filing of the EEO1 Reports.

NOTIFICATIONS BETWEEN COMMISSION AND LAWLER

60. All notifications and reports required under this Consent Decree shall be made in writing and shall be sufficient if hand-delivered, sent by email, or sent by regular mail to

Rudy Sustaita, Senior Trial Attorney, U.S. Equal Employment Opportunity Commission, Houston District Office, 1919 Smith Street, Seventh floor, Houston, Texas 77002 and his designated paralegal. Within ten (10) days of the Effective Date, the EEOC shall email the name, address, and email address of Mr. Sustaita's designated paralegal to Lawler and Lawler's counsel. Mr. Sustaita's email address is rudy.sustaita@eeoc.gov. From time to time, Mr. Sustaita may designate another co-worker to receive information on his behalf.

61. All communications required under the Consent Decree to Lawler shall be made in writing and shall be sufficient if hand-delivered, sent by email, or sent by regular mail to Kristi Smith, Lawler Foods, P.O. Box 2558, Humble, Texas 77347 and Lawler's counsel. Ms. Smith's email address is KSmith@lawlers.com. From time to time, Ms. Smith may designate another co-worker to receive information on her behalf.

DISPUTE RESOLUTION AND COMPLIANCE

62. The Parties will not move to enforce the non-monetary provisions of this Agreement without first utilizing the procedures set forth in paragraph 63. If the Commission has a good faith belief that any of the following events in (a.) through (d.) of this paragraph has occurred, it may choose to immediately move to enforce any monetary obligation set forth in this Consent Decree, thereby foregoing the notice and cure provisions set forth in paragraph 63:

- a. Lawler's failure to promptly transfer scheduled QSF payments to the Claims Administrator;
- b. If applicable, Lawler's refusal to timely compensate the Intervening-Plaintiffs as per the terms of this Consent Decree;
- c. Notice of sale of Lawler's assets or sale of Lawler Foods Inc. and/or Lawler Foods LTD;
- d. Notice of suggestion of the filing of corporate bankruptcy or the filing of bankruptcy.

63. Aside from the circumstances set forth in paragraph 62 (a)-(d), before filing a motion to

enforce and/or for contempt, the parties with enforcement rights, “the movant,” shall notify the non-movant respondent, in writing, of the alleged non-compliance. Upon receipt of written notice, the non-movant shall have thirty (30) days to either correct the alleged violation, and so inform the moving party, or deny the alleged violation, in writing. If the parties cannot resolve their dispute, the party alleging non-compliance may file a motion seeking an order that non-movant show cause why it should not be found in violation of the Consent Decree and not be ordered to remedy its non-compliance. Each party shall bear its own costs, expenses and attorney’s fees incurred in connection with such motion. Jurisdiction to resolve any dispute arising under this Consent Decree resides in the United States District Court for the Southern District of Texas Houston Division.

64. In the event that a remaining dispute exists as of the date this Consent Decree expires, the duration of the Consent Decree shall be automatically extended until final disposition of the existing dispute, or up to six (6) months, whichever is earliest. Notwithstanding anything contained herein, in no event shall the total term of this Consent Decree exceed four and a half (4 ½) years. A dispute shall be deemed to exist on the date that the Consent Decree expires if:

- (a) it is an unresolved dispute set forth in a written notice of alleged Consent Decree non-compliance that was served by the EEOC upon Lawler and Lawler’s counsel on or before the expiration date of the Consent Decree; and/or
- (b) it is an unresolved dispute based on any final semi-annual or annual report required to be served by Lawler that is set forth in a written notice of Consent Decree non-compliance served by the EEOC upon Lawler and Lawler’s counsel not later than sixty (60) days after EEOC’s receipt of the relevant report(s); and/or
- (c) the dispute is referenced, set forth or discovered in a report produced to the Commission by the DCM or the Claims Administrator which was not provided to the Commission within the last three (3) months before the Consent Decree’s expiration date.

65. The Commission may conduct on-site inspection of Lawler's production and recruitment departments for production to ensure compliance with Title VII and any of the terms of this Consent Decree. Such inspection may include requests for inspection of relevant documents; interviews with non-managerial production employees; interviews of managerial production employees; and/or inspection of the production department. In order to obtain such inspection, EEOC must first seek Lawler's voluntary cooperation by submitting a written request to Lawler and Lawler's counsel at least five (5) business days in advance of the EEOC's requested inspection. The written request for inspection from the EEOC shall include the EEOC's good faith reason for the inspection. If Lawler fails to respond to the EEOC's request for voluntary cooperation, the EEOC may file a motion with the Court to require Lawler to comply with its inspection requests as deemed appropriate by the Court.

MISCELLANEOUS PROVISIONS

66. Joint Document Of The Parties - The provisions in this Consent Decree are the product of joint negotiation and are not to be construed as having been authored by one party or another.

67. Non derogation of rights - Unless explicitly released by the terms of this Consent Decree, this Consent Decree shall not be construed to limit the procedural and substantive rights of persons to file charges with the EEOC nor shall this Consent Decree constrain the Commission from properly undertaking investigations of Charges nor shall this Consent Decree constrain Lawler and its representatives from responding to any charges.

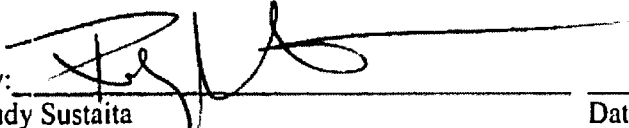
68. Limited Applicability to New Hires - Pursuant to this Consent Decree, monetary relief is only available to persons deemed by the Commission to have initially applied for employment with Lawler in Lawler's production department or who attempted to apply for

employment with Lawler for a position or positions in Lawler's production department on one or more occasions between January 1, 2009 and December 31, 2015 and who otherwise meet the requirements set forth in this Consent Decree.

69. Lawler shall post an 11 x 14 copy of the notice attached as **Exhibit F** within ten (10) business days of the entry of this Consent Decree. Lawler will post **Exhibit F** in a conspicuous place upon its premises where notices to applicants for non-supervisory positions in the production department are customarily posted, and keep a copy of the notice attached herein as **Exhibit F** posted for the "Duration of Consent Decree" as provided for in paragraph 14.

70. Implementation - The Commission and Lawler agree to take all steps that may be necessary to fully effectuate the terms of this Consent Decree. By mutual consent of the EEOC and Lawler, this Consent Decree may be amended in the interest of justice and fairness in order to achieve the Consent Decree's objectives. Should the EEOC and/or Lawler determine that modifications, additions, or deletions to this Consent Decree are necessary, the counsel for the EEOC and counsel for Lawler shall meet in good faith and on reasonable notice to discuss any such changes. No modification, deletion, or addition to this Consent Decree shall be adopted unless it is agreed upon in writing, signed by the authorized representatives of the EEOC and Lawler, and so ordered by the Court.

AGREED AND ACCEPTED:

By:  _____ Date 4/21/2016

Rudy Sustaita
Texas Bar No. 19923560
Federal ID No. 11850
Houston District Office
1919 Smith Street, 7th Floor
Houston, Texas 77002
Telephone: (713) 651-4970

**ATTORNEY-IN-CHARGE FOR
EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION**

AGREED AND ACCEPTED:

By: /s/ W. Jackson Wisdom
W. Jackson Wisdom
Texas Bar No. 21804025
Federal I.D. No. 13756
MARTIN, DISIERE, JEFFERSON & WISDOM, L.L.P.
808 Travis Street, 20th Floor
Houston, Texas 77002
Telephone: (713) 632-1700

April 21, 2016
Date

**ATTORNEY-IN-CHARGE FOR
DEFENDANTS, LAWLER FOODS, INC.
AND LAWLER FOODS, LTD.**

~~IT IS AGREED~~
^{ORDERED}

SIGNED day of April 22, 2016.


UNITED STATES DISTRICT JUDGE

Exhibit A

RELEASE AGREEMENT FOR QUALIFIED COMPENSATION CLAIMANT

Release and Satisfaction of Claims. In consideration for the \$ _____ paid to me by Lawler Foods, Inc. and Lawler Foods, Ltd. in connection with the resolution of the Lawsuit styled *EEOC v. Lawler Foods, Inc., and Lawler Foods, Ltd.*, Case No. 4:14-CV-03588, I waive, release and discharge, and covenant not to sue, Lawler Foods, Inc., and Lawler Foods, Ltd., or any of their past, present, and future direct and indirect parents, affiliates, subsidiaries, divisions, predecessors, successors, partners, affiliated organizations, insurers, assigns, and each of their past, present, and future officers, directors, members, trustees, agents, employees, attorneys, contractors, representatives, and any other persons or entities acting on their behalf (the "Releasees") for any claims of race, national origin and/or sex discrimination arising under Title VII of the Civil Rights Act of 1964, as amended and/or 42 U.S.C. §1981a, as amended that I have or may have had against the Releasees and/or any of them, whether known or unknown against the Releasees on or before the date of this Release.

Date

X _____
Signature
Printed Name: _____
Mailing Address: _____

(include street number, street name, city, state, and zip code)

Exhibit B

xx, 2016

Address:

Re: Settlement in EEOC v. Lawler Foods, Ltd. (Lawler)

Dear Mr. xxx,

You may be a class member in the lawsuit listed above. It is believed you applied for a job with Lawler's between January 1, 2009 and December 31, 2015 at Lawler's commercial bakery in Humble, Texas. That lawsuit has recently settled and class members may be eligible for both a monetary settlement and an opportunity to apply for a non-supervisory position in the production department at Lawler.

Please decide whether or not you want to apply for a non-supervisory job in the production department with Lawler. The EEOC is in the process of determining whether you are a class member entitled to receive money under the settlement. However, if you are still interested in working for Lawler, then as soon as possible, please fill out the enclosed job application and submit it in person to Lawler's PRODUCTION OFFICE at 1219 Carpenter Road, Humble, Texas 77396, which is generally open from 10 a.m. – 4 p.m., Monday-Friday. **Please contact the Claims Administrator at (XXX) XXX-XXXX prior to applying in person to confirm Lawler is taking applications at that time.** Also, send a copy of your application to me at the address provided below by using the enclosed envelope. The jobs in question are all non-supervisory positions in the production department. Note: Whether or not you apply for a job will not affect whether you also receive a monetary settlement.

Please contact me if you have questions or concerns at (713) 651 xx , or reach me at yy.yyy@eoc.gov. Also, it's possible someone from my office may contact you on my behalf. That would likely be colleagues in the legal unit, including Mary Curry or Anita Parker.

Sincerely yours,

Xx Attorney
EEOC
1919 Smith Street, 7th Floor
Houston, Texas 77002



Lawler Foods, Ltd.

APPLICATION FOR EMPLOYMENT
PRODUCTION DEPARTMENT

EQUAL OPPORTUNITY EMPLOYER. It is our policy to abide by all federal and state laws prohibiting employment discrimination; therefore, Lawler Foods does not discriminate on the basis of race, color, sex, age, religion, national origin, military status, pregnancy, or disability or any other characteristic protected under applicable federal, state and local anti-discrimination laws.

PLEASE TYPE OR PRINT IN INK

Date _____ / _____ / _____

Name _____ Social Security Number _____ - _____ - _____

Address _____ How Long? _____

City _____ State _____ Zip _____

Day Phone _____ Home Phone _____

Previous Address _____ How Long? _____

Position for which you are applying: _____

Check the following options you would consider Full Time Part Time Temporary If part time, specify hours or days _____

Do you have any commitments to another employer that might affect your employment with us? _____

EDUCATION AND TRAINING

	Print School Name, City and State	Degree/Major/Course of Study
High School		
College		
Graduate School		
Trade School		

List any other education, training, special skills or certificates/licenses that you possess related to this job _____

List any machines or equipment on which you are qualified and experienced in operating _____

List any languages that you fluently speak _____ read/write _____

Do you have a valid driver's license in this state? yes no

Military experience? yes no If yes, what branch? _____ Rank at separation _____

GENERAL INFORMATION

Can you, after employment, submit verification of your legal right to work in the U. S.? yes no

Are you 16 years old or over? yes no If under 18, state age _____

Were you previously employed by Lawler Foods, Ltd.? yes no Dates _____ / _____ / _____

GENERAL INFORMATION (continued)

Have you ever been convicted of a felony, or pleaded no contest to a felony or been convicted of a misdemeanor resulting in imprisonment or a fine over \$500 during the last ten years? (Criminal convictions are not an automatic bar to employment but will only be considered on a case by case basis in relation to specific job requirements.) yes no

If yes, explain _____

EMPLOYMENT HISTORY

Please list all employers for whom you have worked for the past 10 years starting with the most recent employer. Do not omit any employment during these 10 years. Use the Supplemental Page (s) to continue employment history.

Name of Employer _____ Type of Business _____

Address _____ City _____ State _____ Zip _____

Dates Employed (from) _____ / _____ / _____ (to) _____ / _____ / _____ Title _____

Name and Title of Supervisor _____ Telephone _____

May we Contact? yes no Was Employment part time full time

Brief Description of Duties _____

Reason for Leaving _____ Last Salary _____

Name of Employer _____ Type of Business _____

Address _____ City _____ State _____ Zip _____

Dates Employed (from) _____ / _____ / _____ (to) _____ / _____ / _____ Title _____

Name and Title of Supervisor _____ Telephone _____

May we Contact? yes no Was Employment part time full time

Brief Description of Duties _____

Reason for Leaving _____ Last Salary _____

Name of Employer _____ Type of Business _____

Address _____ City _____ State _____ Zip _____

Dates Employed (from) _____ / _____ / _____ (to) _____ / _____ / _____ Title _____

Name and Title of Supervisor _____ Telephone _____

May we Contact? yes no Was Employment part time full time

Brief Description of Duties _____

Reason for Leaving _____ Last Salary _____

Name of Employer _____ Type of Business _____

Address _____ City _____ State _____ Zip _____

Dates Employed (from) _____ / _____ / _____ (to) _____ / _____ / _____ Title _____

Name and Title of Supervisor _____ Telephone _____

May we Contact? yes no

Was Employment part time full time

Brief Description of Duties _____

Reason for Leaving _____ Last Salary _____

REFERENCES (List below the names of persons (not related to you) whom we may contact to obtain a reference.)

Name and Address	Occupation	Phone
1. _____	_____	_____
2. _____	_____	_____
3. _____	_____	_____

Person to be notified in case of emergency:

Name _____ Phone(_____) - _____

Address _____

Please include any other information you think would be helpful to us in considering you for employment, such as additional work experience, articles/books published, activities, honors received, etc. (You may omit all information that would indicate age, sex, race, religion, color, national origin, or handicap.)

AGREEMENT (Please read the following statements carefully.)

I hereby affirm that the information provided on this application (and accompanying resume, if any) is true and complete to the best of my knowledge. I understand that false information or significant omissions may disqualify me from further consideration for employment and may be considered justification for dismissal if discovered at a later date.

I authorize all persons listed above (and on the accompanying resume, if any) to give Lawler Foods, Ltd. any and all information concerning my previous employment and education and any pertinent information they may have, personal or otherwise, and release all parties, such persons and Lawler Foods, Ltd. from liability for any damage that may result from furnishing same to Lawler Foods, Ltd.

I understand that Lawler Foods, Ltd. has agreed to provide workers' compensation insurance coverage for its employees. In the event of an injury in the workplace, I agree that my sole remedy lies in coverage under Lawler Foods, Ltd. workers' compensation insurance policy.

If employed by Lawler Foods, Ltd., I agree to conform to the rules and regulations of Lawler Foods, Ltd.. I further understand that my employment is at-will and can be terminated, with or without cause or notice at any time, at the discretion of Lawler Foods, Ltd. I further understand that no supervisor, manager, or representative of the Company, other than the President has the authority to enter into any agreement relating to my employment for any specified period of time, benefits or other terms and conditions of employment. .

I understand and agree that I may be required to take a drug and alcohol screening test. I hereby give my voluntary consent for a blood and/or urine sample to be collected from me and submitted for testing. I also consent to the release of the test results to Lawler Foods, Ltd. for its use. I understand that any positive drug or alcohol result may preclude my employment. I also understand that if my position requires driving my personal automobile on company business or driving a company automobile my employment is contingent on maintaining a valid driver's license, an acceptable driving record (MVR) and sufficient personal automobile insurance, as described in Lawler's Automobile Policy.

I understand that this application will be active for 30 days from the date of my application listed below. If I am not contacted for an interview and hired within 30 days from the date of my application listed below, I understand that I must complete a new application to be considered for employment at Lawler Foods, Ltd.

Signature _____ Date _____ / _____ / _____

Exhibit D
VOLUNTARY SELF IDENTIFICATION: EEO FORM

INSTRUCTIONS

PLEASE READ ALL INSTRUCTIONS CAREFULLY BEFORE COMPLETING THIS FORM

Anti-Discrimination Notice. It is an unlawful employment practice for an employer to fail or refuse to hire or discharge any individual, or otherwise to discriminate against any individual with respect to that individual's terms and conditions of employment, because of such individual's race, color, religion, sex, or national origin.

This employer is subject to certain nondiscrimination and affirmative action recordkeeping and reporting requirements which require the employer to invite employees to voluntarily self-identify their race/ethnicity. Submission of this information is voluntary and refusal to provide it will not subject you to any adverse treatment.

The information obtained will be kept confidential and may only be used in accordance with the provisions of applicable federal laws, executive orders, and regulations, including those which require the information to be summarized and reported to the Federal Government for civil rights enforcement purposes.

If you choose not to self-identify your race/ethnicity at this time, the federal government requires this employer to determine this information by visual survey and/or other available information.

For civil rights monitoring and enforcement purposes only, all race/ethnicity information will be collected and reported in the seven categories identified below. The definitions for each category have been established by the federal government. If you choose to voluntarily self-identify, you may mark only one of the boxes presented below.

INVITATION TO SELF-IDENTIFY
PLEASE ANSWER THE FOLLOWING QUESTION

What is your gender?

- Male Female

What is your race/ethnicity? Please mark the **one box** that describes the race/ethnicity category with which you primarily identify.

- Hispanic or Latino:** a person of Cuban, Mexican, Chicano, Puerto Rican, South or Central American, or other Spanish culture or origin, regardless of race.
- White:** a person having origins in any of the original peoples of Europe, the Middle East, or North Africa.
- Black or African American:** a person having origins in any of the black racial groups of Africa.
- Asian:** a person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam.
- Native Hawaiian or Other Pacific Islander:** a person having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands.
- American Indian or Alaska Native:** a person having origins in any of the original peoples of North and South America (including Central America), and who maintains tribal affiliation or community attachment.
- Two or More Races:** a person who primarily identifies with two or more of the above race/ethnicity categories.

Signature _____ Date _____

Printed Name: _____

Exhibit E

PRODUCTION SCREENING DOCUMENT

DATE: _____

TELEPHONE: HOME: _____

NAME: _____

WORK: _____

NUMBER: _____

CELL: _____

1. HOW WOULD YOU DESCRIBE YOURSELF?

2. CAN YOU WORK ANY SHIFT? YES NO

3. WHAT SHIFTS ARE YOU WILLING AND ABLE TO WORK? CIRCLE
 Day Night

LIST HOURS YOU ARE AVAILABLE TO WORK BELOW.

4. ARE YOU WILLING TO WORK 7 DAYS A WEEK, INCLUDING SATURDAY AND SUNDAY, UP TO 10 TO 14 HOURS DAILY?
 YES NO

5. WHAT KIND OF REFERENCE DO YOU THINK YOUR PREVIOUS EMPLOYER WILL GIVE YOU?

6. ARE YOU CAPABLE OF COMFORTABLY AND REPEATEDLY LIFTING TRAYS, BOXES, OR ANY OTHER OBJECTS:
CIRCLE ONLY ONE:

100 LBS -- (10-12 hours) 50 TO 99 LBS (10-12 hours) 35 TO 49 LBS (10-12 hours)

7. CAN YOU PERFORM MANUAL TASKS INVOLVING CONTINUOUS MOVEMENT OF HANDS AND FINGERS?
 YES NO EXPLAIN

8. CAN YOU WORK IN 50 DEGREE F. TEMPERATURE DURING A 10 TO 14 HOUR SHIFT? (EXPLAIN)
 YES NO EXPLAIN

9. YOU WILL BE EXPOSED TO WORKING IN COLD TEMPS, SUCH AS -10 OR +10 DEGREES, **In & Out of the Freezers (10-12 hours per shift)**. DO YOU HAVE A PROBLEM WORKING IN THESE TEMPERATURES? (EXPLAIN)
 YES NO

Exhibit E

10. YOU WILL BE EXPOSED TO WORKING IN HOT TEMP, SUCH AS 80 AND 115 DEGREES, (10-12 hours per shift). DO YOU HAVE A PROBLEM WORKING IN THESE TEMPERATURES? (EXPLAIN)

YES NO

11. CAN YOU GET YOURSELF TO WORK ON TIME? (EXPLAIN)

YES NO

12. PRODUCTION STAFF ARE EXPOSED TO WHEAT & DAIRY PRODUCTS AS WELL AS EGGS AND A VARIETY OF NUTS (INCLUDING GROUND NUTS, SUCH AS PEANUTS AND TREE NUTS, SUCH AS ALMONDS AND WALNUTS). CAN YOU SAFELY WORK WITH AND AROUND THESE PRODUCTS?

13. ARE YOU CAPABLE OF STANDING FOR 10 TO 14 HOURS?

YES NO

ARE YOU CAPABLE OF WALKING FOR 10 TO 14 HOURS EITHER PUSHING OR PULLING CARTS WITH THE FOLLOWING WEIGHTS 100 – 199 lbs / 200 – 400 lbs?

YES NO

14. ARE YOU CAPABLE OF ADAPTING TO DIFFERENT WORK TEAMS OR DUTIES WHEN SWITCHING FROM ONE CREW OR DUTY TO ANOTHER? (EXPLAIN)

YES NO

FAILURE TO FOLLOW THESE DIRECTIONS MAY RESULT IN YOU NOT RECEIVING A JOB OFFER – ONLY PROVIDE A RESPONSE BELOW IF YOU ARE NO LONGER INTERESTED IN THIS JOB. STATE IN DETAIL THE REASONS YOU ARE NO LONGER INTERESTED IN THIS JOB.

FOR OFFICE USE ONLY

APPLICANT'S SIGNATURE DATE

SUPERVISOR'S SIGNATURE DATE

Exhibit F
NOTICE TO ALL EMPLOYEES

1. Discrimination based on race and national origin violates Title VII of the Civil Rights Act, 42 U.S.C. § 2000e, et seq. Federal law requires an employer to maintain a workplace free from discrimination based on race, sex (gender), religion, color, and national origin. It is also unlawful under Title VII to retaliate against any applicant or employee who opposes a practice made unlawful under federal law, or files, assists or participates in the filing of a charge of discrimination or participates in any investigation under Title VII.
2. Lawler will not tolerate or condone race and national origin discrimination or retaliation against any employee or applicant for employment. Retaliation discrimination violates company policy as well as federal law. Violation of these company policies by anyone employed by Lawler will result in disciplinary action up to and including termination.
3. All individuals have a role in ensuring compliance with equal employment opportunity principles. If you believe that you have been discriminated against in violation of federal law, the conduct must be reported as soon as possible to Lawler's Human Resource Manager, Tricia Mooney, at (281) 319-8215 or via email at: Tmooney@lawlers.com.

This Notice will be posted until [Month], [day] 2020 [four years from the entry of the consent decree]

SIGNED this day of _____, 2016

MIKE LAWLER
PRESIDENT of LAWLER FOODS