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Roland Snow et al. v. Enterprise Leasing Company of St. Louis

Keywords

Roland Snow, Carl Wright, Gregory Carr, Richard Parks, Karon Hibbler, Tiffanie Barnes, Carmen Grimmett, Valencia Seals, Enterprise Leasing Company of St. Louis, 4:00CV01693 JCH, Automotive, Promotion, Disparate Treatment, Race, African American, Consent Decree, Title VII, Employment Law

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

FILED

MAY 3 2002

U.S. DISTRICT COURT
EASTERN DISTRICT OF MO
ST. LOUIS

Ca

**ROLAND SNOW, CARL WRIGHT,
GREGORY CARR, RICHARD PARKS
KARON HIBBLER, TIFFANIE BARNES,
CARMEN GRIMMETT, VALENCIA
SEALS, and Others Similarly Situated,**

Plaintiffs,

v.

Case No. 4:00CV01693 JCH

**ENTERPRISE LEASING COMPANY
OF ST. LOUIS,**

Defendant.

**STIPULATION AND
AGREEMENT OF COMPROMISE
AND SETTLEMENT/CONSENT DECREE**

This Stipulation and Agreement of Compromise and Settlement/Consent Decree ("Decree") has been voluntarily entered into by Plaintiffs and Defendants (collectively, the "Parties") and has been submitted to the United States District Court for approval. Subject to final Court approval and the other terms and conditions specified below, this Decree finally resolves the litigation now pending between the parties but does not deprive the Court of its inherent powers to manage this litigation.

I. PURPOSES OF THE DECREE

The Parties have entered into this Decree for the following purposes:

- A. To resolve all disputes covered by this Decree in such a way as to avoid protracted litigation;
- B. To ensure continued equal promotion opportunity for employees and applicants for employment with Enterprise Leasing Company of St. Louis;

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C. To provide relief for Plaintiffs and class members whom the Parties agree to be similarly situated for purposes of the Decree;

D. To create an expedited procedure for distributing the monetary settlement and for implementing equitable relief pursuant to the terms of this Decree.

II. THE NATURE OF THE DECREE

A. No Admission of Liability.

This Decree represents the compromise of disputed claims that the Parties recognize would require protracted and costly litigation to determine. Defendants, Enterprise Rent-A-Car Company, and each Enterprise Affiliated Person, as defined below, deny that they have engaged in any policy, pattern or practice of unlawful race discrimination. Defendants' entry into this Decree is not, and may not be used by any person as, an admission or evidence that Enterprise has on any occasion engaged in race discrimination or any other discriminatory employment practices or has violated any law, rule or regulation, incurred any liability or engaged in any wrongdoing, such being expressly denied.

B. Modification and Severability of the Decree.

1. Whenever possible, each provision and term of this Decree shall be interpreted in such a manner as to be valid and enforceable. However, except as set forth below, in the event that any provision or term of this Decree or its application to any specific person or circumstance should be determined to be or rendered invalid or unenforceable, all other provisions and terms of this Decree and the application thereof to all other persons and circumstances subject thereto shall remain unaffected to the extent permitted by law. Such severability shall not apply to actions under this Decree that terminate the entire Settlement or render it voidable in its entirety, including without limitation the right of Enterprise Leasing Company of St. Louis to void the Decree pursuant to Section VI.C and VI.D. hereof.

2. The Parties may jointly agree to modify the Decree, subject to approval of the Court pursuant to a joint motion of the Parties.

C. Duty to Support and Defend the Decree.

The Parties and their counsel each agree to abide by all of the terms of this Decree in good faith and to support it fully, and shall use their Best Efforts to defend this Decree from any legal challenge, whether by appeal or collateral attack.

D. Entire Agreement.

This Decree, including the Exhibits hereto, contains the entire agreement and understanding of the Parties with respect to the settlement of this litigation. This Decree does not impose any obligations on the Parties beyond the terms and conditions stated herein. Accordingly, this Decree shall not prevent or preclude Enterprise Leasing Company of St. Louis from revising its employment practices and policies or taking other personnel actions during the term of this Decree that do not violate specific requirements of this Decree. Evidence concerning statements, discussions or negotiations, or any materials prepared or issued during the course of the mediation or negotiations leading up to the Decree shall not be admissible in any action or proceeding concerning interpretation of the terms of this Decree.

E. Governing Law.

The Parties agree that the validity, construction and enforcement of this Decree shall be governed by federal law. To the extent that it is determined that the validity, construction or enforcement of this Decree or any release executed pursuant to its terms is governed by state law, the law of the State of Missouri shall apply.

III. DEFINITIONS

The following terms when used in this Decree, in addition to the terms defined elsewhere in the Decree, shall have the following meanings:

A. "Action" means the matter captioned *Roland Snow, et al. v. Enterprise Leasing Company of St. Louis, et al.*, Case No. 4:00CV1693 JCH, presently pending in the United States District Court of the Eastern District of Missouri, Eastern Division.

B. "Best Efforts" means implementing a plan reasonably designed to comply with the terms of this Decree.

C. “Claims” means any and all claims or causes of action arising out of employment or application for employment with Enterprise Leasing Company of St. Louis (designated through the course of this litigation as “Group 01”) which are asserted or that could be asserted in this Action for race discrimination in hiring, transfer, promotion, job assignments and/or other terms and conditions of employment, whether based on allegations of disparate treatment, disparate impact or a pattern and practice of discrimination.

D. “Class” or “Settlement Class” shall refer to a group that includes both the Promotions Sub-Class and the Hiring Sub-Class, as defined in Sections VII.B and VII.C of this Decree.

E. “Class Counsel” shall refer to Jerome J. Dobson and Jonathan C. Berns of the law firm of Weinhaus, Dobson, Goldberg & Moreland and Kent Spriggs of the law firm of Spriggs & Davis.

F. “Defendants’ Counsel” shall refer to D. Michael Linihan and Shelley M. Roither of the law firm McMahan, Berger, Hanna, Linihan, Cody & McCarthy.

G. “Enterprise Affiliated Person” means Enterprise Leasing Company of St. Louis and each of its affiliated corporations and parent corporations, The Crawford Group, Inc., and Enterprise Rent-A-Car Company, together with each of its and their past, present, and future officers, directors, employees, representatives, agents, insurers, affiliates, shareholders and attorneys, and their respective heirs, executors, legal assigns and administrators.

H. “Final Approval Date” means the date upon which the Court signs this Decree and the time for appeal has run without an appeal being filed or, if an appeal is filed, the date on which that appeal is finally resolved (including any requests for rehearing *en banc*, petitions for *certiorari* or appellate review). Such approval shall be given upon a determination that the settlement is fair, adequate and reasonable to the Class as a whole, after: (i) notice to the Settlement Class, (ii) an opportunity for Settlement Class members to opt out of the Settlement Class with respect to monetary relief, (iii) an opportunity for Settlement Class members to

submit timely objections to the Decree, (iv) appropriate discovery by the Parties, as necessary, of the specifics of any such timely objections, and (v) a hearing on the fairness of the settlement.

IV. CASE PROCEEDINGS AND DISCOVERY

On October 24, 2000, the five original Plaintiffs, Roland Snow, Carl Wright, Richard Parks, Tiffanie Barnes and Karon Hibbler, filed this class action against Defendants. In their original Complaint, the Plaintiffs contended they were discriminated against on the basis of their race, in violation of Title VII of the Civil Rights Act of 1964 (“Title VII”), as amended, 42 U.S.C. § 2000e *et seq.*, the Civil Rights Act of 1866, 42 U.S.C. § 1981 (“§ 1981”), and the corresponding provisions of the Missouri Human Rights Act (“MHRA”), Mo. Rev. Stat. § 213.010 *et seq.* Each original Plaintiff contended that he or she was denied promotions, transfers and/or the opportunities for promotions and transfers and “were treated less favorably than similarly-situated white employees in the terms and conditions of employment.” Plaintiffs sued on behalf of themselves, and also sought to represent a class of persons “similarly-situated to Plaintiffs who were employed by Defendants and were discriminated against at any time between October 1995 and the present, or would have been employed by Defendants, but for the discriminatory practices.”

Subsequently, the original Plaintiffs filed their First Amended Complaint, which added an additional Plaintiff, Gregory Carr, and an additional Defendant, Enterprise Rent-A-Car Company, to the lawsuit. Therein, Carr alleged he was subjected to a racially hostile work environment and refused promotion because of his race, in violation of § 1981. Plaintiffs also added class action allegations under § 1981, contending they represented a class of employees “who were employed by Defendants Enterprise Leasing Company, Enterprise Leasing Company of St. Louis and Enterprise Rent-A-Car Company, and were discriminated against at any time

between October 1995 and the present, or would have been employed by Defendants, but for the discriminatory practices.”

In April 2001, Plaintiffs filed, with leave, a Second Amended Complaint, which added the allegation that Plaintiff Hibbler received a Notice of Right to Sue from the Missouri Commission on Human Rights. Its class action allegations were identical to those in the initial Complaint and the First Amended Complaint.

On July 6, 2001, the Court entered a Case Management Order, bifurcating discovery into two phases: Phase I for class certification issues and Phase II for discovery on the merits. The Parties conducted extensive discovery, which included numerous depositions, the production and exchange of thousands of pages of documents, and expert analyses of computerized and non-computerized employment data. The Plaintiffs' discovery included, but was not limited to, discovery of electronic personnel records and a substantial number of depositions of key personnel. Likewise the Defendants engaged in substantial discovery in this case including, but not limited to, depositions of Plaintiffs Roland Snow, Carl Wright, Gregory Carr, Richard Parks, Tiffanie Barnes, and Karon Hibbler. Phase I discovery was completed November 28, 2001.

On or about December 19, 2001, Plaintiffs filed their Motion for Leave to Add Parties as Named Plaintiffs and for Leave to File Third Amended Complaint. As evidenced by their Motion, Plaintiffs additionally seek to represent a class of unsuccessful African American applicants for employment with Defendant Enterprise Leasing Company of St. Louis. This Motion was denied without prejudice by Order dated January 14, 2002.

Pursuant to Order of this Court, this matter was referred to mediation. The Parties mutually selected a mediator, who presided over mediation of this matter on December 20 and 21, 2001. An Agreement in Principle was reached as a result of the mediation efforts. The terms

of that Agreement in Principle have been embodied in this Decree, now before the Court on Plaintiffs' motion for approval.

The Plaintiffs have vigorously prosecuted this case and Defendants have vigorously contested it. Although discovery has not been completed, the Parties have conducted extensive discovery that is sufficient to assess reliably the relative merits of the Claims of the Plaintiffs and the Settlement Class and of the defenses to those Claims.

The Parties agree that the formal and informal discovery conducted in this Action is sufficient to assess reliably the merits of the respective Parties' positions and to compromise the issues on a fair and equitable basis. As indicated by the signature of counsel at the end of this document, the Parties have consented to the entry of this Decree.

This Decree represents the compromise of disputed Claims. The Decree does not constitute, and is not intended to constitute, and shall not under any circumstances be deemed to constitute, an adjudication by the Court or an admission by either Party as to the merits, validity, or accuracy or lack thereof, of any of the Plaintiffs' allegations or Claims in this case. Neither this Court nor any other Court has made any findings or expressed any opinion concerning the merits, validity or accuracy of any of the allegations or Claims alleged in this Action.

V. JURISDICTION

Solely for purposes of this settlement, and subject to District Court approval, the Parties agree that this Court has jurisdiction over the parties and the subject matter of this Action and that venue is proper in this District. The Parties also agree, solely for purposes of this settlement and subject to District Court approval, that the Complaint asserts Claims which, if proven, would authorize the Court to grant the equitable and monetary relief set forth in this Decree. This Court shall retain jurisdiction of this Action during the duration of the Decree solely for the purpose of

entering all orders authorized hereunder which may be necessary to implement the relief provided herein.

VI. EFFECTIVE DATES AND DURATION OF CONSENT DECREE

A. Except as provided below and as otherwise provided in this Decree, the provisions of this Decree and the agreements contained herein shall become effective on the Final Approval Date and shall remain in effect for three (3) years from the Final Approval Date. This Decree shall expire without further action by the parties on the third anniversary of the Final Approval Date.

B. The releases and bars on claims and the commitments concerning confidentiality and return of documents shall survive the expiration of this Decree.

C. If more than nine (9) members of the Hiring Sub-Class or more than seven (7) members of the Promotion Sub-Class opt out of the monetary relief portion of this settlement, then this Decree, including the establishment of the stipulated Sub-Classes, shall be voidable in its entirety, at the sole option of Enterprise Leasing Company of St. Louis. In the event Enterprise Leasing Company of St. Louis exercises its right to void this Settlement, written notice shall be provided to Class Counsel within 10 days of its receipt of the list of persons filing opt-out requests and written objections.

D. If this Decree is voided pursuant to Subsection C above, or if this Decree is, in whole or in part: (a) terminated; (b) fails to become effective in accordance with its terms; (c) the subject of an order reversing or modifying an Order of approval by this Court; or (d) is otherwise not consummated, the Parties shall retain all rights to oppose class treatment and/or to assert the non-applicability of any of the aforementioned Federal Rules of Civil Procedure and shall be restored to their respective positions in this Action as of December 20, 2001. In

addition, the terms and provisions of this Decree shall have no further force and effect with respect to the Parties and shall not be used in this Action or in any proceeding for any purpose, and any Judgment entered by the Court in accordance with the terms of this Decree shall be treated as vacated, *nunc pro tunc*. The Parties further agree that the stipulations and agreements contained herein shall not be deemed nor construed as an admission or used as evidence of the appropriateness of any other class of employees or applicants in this Action or in any other proceeding.

E. If the Court refuses to grant final approval as to the equitable and monetary relief for both the Hiring and Promotion Sub-Classes, then this Decree, including the establishment of both Sub-Classes, shall be voidable in its entirety, at the option of either Party. In the event either Party exercises this right to void this Settlement, written notice shall be provided to the other Party within 10 days of its notice of the Court's refusal to grant final approval as to the equitable and monetary relief for both the Hiring and Promotion Sub-Classes.

VII. SETTLEMENT CLASS

A. This Decree constitutes a settlement of the rights of the Settlement Class, which is comprised of a Promotion Sub-Class and a Hiring Sub-Class.

B. For purposes of the Decree, the Promotion Sub-Class shall be comprised of all African American individuals who were employed by Enterprise Leasing Company of St. Louis at any time between October 1, 1995 and December 31, 2001. The representatives of this Settlement Sub-Class shall be Plaintiffs Roland Snow, Carl Wright, Gregory Carr, Richard Parks, Karon Hibbler and Tiffanie Barnes.

C. For purposes of the Decree, the Hiring Sub-Class shall be comprised of all African American individuals who applied for employment with Enterprise Leasing Company of

St. Louis at any time between October 1, 1995 and December 31, 2001, but were never employed by Enterprise Leasing Company of St. Louis. The representatives of this Settlement Sub-Class shall be Plaintiffs Valencia Seals and Carmen Grimmert.

D. Solely for purposes of this Decree and the equitable and declaratory relief provided herein, the Parties agree that the Settlement Class may be certified pursuant to Federal Rule of Civil Procedure 23(b)(2) and consists of the Promotion Subclass and the Hiring Subclass as defined in VII.B and VII.C, *supra*. No opt outs shall be allowed from these portions of the Decree.

E. Solely for purposes of this Decree and the monetary relief provided herein, the Parties agree that the Settlement Class may also be certified pursuant to Federal Rule of Civil Procedure 23(b)(3) and consists of the Promotion Sub-Class and the Hiring Sub-Class as defined in VII.B and VII.C, *supra*.

F. As set forth in detail in the Notice of Proposed Class Action Settlement and Consent Decree-Promotion Sub-Class and the Notice of Proposed Class Action Settlement and Consent Decree-Hiring Sub-Class, members of the settlement class desiring to opt out of the monetary relief shall be provided an opportunity to do so. Those electing to opt out must file a written Opt-Out Statement with the Clerk of the United States District Court for the Eastern District of Missouri, 111 South 10th Street, St. Louis, Missouri, 63102. Opt-Out Statements must be received by the Clerk at the above address on or before July 15, 2002. For purposes of Section X of this Decree, Settlement Class members who have filed a timely request to opt out of the monetary relief provisions of the Decree shall be held only to have released claims for equitable or injunctive relief and not any claims for individual relief. This shall be the sole exception to the scope of those bound by III.E, *supra*.

G. As set forth in detail in the Notice of Proposed Class Action Settlement and Consent Decree-Promotion Sub-Class and the Notice of Proposed Class Action Settlement and Consent Decree-Hiring Sub-Class, anyone wishing to pose an objection(s) to this settlement must submit any objections, in writing, to the Clerk of the Court. Such objections shall be mailed to the Clerk of the Court with a postmark no later than July 15, 2002. Anyone wishing to be heard orally regarding objections and/or opposition to this settlement must indicate in his or her written objection or otherwise in writing served upon Class Counsel and Defendants' Counsel the intent to appear at the hearing. Any notice to be heard must be received no later than seven (7) days prior to the hearing date. Failure to timely file a written objection and/or notice of intent to be heard will result in a waiver of any objection and/or the opportunity to be heard.

VIII. PRELIMINARY COURT APPROVAL

As soon as practicable after execution of this Decree, the Parties shall apply jointly for entry of an Order With Respect to Proposed Settlement (the "Preliminary Order") substantially in the form attached hereto as Exhibit 1,

1. providing that, for the purposes of the settlement only, the litigation shall proceed as a class action pursuant to FRCP 23(b)(1)(A), FRCP 23(b)(2), and FRCP 23(b)(3);

2. directing that notice of the proposed Settlement be provided by Enterprise Leasing Company of St. Louis to all members of the Class who can reasonably be identified by individual notice substantially in the forms attached as Exhibits 2 and 3 herein, and by publishing the Summary Notice Form attached hereto as Ex. 4, in the St. Louis Post-Dispatch on two (2) occasions and the St. Louis American on two (2) occasions. The timing of the publications shall be at a mutually agreed time between the parties and within a reasonable time period after the Court grants preliminary approval;

3. setting a hearing date pursuant to FRCP 23(e); and

4. providing that any member of the Class who objects to this settlement or to any part thereof, or to the fairness, adequacy or reasonableness of the settlement, or to the procedures provided for herein, or to the maintenance of the litigation under FRCP 23(b) or to the contents and method of delivery of the notice, or to any Order or findings entered by the Court, may appear at the settlement hearing to show cause why the settlement should not be approved, provided that such Class member files at least seven (7) days prior to the date of the settlement hearing his or her written objections (and any briefs or supporting papers) with the Clerk of the Court and serves copies thereof upon Class Counsel and Defendants' Counsel.

IX. DISMISSAL AND AMENDMENT OF COMPLAINT

1. Plaintiffs shall file a Contingent Motion to Dismiss Party Defendants, with prejudice, as to Defendant Enterprise Rent-A-Car Company and Enterprise Leasing Company, concurrent with the filing of the motion for preliminary approval of this Settlement. In the event this Settlement is not approved or otherwise not consummated, said dismissal shall be null and void.

2. This Action shall be dismissed in its entirety, with prejudice, within ten (10) business days after the Final Approval Date, pursuant to a Joint Stipulation of Dismissal.

3. Plaintiffs shall also file, with consent, their Motion for Leave to File Third Amended Complaint and Third Amended Complaint in substantially the form attached hereto as Exhibit 5, to be prepared by Plaintiffs in consultation with Defendants.

X. RELEASE OF CLAIMS

A. Upon the Final Approval Date, subject to the exception set forth in Section VII.F of this Decree, each and every member of the Settlement Class, their heirs, dependents,

executors, administrators, trustees, legal representatives, personal representatives, agents, successors and assigns, shall be deemed to have, and by operation of the Court's judgment shall have, fully, finally and forever released, relinquished and discharged all Claims, including any "continuing violations," arising prior to December 31, 2001, against all Enterprise Affiliated Persons. Plaintiffs and each member of the Settlement Class shall further be barred from submitting evidence pertaining to any Claims in any proceeding of a class action nature, unless such evidence is compelled by subpoena, other than claim proceedings under this settlement.

B. As a condition precedent to the receipt of any monetary payment, each of the Class Representatives shall have executed and delivered to Defendants' Counsel an Agreement and Release ("Release") in the form annexed hereto as Exhibit 6. Eligible members of the Hiring Sub-Class and Promotion Sub-Class shall have executed and returned to the designated P. O. Box, no later than 30 days from the date of mailing, an Agreement and Release ("Release") in the form annexed hereto as Exhibit 7. Any Class Representative or eligible member of the Hiring Sub-Class or Promotion Sub-Class who does not execute and timely deliver and/or return a properly completed Release form in accordance with the procedures specified in this Decree shall be ineligible for, and forever barred from receiving, monetary relief under this settlement. This Decree will not prevent Enterprise Leasing Company of St. Louis from entering into settlement agreements with Class Members in addition to the Releases annexed hereto as Exhibits 6 and 7.

C. If the settlement does not become effective for any of the reasons specified in Section VI.C. and/or VI.D., then Enterprise Leasing Company of St. Louis' obligation to pay shall be extinguished and the right to any remaining unspent amounts, inclusive of any interest upon such amounts, shall revert to Enterprise Leasing Company of St. Louis. All sums expended

(and obligations incurred) for payment of expenses associated with notice and/or Settlement administration up to the time the Stipulation is terminated or becomes null and void are not chargeable to Enterprise Leasing Company of St. Louis.

XI. JOB SELECTION PROCEDURES

A. Enterprise Leasing Company of St. Louis will publish and provide to Class Counsel, no later than 30 days after the Final Approval Date, the minimum and desired job qualifications for all jobs through Level III for which multiple individuals may compete for discrete openings ("Competitive Jobs"). Enterprise Leasing Company of St. Louis will provide to Class Counsel, no later than 30 days prior to the date of the scheduled fairness hearing, unless otherwise mutually agreed between the Parties, a listing of all positions deemed to be "non-competitive," and further agrees to update this listing as part of its reporting obligations set forth in Article XIII.

B. Beginning 30 days after the Final Approval Date, Enterprise Leasing Company of St. Louis will post all pending vacancies in Competitive Jobs through Level III.

C. Enterprise Leasing Company of St. Louis has provided and will continue to provide a submission procedure by which current employees may file written expressions of interest for all posted jobs. The time allowed for these submissions shall not be shorter than five days. The deadline is to be noted in the posting. All employees who have made submissions in compliance with the procedure shall be considered for these vacancies.

D. All expressions of interest shall be submitted to Human Resources, and shall be reasonably marked so as to communicate the expression of interest in a job, and shall be dated when received.

E. Employees may express interest in only one job at a time. An employee may withdraw an expression of interest in one job in favor of expressing interest in another subsequently posted job.

F. Upon the closing of a posting period, any employee who submitted an expression of interest but was not selected for the posted position may submit a written request for information to Human Resources. Upon receiving any such written request, Human Resources shall identify the requestor's competitors, their current job, and the specific reason(s) why the requestor was not selected.

G. Enterprise Leasing Company of St. Louis will develop and implement a program of career counseling for current employees in which its human resources staff, upon request, will provide assistance in the form of feedback on current performance, guidance on the identification and development of job skills, and the availability of career development resources.

XII. MONETARY AWARDS AND PROCEDURES

A. Monetary Awards to Promotion Sub-Class

1. The monetary awards to the Promotion Sub-Class shall be distributed from a seven-hundred thousand dollar (\$700,000.00) fund.

2. Eligibility. To be eligible for a share of this award, a Promotion Sub-Class member must (a) have been employed in a Level 0 or higher job at some time between October 1, 1995 and December 31, 2001, and (b) execute a Release as referenced in the Notice to Promotion Sub-Class attached as Exhibit 2 hereto. Any named Plaintiff or any Promotion Sub-Class member who knowingly released all of his or her Claims which would otherwise be covered by this Agreement, or who obtained a final judicial determination of any of his or her

Claims which would otherwise be covered by this settlement, is not eligible to receive a share of the monetary award under this Decree.

3. Formula. Each eligible Promotion Sub-Class member who does not opt out and who submits a timely and properly completed Release form will be entitled to a share of the \$700,000 Promotion Sub-Class fund.

- (a) Promotion Sub-Class Members who have only held the classification of Level 0 during their employment with Enterprise Leasing Company of St. Louis shall be entitled to a payment of One Hundred Dollars (\$100.00).
- (b) Promotion Sub-Class Members who have held a classification of Level I or higher but who have less than six (6) months of service with Enterprise Leasing Company of St. Louis as of December 31, 2001, shall be entitled to a payment of One Hundred and Fifty Dollars (\$150.00).
- (c) The total amount of payments due to the individuals identified in subparagraphs (a) and (b) shall be deducted from the \$700,000.00 Promotion Sub-Class Fund. The funds remaining after these deductions shall be referred to as the Promotion Sub-Class Fund Balance.
- (d) The Promotion Sub-Class Fund Balance shall be distributed to Promotion Sub-Class Members who have held a classification of Level I or higher and who have greater than or equal to six (6) months of service with Enterprise Leasing Company of St. Louis as of December 31, 2001, (including any service as a Level 0 employee), based on the number of points assigned to each such Promotion Sub-Class Member. The number

of points assigned to each such Promotion Sub-Class member shall be determined as follows:

- i. Promotion Sub-Class Members who have 6 through 11 months of service with Enterprise Leasing Company of St. Louis as of December 31, 2001, and who have never held a Feeder Position shall be assigned one point.
- ii. Promotion Sub-Class Members who have 12 through 23 months of service with Enterprise Leasing Company of St. Louis as of December 31, 2001, and who have never held a Feeder Position shall be assigned 1.5 points.
- iii. Promotion Sub-Class Members who have equal to or greater than 24 months of service with Enterprise Leasing Company of St. Louis as of December 31, 2001, and who have never held a Feeder Position shall be assigned 2 points.
- iv. Promotion Sub-Class Members who have 6 through 11 months of service with Enterprise Leasing Company of St. Louis as of December 31, 2001, and who have held a Feeder Position shall be assigned five points.
- v. Promotion Sub-Class Members who have 12 through 23 months of service with Enterprise Leasing Company of St. Louis as of December 31, 2001, and who have held a Feeder Position shall be assigned 7.5 points.

- vi. Promotion Sub-Class Members who have equal to or greater than 24 months of service with Enterprise Leasing Company of St. Louis as of December 31, 2001, and who have held a Feeder Position shall be assigned 10 points.
 - vii. For subparagraphs (i) - (vi), the term "Feeder Position" shall be defined to include the following Enterprise job classifications, regardless of whether such job classification was held during employment with Enterprise Leasing Company of St. Louis (or if such classification was previously held during employment with an affiliate of Enterprise Leasing Company of St. Louis): Management Trainee, Rental Representative, Management Assistant, Assistant Rental Manager, Branch Rental Manager, Account Executive, Senior Account Executive, Business Manager and Branch Car Sales Manager.
- (e) The individual payment to each Promotion Sub-Class Member as identified in subparagraph (d) will be the total of the Promotion Sub-Class Fund Balance divided by the total number of points assigned to each such Promotion Sub-Class Member times the number of point(s) assigned to each such Promotion Sub-Class Member.

4. For each payment to a Promotion Sub-Class Member, the payment shall be deemed two-thirds interest on lost earnings and compensatory damages and one-third lost earnings based on the nature of the claims compensated. The portion of the payments attributable to lost earnings shall be subject to mandatory deductions and withholdings.

B. Monetary Awards to the Hiring Sub-Class

1. The monetary awards to the Hiring Sub-Class shall be distributed from a five-hundred thousand dollar (\$500,000.00) fund.

2. Eligibility. To be eligible for a share of this award, a Hiring Sub-Class member must (a) have completed and submitted an application for employment with Enterprise Leasing Company of St. Louis at some time between October 1, 1995 and December 31, 2001; (b) not have been employed at any time by Enterprise Leasing Company of St. Louis; (c) execute and return a Release as referenced in the Notice to Hiring Sub-Class attached as Exhibit 3 hereto; and (d) execute and return a claim form in accordance with the instructions included in the Notice to Hiring Sub-Class attached as Exhibit 3 hereto. Any named Plaintiffs, other than Plaintiffs Grimmatt and Seals, and any Hiring Sub-Class member who knowingly released all of his or her Claims which would otherwise be covered by this Agreement or who obtained a final judicial determination of any of his or her Claims which would otherwise be covered by this settlement, is not eligible to receive a share of the monetary award under this Decree.

3. Formula. Each eligible Hiring Sub-Class member who does not opt out and who submits a timely and properly completed Claim Form and Release form will be entitled to a share of the \$500,000 Hiring Sub-Class fund.

(a) If an eligible Hiring Sub-Class Member has only applied for employment as a Car Prep, Porter, Intern and/or Driver, then he or she shall be entitled to a payment of One Hundred Dollars (\$100.00). However, if the number of such eligible Hiring Sub-Class Members exceeds 1,000, then each such eligible Hiring Sub-Class Member shall instead be entitled to a pro-rata share of \$100,000. The total amount of payments to such eligible Hiring Sub-Class members shall be deducted from the

\$500,000 Hiring Sub-Class Fund. The funds remaining after these deductions shall be referred to as the Hiring Sub-Class Fund Balance.

(b) The Hiring Sub-Class Fund Balance shall be distributed to eligible Hiring Sub-Class Members who have ever applied for employment positions other than Car Prep, Porter, Intern and/or Driver, based upon the number of points assigned to each such Hiring Sub-Class member. The number of points assigned to each such Hiring Sub-Class member shall be determined as follows:

- i. A Hiring Sub-Class Member who has not obtained a four-year college degree either prior to the date of his/her most recent application for employment or within one year of the date of his/her most recent application for employment shall be assigned 1 point.
- ii. A Hiring Sub-Class Member who has obtained a four-year college degree either prior to the date of his/her most recent application for employment or within one year of the date of his/her most recent application for employment shall be assigned 2 points.
- iii. A Hiring Sub-Class Member who applied for employment as a Management Trainee or Account Executive shall be assigned an additional point.
- iv. The individual payment to each such Hiring Sub-Class Member, as identified in subparagraph (b), will be the total of the Hiring Sub-Class Fund Balance divided by the total number of points assigned to such Hiring Sub-Class Members times the number of point(s) assigned to each such Hiring Sub-Class Member.

(c) In no event shall an eligible Hiring Sub-Class Member be entitled to receive payments under both subsections (a) and (b).

4. For each award to a member of the Hiring Sub-Class the amount shall be deemed one-half interest on lost earnings and compensatory damages and one-half lost earnings based on the nature of the claims compensated. The portion of the payments attributable to lost earnings shall be subject to mandatory deductions and withholdings.

C. Monetary Awards to the Plaintiffs

1. The monetary awards to the named Plaintiffs shall be as follows:

Roland Snow	\$185,000
Carl Wright	\$185,000
Gregory Carr	\$61,666.67
Richard Parks	\$61,666.67
Karon Hibbler	\$30,833.33
Tiffanie Barnes	\$30,833.33

2. These amounts shall be deemed 80% as interest on lost earnings, compensatory damages, and for recognition as Class representatives, and 20% as lost earnings in accordance with the nature of the claims.

3. Except as specifically provided by Section XII.C.7, *infra*, the amounts set forth in Subsection 1, *supra*, shall be the only entitlement of the six Plaintiffs representing the Settlement Class to monetary relief.

4. The monetary awards to the Plaintiffs representing the Hiring Sub-Class shall be \$10,000 each to Plaintiffs Carmen Grimmatt and Valencia Seals.

5. These payments shall be for their role as Hiring Sub-Class Representatives, and shall be disbursed subject to an IRS Form 1099.

6. Plaintiffs Carmen Grimmett and Valencia Seals shall be entitled to file a claim to participate in the distribution of the monetary awards to the members of the Applicant Sub-Class as described in subsection XII.B, *supra*.

7. At the time of the litigation, Plaintiffs Wright and Snow were actively employed with Enterprise Leasing Company of St. Louis. They are each being paid an additional sum of money in consideration for their tender of voluntary resignations from employment with Enterprise Leasing Company of St. Louis.

D. Conditions and Mechanics of Awards

1. The Parties agree that the Conditions and Mechanics of Awards shall be consistent with the Court's Order granting Preliminary Approval of this Decree. Unless otherwise ordered by the Court, Enterprise Leasing Company of St. Louis shall be responsible for the assembly of a packet (the "Hiring Sub-Class Notice Packet") containing the Notice to Hiring Sub-Class (Ex. 3) and the Hiring Sub-Class Member Claim Form (Ex. 3). This Hiring Sub-Class Notice Packet shall be mailed to: (a) each African American individual known to have applied for employment with Enterprise Leasing Company of St. Louis at any time between October 1, 1995 and December 31, 2001, but who was never employed by Enterprise Leasing Company of St. Louis; and (b) each person for whom race is unknown who is known to have applied for employment with Enterprise Leasing Company of St. Louis at any time between October 1, 1995 and December 31, 2001, but who was never employed by Enterprise Leasing Company of St. Louis.

2. Unless otherwise ordered by the Court, Enterprise Leasing Company of St. Louis shall be responsible for the assembly of a Promotion Sub-Class Notice (Ex. 2). This Promotion Sub-Class Notice shall be mailed to each African American individual who was employed by Enterprise Leasing Company of St. Louis at any time during October 1, 1995 through December 31, 2001.

3. In addition, unless otherwise ordered by the Court, Enterprise Leasing Company of St. Louis shall cause to be published the Summary Notice Form attached hereto as Ex. 4, in the St. Louis Post-Dispatch on two (2) occasions and the St. Louis American on two (2) occasions.

4. Enterprise shall calculate the total number of points for each Sub-Class Member, if applicable. The value of a point for each respective Sub-Class and the number of points assigned to each Sub-Class Member shall also be calculated by Enterprise Leasing Company of St. Louis and provided to Class Counsel for review and approval within 45 days of the date by which the Sub-Class Member Release Forms are to be returned, unless otherwise agreed by the parties. Enterprise shall provide to Class Counsel information necessary to permit independent verification of the accuracy of the calculations, including making the claim forms accessible to Class Counsel for inspection and copying. Class Counsel shall be provided an opportunity to state any objections to the calculations. In the event of any objections as to the calculations, the Parties agree to meet and confer to attempt to resolve the objections.

5. Once Class Counsel has approved the amounts that should be disbursed from the fund to each Settlement Class member, in a computer file format, Enterprise Leasing Company of St. Louis will transmit checks for such amounts, less appropriate payroll withholding for federal and state income taxes and F.I.C.A. and any other legally required withholding, to the last

known address in Enterprise's records. If Class Counsel has a different address for a recipient it may transmit that information to Enterprise Leasing Company of St. Louis so that the check may be mailed to the address identified by Class Counsel rather than the address in Enterprise's records. Enterprise Leasing Company of St. Louis shall mail the checks within 45 days following (i) receipt by Enterprise Leasing Company of St. Louis of the foregoing approval by Class Counsel, or (ii) the Final Approval Date, whichever is later.

E. Recipients' Responsibilities.

It shall be the sole responsibility of each member of the Settlement Class who seeks a monetary award to advise Class Counsel promptly of his or her change of address. A Class member's failure to keep Class Counsel apprised of his or her current address may result in his or her request for an award being denied.

F. Distribution of Uncashed Awards.

If a distribution check to a Settlement Class member cannot be delivered, is returned uncashed or undeposited, or has not been cashed or deposited within six (6) months of the date on the check, any such undistributed funds shall be distributed to a charitable organization(s) mutually agreed by the Parties.

G. Costs of Decree Administration.

1. Enterprise Leasing Company of St. Louis shall pay directly all costs of any mailings to Sub-Class Members, inclusive of the costs of a tracing service, if any, and the published notice pursuant to Subsection XII.D.3, *supra*.

2. The costs of producing and mailing or otherwise distributing the checks containing the individual monetary awards to Settlement Class members, and of calculating and submitting all necessary employment and withholding taxes and documentation to appropriate

government agencies and distributing all pertinent tax withholding and 1099 forms to each Settlement Class member, shall be borne by the Defendant; provided, however, that individual Settlement Class members at all times remain fully responsible for ensuring the appropriate payment of employment and income taxes on their individual monetary awards hereunder.

XIII. REPORTING AND RECORDKEEPING

A. Reporting Schedule.

Enterprise Leasing Company of St. Louis will report at six-month intervals thereafter throughout the term of this Decree. The first report shall be served on Weinhaus, Dobson, Goldberg & Moreland seven months after the Final Approval Date and shall cover employment actions described below for the first six months following the Final Approval Date. Each successive report shall be served upon Weinhaus, Dobson, Goldberg & Moreland no later than one month after the six-month period to which it covers.

B. Contents of the Semi-Annual Reports.

The semi-annual reports described in Subsection XIII.A, *supra*, shall include the following information with respect to each Competitive Job:

1. Any changes to the minimum and desired job qualifications referenced in Section XI.A, *supra*, that have been implemented during the reporting period.
2. For each vacancy filled in accordance with Section XI.B. and XI.C.,
 - a. The identity and location of the job;
 - b. The date of the posting;
 - c. The date of the selection;
 - d. The identity of the race of the employee selected; and
 - e. The race of all competitors.

3. Any changes to the listing of non-competitive jobs as referenced in Section XI.A., *supra*.

C. Meet and Confer

If, after reviewing one or more reports, Class Counsel has a good faith concern that Enterprise Leasing Company of St. Louis has treated one or more African American employees in a racially discriminatory manner, the counsel for the Parties will meet and confer. During that meet and confer session, Enterprise Leasing Company of St. Louis will disclose such data relating to the position(s), the candidates for such position(s), and documents relating to the qualifications of the employees in the candidate pool as may be necessary to allow Class Counsel to fulfill its monitoring obligation.

XIV. ENFORCEMENT

1. Prior to instituting any proceeding to enforce the provisions of this Stipulation, Class Counsel shall provide written notice to Defendants' Counsel that specifically sets forth the way(s) in which Class Counsel believes that Enterprise Leasing Company of St. Louis is in violation of this Decree and the evidence in support thereof. The Parties shall hold a meeting or telephone conference call within a reasonable period not to exceed twenty (20) days of receipt of such notice.

2. The Parties will in good faith attempt to resolve all enforcement issues through discussion and negotiations. If the Parties are unable to resolve an issue raised in a written notice through discussion and negotiations, Enterprise Leasing Company of St. Louis will provide a formal written response to Class Counsel within a reasonable period not to exceed fifteen (15) days after the meeting or telephone conference at which the issue was discussed. The Parties agree to discuss and consider the appropriateness of mediation.

3. Notwithstanding the foregoing, Class Counsel shall have the right to seek immediate intervention of the Court, with advance notice to Enterprise Leasing Company of St. Louis, in circumstances where Class Counsel believes, in good faith, that irreparable harm will result if court intervention is delayed and where to the satisfaction of the Court traditional legal and equitable remedies will not provide adequate relief.

XV. ATTORNEYS' FEES, COSTS AND EXPENSES

1. Defendant has agreed, as part of the settlement underlying this Decree, to pay to Class Counsel, on behalf of the Class Representatives and the Settlement Class, a liquidated amount representing reasonable attorneys' fees, litigation expenses, and costs in this case.

2. Enterprise Leasing Company of St. Louis has agreed to pay Class Counsel an award of reasonable attorneys' fees, litigation expenses, and costs in the amount of five-hundred thousand dollars (\$500,000.00) for work performed and costs and expenses incurred through and including the Final Approval Date. Included in this amount is approximately \$50,000.00 for litigation costs and expenses incurred by Class Counsel. This amount of \$500,000 fully satisfies any arguable obligation that Enterprise or any Enterprise Affiliated Person may have to pay attorneys' fees, litigation expenses, and costs for and on behalf of the Plaintiffs and Class for any and all work performed and costs and expenses incurred through and including the Final Approval Date.

3. Enterprise Leasing Company of St. Louis also has agreed to pay Class Counsel an award of reasonable attorneys' fees, litigation expenses, and costs for work to be performed by Class Counsel after the Final Approval Date pursuant to this Decree for monitoring. Defendants agree that Class Counsel shall be paid such attorneys' fees, expenses and costs, in the amount of fifty-thousand dollars (\$50,000.00), for work performed and costs and expenses incurred after

the Final Approval Date relating to monitoring, administration and implementation and defense of the Decree. This amount satisfies any arguable obligation that Enterprise or any Enterprise Affiliated Person may have to pay attorneys' fees, expenses and costs to Class Counsel for any and all work performed and costs and expenses incurred after the Final Approval Date of the Decree for the monitoring, administration, and implementation of the Decree up through any meet and confer session as contemplated by the Decree. It does not include any fees which the Court might deem appropriate should the Plaintiffs have to move the Court to enforce any portion of the Decree.

4. Enterprise Leasing Company of St. Louis shall pay to Class Counsel these litigation-related attorneys' fees, expenses and costs within forty-five(45) days following the Final Approval Date.

5. Enterprise Leasing Company of St. Louis has also agreed to pay the reasonable costs and expenses related to the Mediator's fees and expenses in connection with his mediation role in this Action.

XVI. DENIAL OF LIABILITY

Defendants have voluntarily entered into this Settlement to avoid protracted and costly litigation. Defendants expressly deny any wrongdoing or liability whatsoever.

XVII. CONFIDENTIALITY

1. All named Plaintiffs will be required to keep the amount of the awards confidential from everyone except Class Counsel, the named Plaintiffs' respective spouse, life partner, and immediate family, and any attorney, tax or financial advisor representing the named Plaintiff. To the extent any named Plaintiff reveals the amount of the awards to such persons to whom disclosure is permitted, the named Plaintiff shall advise such persons that they must not

divulge the amount of the awards and that the amount of the awards are considered confidential. Each member of the Class receiving monetary awards shall be requested to maintain the confidentiality of the amount of the awards. Each member of the Class may always provide such information to Class Counsel, any attorney, tax or financial advisor representing the Class Member or his/her spouse, life partner or members of his/her immediate family.

2. Class Counsel acknowledge that during the course of this Action they have received, and may hereafter receive under this Decree, confidential information regarding Enterprise Leasing Company of St. Louis and its personnel, as well as other Enterprise Affiliated Persons, including without limitation, personnel files, internal memoranda, personnel plans, programs, policies and procedures, computerized data and other information. The Plaintiffs, their retained experts, their consultants and Class Counsel shall continue to be bound by the terms of the Stipulated Protective Order, filed August 10, 2001, throughout the term of this Decree. Plaintiffs, Class Counsel, and their retained experts, consultants and others agree not to disclose any information produced by Enterprise Leasing Company of St. Louis subject to the Stipulated Protective Order during the term of this Decree, and further agree not to use any such information for any purpose other than implementation of this Decree or any other purpose permitted under the Stipulated Protective Order. Class Counsel shall comply with the terms of the Stipulated Protective Order with respect to any such confidential information provided to their experts, outside consultants, and any other individual acting for or on behalf of Class Counsel.

3. Upon written request by a Party, which shall not predate the expiration of the settlement term (as defined in Section VI.A.), the requested Party shall, within sixty (30) days after receipt of the written request, return to the other Party all confidential documents (and all

copies of documents) that were produced by the other Party in the course of the litigation pursuant to the terms of the Stipulated Protective Order, including all copies thereof that have been provided to or are in possession of the Party or its expert(s) or consultant(s) and any electronically-retained data.

4. No statements, discussions or communications made, or any materials or documents prepared, used or exchanged by or between the Parties relating to the negotiations of the terms of this Decree shall be introduced, used or referred to in any way in any judicial, arbitral, administrative or other proceeding conducted in connection with or arising from this proceeding.

XVIII. PUBLICITY

The Parties shall issue a joint press release in the form attached hereto, which shall be made simultaneously available to the St. Louis Post-Dispatch and the St. Louis American following the Court's preliminary approval of this settlement. Except for the agreed-upon release, no contrary written or oral statements to the media or any public forum shall be made, directly or indirectly, by any Party or their respective counsel, either on their own or in response to any inquiry that may be received.

XIX. CONFLICTS

1. Counsel acknowledge that the Missouri Rules of Professional Conduct, Rules 4-1.7 - 4-1.10, prohibit them from undertaking any representation that would create a conflict of interest as defined in those rules.

XX. OTHER CONDITIONS OF SETTLEMENT

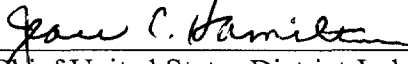
1. All of the Exhibits to this Decree are material and integral parts hereof and are fully incorporated herein by this reference.

2. All notices required or desired to be given under this Decree shall be in writing and delivered by hand or by registered or certified mail, telegram or courier, or by facsimile confirmed by first-class mail, to counsel for the respective Parties at their respective addresses set forth below (or to such other address as any such Party may designate in a notice).

3. The failure of any Party to insist in any one or more instances on strict compliance with the terms and conditions hereof shall not be construed to be a waiver of any prior or subsequent breach.

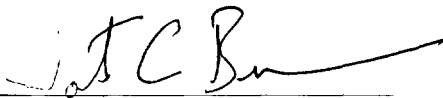
4. This settlement shall inure to the benefit of and be binding upon the Parties hereto and their respective heirs, dependents, executors, administrators, trustees, legal representatives, personal representatives, agents, successors and assigns; provided, however, that this settlement shall not inure to the benefit of any third party.

IT IS SO ORDERED, ADJUDGED AND DECREED this 3rd day of May, 2002.



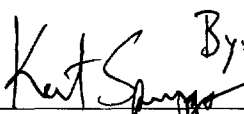
Chief United States District Judge
Jean C. Hamilton

WEINHAUS, DOBSON, GOLDBERG &
MORELAND

By: 

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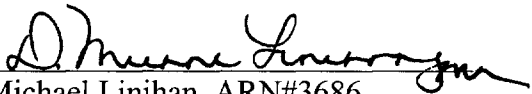
SPRIGGS & DAVIS, P.A.

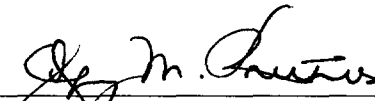
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UNITED STATES DISTRICT COURT -- EASTERN MISSOURI
INTERNAL RECORD KEEPING

AN ORDER, JUDGMENT OR ENDORSEMENT WAS SCANNED, FAXED AND/OR MAILED TO THE
FOLLOWING INDIVIDUALS ON 05/07/02 by cabrams

4:00cv1693 Snow vs Enterprise Leasing

42:2000e Job Discrimination (Employment)

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Gregory Rich - 67115	Fax: 314-621-8366
Shelley Roither - 4105	Fax: 314-567-5968
Kent Spriggs -	Fax: 850-224-8836

SCANNED & FAXED BY:

MAY - 7 2002

DJO