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EEOC and Jefferson v. Area Erectors, Inc.

Judge P. Michael Mahoney

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EEOC and Jefferson v. Area Erectors, Inc.

Keywords

EEOC, Jefferson, Area Erectors, Inc. 1:07-CV-02339, Consent Decree, Disparate Treatment, Retaliation, Termination, Construction, Race, African American or Black, Employment Law, Title VII

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
WESTERN DIVISION

FILED
MAY 27 2009
MAGISTRATE JUDGE P. MICHAEL MAHONEY
United States District Court

EQUAL EMPLOYMENT OPPORTUNITY)
COMMISSION,)
)
Plaintiff,)
)
and)
)
GILES L. JEFFERSON)
)
Plaintiff-Intervenor.)
)
v.)
)
AREA ERECTORS, INC.,)
)
Defendant,)
)
and)
)
INTERNATIONAL UNION OF OPERATING)
ENGINEERS LOCAL UNION NO. 139, et. al.,)
)
Rule 19 Non-Aligned Parties.)

No. 1:07-CV-02339

MAGISTRATE JUDGE
P. MICHAEL MAHONEY

CONSENT DECREE AND ORDER

1. This Consent Decree (the "Decree") is made and entered into by and between Plaintiff, United States Equal Employment Opportunity Commission (hereinafter "EEOC") and Defendant, Area Erectors, Inc. ("Area") and the undersigned Rule 19 parties ("Rule 19 parties") (all collectively referred to herein as "the Parties"). With respect to the undersigned Rule 19 parties, it is agreed that this consent Decree imposes no affirmative obligations on such parties, and this Consent Decree only applies to said Rule 19 parties to the extent set forth in Paragraph 20 below.

2. On September 15, 2006, EEOC initiated this action by filing its Complaint against Area alleging Area violated Title VII of the Civil Rights Act of 1964, as amended, including amendments authorized by the Civil Rights Act of 1991, 42 U.S.C. §2000e et seq. ("Title VII"), when it terminated the employment of Giles L. Jefferson and a class of African American employees because of their race, and that Area retaliated against Jefferson by terminating his employment because he filed a charge of discrimination with EEOC and otherwise complained about race discrimination. In addition, EEOC sought an order directing Area to prepare, execute, and file accurate and complete Employer Information Report EEO-1s ("EEO-1 reports") as required by 42 U.S.C. §2000e-8(c) and regulations issued thereunder, 29 C.F.R. §§1602.7 - 1602.11, for each calendar year from 2001 to the present. On August 9, 2007, EEOC filed an Amended Complaint pursuant to Magistrate Judge P. Michael Mahoney's Order to add certain unions as Rule 19 Non-aligned Parties.

3. On or about November 22, 2006, Area filed its Answer and Affirmative Defenses to the Complaint, denying the allegations. On or about August 23, 2007, Area filed its Answer and Affirmative Defenses to the First Amended Complaint, denying the allegations. In the interest of resolving this matter and as a result of having engaged in comprehensive settlement negotiations, the Parties have agreed that this action should be finally resolved by entry of this Decree. This Decree shall not constitute an adjudication or finding on the merits of the case. Nothing in this Consent Decree shall be deemed to constitute an admission by either party with respect to the claims or defenses of the other.

4. This Decree constitutes the complete agreement between EEOC and Area with respect to the matters referred to herein. No waiver, modification or amendment of any provision of this Decree shall be effective unless made in writing, approved by all parties to this

Decree and approved by the Court or ordered by the Court.

FINDINGS

NOW, THEREFORE, the Court having carefully examined the terms and provisions of this Consent Decree, and based on the pleadings, record and stipulations of the Parties, it is

ORDERED, ADJUDGED, AND DECREED THAT:

5. This Court has jurisdiction over the subject matter of this action and over the Parties for purposes of entering and enforcing this Decree.

6. The terms of this Decree are adequate, fair, reasonable, equitable and just.

7. This Decree conforms with the Federal Rules of Civil Procedure and is not in derogation of the rights or privileges of any person. The entry of this Decree will further the objectives of Title VII, and will be in the best interests of the Parties, those for whom EEOC seeks relief, and the public. The terms of this Decree are binding on all parties to this Action.

8. This Decree resolves all claims EEOC brought on behalf of Giles Jefferson and a class of African-American employees arising out of the Charge of Discrimination filed by Giles L. Jefferson against Area, Charge No. 260-2005-00212C, and constitutes a complete resolution of all claims under Title VII that EEOC made on behalf of Giles Jefferson and a class of African-American employees in this action.

DURATION OF CONSENT DECREE

9. Subject to paragraph 33, all provisions of this Decree shall be in effect (and the Court will retain jurisdiction of this matter to enforce this Decree) for a period of three (3) years immediately following entry of the Decree, provided, however, that if, at the end of the three (3) year period, any disputes under Paragraph 33, below, remain unresolved, the term of the Decree shall be automatically extended until such time as all such disputes have been resolved.

GENERAL PROVISIONS

10. Area, its successors, and assigns shall not take any action discriminating against employees on the basis of their race. As used herein, the terms “race discrimination” and “discriminating against employees on the basis of their race” means unlawful discrimination against an employee on the basis that he or she is African American, including but not limited to retaliation against an employee because he or she has opposed practices he or she believes in good faith to constitute unlawful race discrimination or has participated in processes designed to obtain relief for alleged unlawful race discrimination.

ANTI-DISCRIMINATION AND ANTI-RETALIATION POLICY

11. Area shall develop and implement policies, procedures and practices as follows:

a. **Anti-Discrimination and Anti-Retaliation Policy, and Complaint**

Procedure. Area has adopted an Equal Employment Policy and an Unlawful Harassment Policy and shall maintain such policies for the duration of the decree. If Area makes revisions to its Equal Employment Policy or Unlawful Harassment Policy, it shall provide a copy of the revised policy to EEOC within fourteen (14) days of issuing the revised policy. The inclusion of this paragraph does not represent the EEOC’s or the Court’s approval of Area’s policies.

b. **Persons In Charge of Retaliation and Race Discrimination Issues.**

Area shall appoint no less than two (2) people to be in charge of development, implementation and enforcement of its retaliation and race discrimination policies required pursuant to paragraph 11(a) of this Decree. In addition, these two people shall be responsible for the

implementation and compliance with the requirements of paragraphs 11(c) through (e) of this Decree.

c. **Complaint Procedures.**

Area shall designate the two people appointed pursuant to paragraph 11(b) as persons who may be contacted, and their names, responsibilities, work locations and telephone numbers shall be continuously posted in all of Area's offices, as well as at all off-site construction projects.

1. Area shall develop and implement a policy regarding complaint handling and disciplinary procedures as necessary to ensure that all complaints of race discrimination and/or retaliation are investigated and addressed promptly. Specifically, Area shall make best efforts to investigate all complaints of race discrimination and/or retaliation promptly and to complete investigations within three (3) weeks. Area will further make best efforts to prepare its written findings of the results of each investigation and the remedial actions proposed within seven (7) days after completion of the investigation, and shall thereupon promptly communicate to the complaining party the results of the investigation and the remedial actions taken or proposed, if any.
2. Area shall make best efforts to ensure that appropriate remedial action is taken to resolve complaints and to avoid the occurrence of incidents of race discrimination and/or retaliation. Area shall also revise its discipline policy to provide for substantial discipline, up

to and including termination, as a possible consequence for violations of its race discrimination and/or retaliation policy.

d. **Dissemination of Race Discrimination and Retaliation Policies:** Within thirty (30) days of entry of this Decree, and annually thereafter for the remainder of the term of the Decree, Area shall disseminate its Equal Employment Policy and No Harassment Policy to all employees. Area shall provide all new employees with a copy of the Equal Employment Policy and the No Harassment policy on the day the employee is hired. Within fourteen (14) days of dissemination of the policies, Area shall send EEOC a written verification of the date the policies were distributed to all of Area's current employees. Furthermore, Area shall include its Equal Employment Policy and No Harassment Policy in its union employee booklet (or as an attachment thereto) entitled, "Area Erectors, Inc., Hazard Recognition and Injury Management, Work Rules for Employees," and in all other employee manuals or booklets covering general employment issues.

e. **Policies Designed To Promote Supervisor Accountability.**

1. Area shall impose appropriate discipline (consistent with any applicable labor agreement) -- up to and including termination, suspension without pay or demotion - upon any supervisor, foreman, field superintendent and/or manager who engages in race discrimination or knowingly permits any such conduct to occur in his or her work area or among employees under his or her

supervision, or who retaliates against any person who complains or participates in any investigation or proceeding concerning any such conduct. Area shall communicate this policy to all of its supervisors and managers.

2. Area shall include "commitment to equal employment opportunity" as a criterion for qualification for the position of supervisor, foreman, field superintendent and/or manager.

TRAINING

12. Area shall provide for the duration of this Decree (a) mandatory annual race discrimination and retaliation training to all field superintendents, managers, senior management officials and human resource personnel; and (b) mandatory training for all new field superintendents, managers, senior management officials, and human resource personnel within seven (7) days of being hired or promoted to such position.

13. The first annual training shall be completed within 90 days of entry of this Decree, and shall be repeated once per calendar year thereafter until the expiration of this Decree. The annual trainings shall be conducted by one or more outside trainers chosen by Area. Area shall provide EEOC with the name and qualifications of the outside trainer(s) no less than fourteen (14) business days before the training is scheduled to begin. EEOC has seven (7) business days in which to object, in writing, to the qualifications of the outside trainers selected by Area. The training shall include, at a minimum, information concerning: (a) Title VII, including, but not limited to, race discrimination in termination and hiring and retaliation; (b) complaint procedures available to employees who have complaints of race discrimination and/or retaliation, including the name and contact information for specific Area employees

charged with the handling of race discrimination and retaliation complaints or concerns; and (c) Area's duty to actively monitor the work areas to ensure employees' compliance with the company's race discrimination and retaliation policies, and to report any incidents and/or complaints of race discrimination and/or retaliation of which it becomes aware to the department charged with handling such complaints. Within ten (10) business days of completion of each annual training, Area shall provide EEOC with a list of all field superintendents, managers, senior management officials and human resource personnel employed at the time of the training, a list of all field superintendents, managers, senior management officials and human resource personnel who received the training, the date the training occurred, and a description of the training provided.

14. Training for new field superintendents, managers, senior management officials, and human resource personnel and for those employees that were unable to attend the annual training, may be conducted by any Area management personnel who has previously attended the training discussed above which was conducted by outside trainers.

15. Foreman and other Area employees not required to be trained as provided above shall have race discrimination and retaliation training conducted by Area field superintendents or management personnel at job site "tool box" talks as deemed necessary by Area. At a minimum, Area shall conduct tool box talks regarding race discrimination and retaliation training annually during the duration of the Consent Decree. Area shall conduct the first tool box talks within 90 days of entry of the decree.

REINSTATEMENT

16. The following individuals shall be placed on a priority hiring list provided they are eligible for referral under their local Union's referral system rules:

| | |
|-------------------------------|--|
| Iron Workers Local 1 | Clyde Cooper, Jr. Ronald Dunlap |
| Iron Workers Local 8 | Darcy Durham Ricky Holmes Elmer Johnson Cedric Pollard (currently not eligible) Alvin Powell Gregory Townsend |
| Iron Workers Local 46 | Anthony Smith |
| Iron Workers Local 112 | Christopher Cummings, Sr. |
| Operating Engineers Local 139 | Kyle Broutie |
| Iron Workers Local 340 | Michael Ford |
| Iron Workers Local 383 | Clarence Sellers |
| Iron Workers Local 395 | Danny Means |
| Iron Workers Local 498 | Cornelius Jones (currently not eligible) |
| Operating Engineers Local 649 | Ward Landrum |
| Iron Workers Local 848 | James Alston (currently not eligible) Oscar Richards |

Area need not offer employment to James Alston, Cedric Pollard, Cornelius Jones, or Kyle Broutie until they have provided actual notice to Steve Schrader at Area that they are currently eligible for referral under their local Union's referral system rules.

Area shall make offers of reinstatement to claimants Sheila Askew, Zeffrey Burrell, Carl McKnight and Troy Miller.

17. For the duration of the Decree, when Area fills positions within the claimants' local union jurisdictions, Area shall first offer employment to claimants on the priority hiring list for the applicable local union jurisdiction. Area shall continue hiring from each priority hiring list until all claimants on the priority hiring list for that local union jurisdiction have been offered reinstatement. After Area offers reinstatement to all claimants on the priority hiring list for a local union jurisdiction, Area may hire employees through its normal hiring processes for that local union's jurisdiction.

18. Each claimant who is eligible to be on the priority hiring list shall provide a

signed Work Offer Skill and Preference Sheet (attached as Exhibit A) to the EEOC. Area will not offer work to a claimant until it receives a signed copy of the Work Offer Skill and Preferences Sheet from the EEOC for that claimant. For Operating Engineers, individual must submit their Basic Data Cards, or an equivalent list of their skills, instead of completing the skill and preference section of Exhibit A. It is the obligation of the EEOC to provide any amended Work Offer Skill and Preferences Sheets to Area. Only one contact person (union business agent or claimant) and no more than two telephone numbers shall be included. Area shall call a claimant on the priority hiring list unless the required work is not listed on the claimant's Work Offer Skill and Preference Sheet, Basic Data Card, or equivalent list of skills.

19. Offers shall be made by Area as follows:

- a. Same Day Calls: In the event Area requires a worker to fill a position on the same day the offer is made (for example, to replace an injured or absent worker), Area shall first offer employment to claimants on the priority hiring list for the applicable local union jurisdiction. The claimant shall then have one-half hour to confirm his or her availability to work, and one hour to be on the job site ready for work. If no claimant accepts the offer, or if a claimant fails to arrive at the job site as required, Area may offer the position to workers not on the priority hiring list.
- b. Planned Calls: In the event Area requires a worker to fill a position commencing on any day after the day the offer is made, Area shall first offer employment to claimants on the priority hiring list for the applicable local union jurisdiction. The claimant shall then have four (4) hours to accept the offer. If no claimant accepts the offer, or if a claimant fails to

arrive at the job site as required, Area may offer the position to workers not on the priority hiring list.

In the event there are multiple individuals on the list in a given jurisdiction, Area may call two individuals and the first individual to respond shall be given priority. For individuals in the jurisdiction of Ironworkers Local 8, Area may call through the list without leaving messages. If Area is not able to contact any individuals, it will, to the extent possible, leave messages with the first two individuals on the list. If neither individual accepts the offer in a timely fashion or fails to arrive at the jobsite as required, Area may offer the position to workers not on the priority list. In the next instance where messages are left, the messages will be left for the next two individuals down the priority list.

20. To the extent that the provisions of this Consent Decree conflict with any provision of a collective bargaining agreement entered into between Area and one of the undersigned Rule 19 Non-aligned parties, Iron Workers Local 383, or International Union of Operating Engineers Local 649, the provisions of this Consent Decree shall supercede the provisions of the collective bargaining agreement. To the extent that Area's obligations hereunder would violate the collective bargaining agreement between Area and any union not a party to this Decree, Area and the EEOC shall enter into negotiations for a reinstatement procedure that does not violate the applicable labor agreement. If the parties are unable to agree on a procedure, the Court shall devise an appropriate compromise procedure that does not violate the applicable labor agreement. Area's obligations to comply with the above reinstatement provisions shall be tolled during the negotiations, and pending further Order of the Court. The Court shall not, however, have the authority to award any monetary relief in connection with the compromise procedure.

21. If a claimant accepts an offer of reinstatement, or unreasonably fails to report after accepting an offer of reinstatement, the claimant shall be removed from the priority hiring list. If a claimant rejects an offer of reinstatement because the claimant is unavailable for work or fails to respond to or accept three consecutive offers of reinstatement, the claimant shall be removed from the list until the claimant notifies Steve Schrader at Area in writing that the claimant is available for work. Except as provided herein, a claimant who has not accepted an offer of reinstatement from Area shall remain on the priority hiring list until the claimant or EEOC informs Area in writing that the claimant is not interested in future employment with Area.

22. Area shall treat all claimants who accept Area's offer of reinstatement the same as all non-claimants with respect to termination of employment. Area shall apply the same factors when deciding whether to terminate a claimant's employment as it would when deciding whether to terminate a non-claimant's employment.

23. If Area terminates any reinstated claimant's employment during the term of the Consent Decree, Area shall submit a report regarding the termination to EEOC by the close of the next business week following the claimant's date of termination. Area shall include the following information in each such report: (a) the claimant's name; (b) the claimant's hire date; (c) the claimant's termination date; (d) the identity of the individuals involved in the decision to terminate the claimant's employment; (e) the reason(s) the claimant's employment was terminated.

24. Any disputes regarding whether a claimant was terminated because of his or her race shall be resolved using the dispute resolution process outlined in Paragraph 33, below.

EEO-1 REPORTS

25. Area has already completed its EEO-1 reports for the reporting years 2001

through 2008. Area shall on an annual basis file its EEO-1 reports as required pursuant to 42 U.S.C. § 2000e-8(c) and regulations issued thereunder, 29 C.F.R. §§ 1602.7 - 1602.11.

POSTING

26. Within five (5) days following entry of this Decree, Area shall post a same-sized copy of the Notice attached as Exhibit B to this Decree in a conspicuous location easily accessible to and commonly frequented by Area's employees at each of Area's office locations and at each off-site construction project that has facilities for notice posting that are within Area's control for the duration of this Decree, or, in the case of an off-site construction project for the duration that Area is working on the project. Area shall make its best efforts to ensure that the postings are not altered, defaced or covered by any other material. In the event a notice is altered, removed or defaced, Area shall promptly post a new notice. Area shall certify to the EEOC in writing within ten (10) days after entry of this Decree that the copies of the Notice have been properly posted and the location of each such posting. Within ten (10) business days of Area beginning work on a new off-site construction project, Area shall post the Notice in a conspicuous location easily accessible to and commonly frequented by Area's employees at the off-site project. Such requirement shall apply only where the project has facilities for notice posting that are within Area's control. Notices may be posted on the inside covers of "gang boxes." Area shall permit a representative of EEOC to enter Area's premises for purposes of verifying compliance with this Paragraph at any time during normal business hours.

REPORTING

27. In addition to the reports identified in Paragraph 23 above, Area shall furnish to EEOC the following written reports semi-annually for a period of three (3) years following entry of this Decree. The first report shall be due six (6) months after entry of the Decree. The final

report shall be due thirty-five (35) months after entry of the Decree. Each such report shall include:

- a. a list of all employees, who worked at Area during the six months preceding the report, including the following information for each employee: (1) name; (2) address; (3) phone number; (4) race; (5) job title; (6) date employment began; (7) job site assignment; (8) date employment ended (if applicable); and (8) reason employment ended (if applicable);
- b. a summary of all complaints of race discrimination and/or retaliation made to Area, whether formal or informal, written or verbal, including the following information: (1) name, address, phone number, job title, and race of the complainant; (2) the date of the complaint; (3) a description of the complaint; and (4) a summary of the investigation, conclusions and remedial measures, if any, that were taken by Area. Area shall maintain all documents pertaining to such complaints for the full (3) year reporting period, and for two (2) years thereafter, and shall make such documents available for inspection by EEOC pursuant to Paragraph 28 herein.
- c. A certification that, to the best of the Company's knowledge, the Notices required to be posted pursuant to Paragraph 26 remained posted as required during the entire six (6) month period preceding the report.
- d. If "tool box" talks as described in Paragraph 15 are conducted during the reporting period, a certification that the tool box talks occurred; the date of tool box talks occurred; the identity of the person conducting the tool box talk; a list of all employees employed at the time the tool box talks were

held; and a list of all employees who attended the tool box talks.

RIGHT OF ENTRY FOR INSPECTION

28. The EEOC shall have the right to enter upon Area's offices upon five days written notice and inspect any relevant documents or records for the purpose of determining Area's compliance with this Consent Decree and Order.

MONETARY RELIEF

29. Area shall pay a total of \$630,000.00 to the claimants and to the applicable benefit trust funds as follows:

| Name of Claimant | Back pay | Benefits | Non-Pecuniary Damages | Total Gross Settlement |
|---------------------------|-----------------|-----------------|------------------------------|-------------------------------|
| Giles Jefferson | \$2,026.06 | \$1,538.72 | \$76,435.22 | \$ 80,000 |
| James Alston | \$2,583.00 | \$997.53 | \$20,332.51 | \$23,913.04 |
| Sheila Askew | \$2,406.60 | \$1,173.69 | \$20,332.75 | \$23,913.04 |
| Kyle Broutie | \$2,415.82 | \$1,175.94 | \$20,321.28 | \$23,913.04 |
| Zeffrey Burrell | \$2,251.20 | \$1,336.16 | \$20,325.68 | \$23,913.04 |
| Clyde Cooper, Jr. | \$2,193.63 | \$1,400.11 | \$20,319.30 | \$23,913.04 |
| Christopher Cummings, Sr. | \$2,208.80 | \$1,380.00 | \$20,324.24 | \$23,913.04 |
| Ronald Dunlap | \$2,193.63 | \$1,400.11 | \$20,319.30 | \$23,913.04 |
| Darcy Durham | \$2,121.35 | \$1,459.62 | \$20,332.07 | \$23,913.04 |
| Michael Ford | \$2,406.60 | \$1,173.69 | \$20,332.75 | \$23,913.04 |
| Ricky Holmes | \$2,121.35 | \$1,459.62 | \$20,332.07 | \$23,913.04 |
| Bernard Jackson | \$2,193.63 | \$1,400.11 | \$20,319.30 | \$23,913.04 |
| Elmer Johnson | \$2,121.35 | \$1459.62 | \$20,332.07 | \$23,913.04 |

| | | | | |
|----------------------|------------|------------|-------------|-------------|
| Cornelius Jones, Jr. | \$2,026.06 | \$1,538.72 | \$20,348.26 | \$23,913.04 |
| Ward Landrum | \$2,235.92 | \$1,349.76 | \$20,327.36 | \$23,913.04 |
| Carl McKnight | \$2,406.60 | \$1,173.69 | \$20,332.75 | \$23,913.04 |
| Danny Means | \$2,210.00 | \$1,357.85 | \$20,345.19 | \$23,913.04 |
| Troy Miller | \$2,251.20 | \$1,336.16 | \$20,325.68 | \$23,913.04 |
| Cedric Pollard | \$2,121.35 | \$1,459.62 | \$20,332.07 | \$23,913.04 |
| Alvin Powell | \$2,121.35 | \$1,459.62 | \$20,332.07 | \$23,913.04 |
| Oscar Richards | \$2,583.00 | \$997.53 | \$20,332.51 | \$23,913.04 |
| Clarence Sellers | \$2,406.60 | \$1,173.69 | \$20,332.75 | \$23,913.04 |
| Anthony Smith | \$2,238.60 | \$1,337.42 | \$20,337.02 | \$23,913.04 |
| Gregory Townsend | \$2,121.35 | \$1,459.62 | \$20,332.07 | \$23,913.04 |

The amounts allocated between backpay benefits is based on Union wage/benefit rates current through May 31, 2009. In the event that an increase in Union wage and/or benefits rates takes effect before payment is made, a new allocation between backpay/benefits and compensatory damages may be made so long as the total gross settlement for each claimant is the same as is shown above.

30. EEOC shall mail a copy of the release agreement (attached as Exhibit C) to each claimant, other than Giles Jefferson. Each claimant, other than Jefferson, must execute and return a release agreement to EEOC. EEOC will send to Area the executed release agreements it receives from the claimants. Jefferson, who was represented by private counsel in this litigation, shall execute a release agreement ("Jefferson's Release Agreement") that was separately agreed to by Jefferson and Area. The EEOC did not take part in the negotiation of Jefferson's Release

Agreement and has not approved Jefferson's Release Agreement. \$55,000 of Jefferson's settlement amount will be paid according to the terms provided in Jefferson's Release Agreement and the remaining \$25,000 will be paid according to the terms provided herein.

31. The claimants' share of all applicable withholdings may be made from the back pay portion of the payment. For those amounts designated as "benefits," Area shall pay the amount into the appropriate trust funds as required by Area's Collective Bargaining Agreement covering the claimant in his/her home local union at the time it makes the initial payment to each claimant. Benefit contributions will be reported as contributions allocated to the month in which payment is made.

32. Within 30 days of receiving a claimant's executed release agreement, Area shall pay to that claimant his or her total back wages and the non-pecuniary initial payment in the amounts listed in Exhibit D and shall pay the benefits amount listed in Exhibit D to the appropriate benefit trust funds. Monthly thereafter, Area shall make 24 installment payments to each claimant in the amounts listed in the columns entitled "Non-Pecuniary Monthly Payments 1-23" and "Non-Pecuniary Monthly Payment 24." Area shall make each payment under the decree by issuing and mailing a check by certified mail to each claimant. Area shall mail the payment checks to the addresses provided to Area by EEOC and shall simultaneously provide a copy of the payment checks to EEOC.

DISPUTE RESOLUTION

33. In the event that either party believes that the other party has failed to comply with any provisions of the Decree, the complaining party shall notify the alleged non-complying party in writing of such non-compliance and afford the alleged non-complying party fifteen (15) days to remedy the non-compliance or satisfy the complaining party that the alleged non-

complying party has complied. If the alleged non-complying party has not remedied the alleged non-compliance or satisfied the complaining party that it has complied within fifteen (15) days, the complaining party may apply to the Court for appropriate relief.

MISCELLANEOUS PROVISIONS

34. Area shall pay its costs associated with the administration of this Decree, except as is specifically provided otherwise in this Decree. Area shall not, however, be responsible for any costs or fees incurred by EEOC or others.

35. The terms of this Consent Decree shall be binding upon Area's successors and assigns. Defendant, and any successor(s) of Defendant, shall provide a copy of this Decree to any organization or person who proposes to acquire or merge with Defendant, or any successor of Defendant, prior to the effectiveness of any such acquisition or merger. This paragraph shall not be deemed to limit any remedies available in the event of any finding by the Court regarding a violation of this Decree.

36. If any provision(s) of the Decree are found to be unlawful, only such provision(s) shall be severed, and the remainder of the Decree shall remain in full force and effect.

37. Each Party shall bear its own litigation costs and attorneys' fees associated with this litigation, except as otherwise provided for in this Decree, and neither party shall seek reimbursement for any outstanding litigation costs.

38. Except as is otherwise provided for in this Decree, all notifications, reports and communications to the Parties required under this Decree shall be made in writing and be hand-delivered, sent by first class mail, e-mailed or faxed to the following persons:

For EEOC:

Ann Henry
Equal Employment Opportunity Commission

Facsimile: (312) 353-8555
e-mail: ann.henry@eoc.gov

For Area:

Daniel D. Barker
Melli Law, S.C.
Ten East Doty Street, Suite 900
P.O. Box 1664
Madison, WI 53701-1664
(608) 257-4812
(608) 258-7470 (Fax)
e-mail: danbarker@mellilaw.com

Any party may change such addresses by written notice to the other parties, setting forth a new address for this purpose.

Agreed to in form and content:

**FOR PLAINTIFF
EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION**

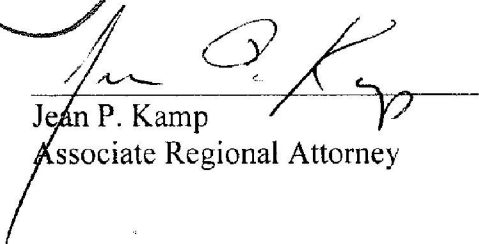
James Lee
Acting General Counsel

Gwendolyn Young Reams
Associate General Counsel



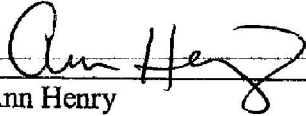
John C. Hendrickson
Regional Attorney

Date: 5/22/2009



Jean P. Kamp
Associate Regional Attorney

Date: 5-21-09

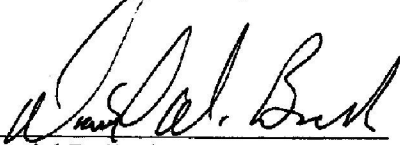


Ann Henry
Trial Attorney

Date: 5/22/09

Agreed to in form and content:

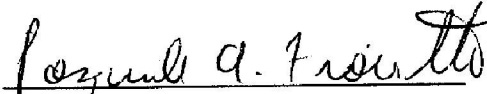
**FOR DEFENDANT
AREA ERECTORS, INC.**



Daniel D. Barker
Melli Law, S.C.
Ten East Doty Street, Suite 900
P.O. Box 1664
Madison, WI 53701-1664
(608) 257-4812
(608) 258-7470 (Fax)
e-mail: danbarker@mellilaw.com

Date: 5-22-09

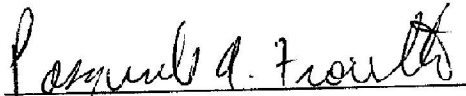
**FOR RULE 19 NON-ALIGNED PARTY
INTERNATIONAL UNION OF OPERATING ENGINEERS
LOCAL UNION NO. 139**


By one of its attorneys

Date: 5/15/09

Pasquale Fioretto
Brian Hlavin
Baum Sigman Auerback & Neuman, Ltd.
200 W. Adams St., Suite 2200
Chicago, IL 60606

**FOR RULE 19 NON-ALIGNED PARTY
INTERNATIONAL ASSOCIATION OF BRIDGE,
STRUCTURAL, ORNAMENTAL AND REINFORCING
IRONWORKERS LOCAL UNION NO. 498**


By one of its attorneys

Date: 5/15/09

Pasquale Fioretto
Brian Hlavin
Baum Sigman Auerback & Neuman, Ltd.
200 W. Adams St., Suite 2200
Chicago, IL 60606

SO ORDERED, ADJUDGED AND DECREED this 27th day of MAY, 2009

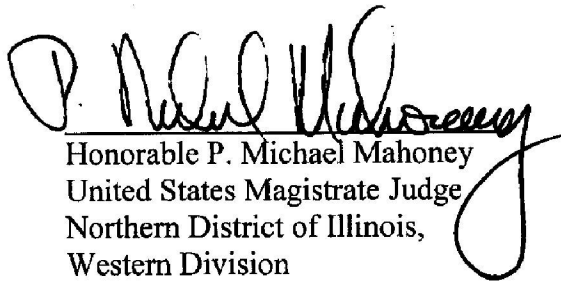

Honorable P. Michael Mahoney
United States Magistrate Judge
Northern District of Illinois,
Western Division

EXHIBIT A

AREA ERECTORS, INC.
Work Offer Skill and Preferences Sheet

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
WESTERN DIVISION
Case No. 1:07-CV-02339

CLAIMANT: _____

UNION: _____

CONTACT INFORMATION FOR WORK OFFERS:

Name: _____

Title: _____

Address: _____

Phone: _____

THE UNDERSIGNED HAS THE FOLLOWING JOB SKILLS AND PREFERENCES (check all that apply):

- Re-bar and rod busting
- Connecting (beams)
- Welding (general)
- Any height is acceptable
- Ground work only
- Pre-cast
- Decking
- Bolting up
- Welding bridge
- Plumbing the building
- Welding angles

You will not receive an offer for a job involving one of the above skills unless you check that skill. For example, if Area has a job available requiring connecting, and you do not check "connecting" above, you will not be offered that job.

Date

Signature (Claimant)

EXHIBIT B

OFFICIAL NOTICE TO ALL EMPLOYEES OF AREA ERECTORS, INC.

This Notice is posted pursuant to a Consent Decree entered in a lawsuit brought by the Equal Employment Opportunity Commission ("EEOC"), entitled EEOC and Giles Jefferson vs. Area Erectors, Inc., Case Number 1:07-CV-2339, filed in the United States District Court for the Northern District of Illinois, Western Division.

A copy of the Consent Decree is available by contacting the following Area Erectors' employees: Steve Schrader or Jeff Shelton at (815) 398-6700

In the lawsuit, EEOC alleged that Area Erectors, Inc. ("Area") violated Title VII when it terminated a class of African American workers because of their race, and retaliated against an individual African American employee because he filed a charge of discrimination with the EEOC and because of his complaints of race discrimination.

United States Magistrate Judge P. Michael Mahoney has entered a consent decree, which provides that:

- Area will make payments to certain affected African American workers and union benefit funds in the gross amount of \$630,000.00;
- Area will not discriminate against current and former employees because of their race and will not retaliate against current and former employees because they opposed race discrimination or participated in any proceeding regarding race discrimination;
- Area will develop and implement policies prohibiting race discrimination and retaliation in the workplace. This will include the development of a document to be given to all new hires stating their rights to be free from race discrimination and retaliation, and will also include a description of the complaint procedure the employee can follow in the event of a discriminatory act; and
- Area will conduct an annual training program to implement and train all employees regarding its policies against race discrimination and retaliation.

THIS IS AN OFFICIAL NOTICE AND MUST NOT BE DEFACED BY ANYONE

This Notice must remain posted for three years from the date below, and must not be altered, defaced or covered by any other material. Any questions about this Notice or Consent Decree may be directed to Area Erectors Settlement, Equal Employment Opportunity Commission, 500 W. Madison St., Suite 2000, Chicago, IL 60661, (312) 353-8558.

Dated: _____

Honorable P. Michael Mahoney
United States Magistrate Judge
Northern District of Illinois, Western Division

EXHIBIT C

RELEASE

In consideration for _____ paid to me by Area Erectors, Inc., in connection with the resolution of EEOC, et al. v. Area Erectors, Inc., 07 C 2339 (N.D. Ill.), I waive my right to recover for any claims of termination based on my race arising under Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e et seq., and the Civil Rights Act of 1991, 42 U.S.C. §1981a, that I had against Area Erectors, Inc. prior to the date of this release and that were included in the claims alleged in EEOC's complaint in EEOC, et al. v. Area Erectors, Inc., 07 C 2339 (N.D. Ill.), or which could have been asserted in the above lawsuit.

Date: _____

[Claimant Name]

EXHIBIT D

| Name | Non-Pecuniary Initial Payment | Back Pay Pmt W/Benefits | Wages | Benefits | Total Initial Payment | Non-Pecuniary Monthly Payments 1-23 | Non-Pecuniary Monthly Payment 24 | Back Pay Payment W/Benefits | Total Non-Pecuniary Payment | Grand Total |
|----------------------------|-------------------------------|-------------------------|----------|----------|-----------------------|-------------------------------------|----------------------------------|-----------------------------|-----------------------------|-------------|
| Jackson, Bernard | 689.02 | 3,593.74 | 2,193.63 | 1,400.11 | 4,282.76 | 820.34 | 762.46 | 3,593.74 | 20,319.30 | 23,913.04 |
| Cooper, Jr., Clyde | 689.02 | 3,593.74 | 2,193.63 | 1,400.11 | 4,282.76 | 820.34 | 762.46 | 3,593.74 | 20,319.30 | 23,913.04 |
| Dunlap, Ronald | 689.02 | 3,593.74 | 2,193.63 | 1,400.11 | 4,282.76 | 820.34 | 762.46 | 3,593.74 | 20,319.30 | 23,913.04 |
| Durham, Darcy | 689.02 | 3,580.97 | 2,121.35 | 1,459.62 | 4,269.99 | 820.34 | 775.23 | 3,580.97 | 20,332.07 | 23,913.04 |
| Holmes, Ricky | 689.02 | 3,580.97 | 2,121.35 | 1,459.62 | 4,269.99 | 820.34 | 775.23 | 3,580.97 | 20,332.07 | 23,913.04 |
| Johnson, Elmer | 689.02 | 3,580.97 | 2,121.35 | 1,459.62 | 4,269.99 | 820.34 | 775.23 | 3,580.97 | 20,332.07 | 23,913.04 |
| Pollard, Cedric | 689.02 | 3,580.97 | 2,121.35 | 1,459.62 | 4,269.99 | 820.34 | 775.23 | 3,580.97 | 20,332.07 | 23,913.04 |
| Powell, Alvin | 689.02 | 3,580.97 | 2,121.35 | 1,459.62 | 4,269.99 | 820.34 | 775.23 | 3,580.97 | 20,332.07 | 23,913.04 |
| Townsend, Gregory | 689.02 | 3,580.97 | 2,121.35 | 1,459.62 | 4,269.99 | 820.34 | 775.23 | 3,580.97 | 20,332.07 | 23,913.04 |
| Smith, Anthony | 689.02 | 3,576.02 | 2,238.60 | 1,337.42 | 4,265.04 | 820.34 | 780.18 | 3,576.02 | 20,337.02 | 23,913.04 |
| Cummings, Sr., Christopher | 689.02 | 3,588.80 | 2,208.80 | 1,380.00 | 4,277.82 | 820.34 | 767.48 | 3,588.80 | 20,324.32 | 23,913.04 |
| Brountie, Kyle | 689.02 | 3,591.76 | 2,415.82 | 1,175.94 | 4,280.78 | 820.34 | 764.44 | 3,591.76 | 20,321.28 | 23,913.04 |
| Askew, Sheila | 689.02 | 3,580.29 | 2,406.60 | 1,173.69 | 4,269.31 | 820.34 | 775.91 | 3,580.29 | 20,332.75 | 23,913.04 |
| McKnight, Carl | 689.02 | 3,580.29 | 2,406.60 | 1,173.69 | 4,269.31 | 820.34 | 775.91 | 3,580.29 | 20,332.75 | 23,913.04 |
| Miller, Troy | 689.02 | 3,587.36 | 2,251.20 | 1,336.16 | 4,276.38 | 820.34 | 768.84 | 3,587.36 | 20,325.68 | 23,913.04 |
| Burrell, Zeffrey | 689.02 | 3,587.36 | 2,251.20 | 1,336.16 | 4,276.38 | 820.34 | 768.84 | 3,587.36 | 20,325.68 | 23,913.04 |
| Means, Danny | 689.02 | 3,567.85 | 2,210.00 | 1,357.85 | 4,256.87 | 820.34 | 788.35 | 3,567.85 | 20,345.19 | 23,913.04 |
| Jefferson, Giles | 689.02 | 3,564.78 | 2,026.06 | 1,538.72 | 4,253.80 | 863.74 | 880.18 | 3,564.78 | 21,435.22 | 25,000.00 |
| Jones, Jr., Cornelius | 689.02 | 3,564.78 | 2,026.06 | 1,538.72 | 4,253.80 | 820.34 | 791.42 | 3,564.78 | 20,348.26 | 23,913.04 |
| Landrum, Ward | 689.02 | 3,585.68 | 2,235.92 | 1,349.76 | 4,274.70 | 820.34 | 770.52 | 3,585.68 | 20,327.36 | 23,913.04 |
| Ford, Michael | 689.02 | 3,580.29 | 2,406.60 | 1,173.69 | 4,269.31 | 820.34 | 775.91 | 3,580.29 | 20,332.75 | 23,913.04 |

| | | | | | | | | | | |
|-------------------|--------|----------|----------|----------|----------|--------|--------|----------|-----------|-----------|
| Sellers, Clarence | 689.02 | 3,580.29 | 2,406.60 | 1,173.69 | 4,269.31 | 820.34 | 775.91 | 3,580.29 | 20,332.75 | 23,913.04 |
| Alston, James | 689.02 | 3,580.53 | 2,583.00 | 997.53 | 4,269.55 | 820.34 | 775.67 | 3,580.53 | 20,332.51 | 23,913.04 |
| Richards, Oscar | 689.02 | 3,580.53 | 2,583.00 | 997.53 | 4,269.55 | 820.34 | 775.67 | 3,580.53 | 20,332.51 | 23,913.04 |