



Cornell University
ILR School

Cornell University ILR School
DigitalCommons@ILR

Consent Decrees

Labor and Employment Law Program

September 2011

Kraszewski, Jackson, and Tipton v. State Farm General Insurance Company, State Farm Mutual Automobile Insurance Company, State Farm Life Insurance Company, and State Farm Fire and Casualty Company (Injunctive Relief)

Judge Thelton E. Henderson

Follow this and additional works at: <https://digitalcommons.ilr.cornell.edu/condec>

Thank you for downloading this resource, provided by the ILR School's Labor and Employment Law Program. [Please help support our student research fellowship program with a gift to the Legal Repositories!](#)

This Article is brought to you for free and open access by the Labor and Employment Law Program at DigitalCommons@ILR. It has been accepted for inclusion in Consent Decrees by an authorized administrator of DigitalCommons@ILR. For more information, please contact catherwood-dig@cornell.edu.

If you have a disability and are having trouble accessing information on this website or need materials in an alternate format, contact web-accessibility@cornell.edu for assistance.

Kraszewski, Jackson, and Tipton v. State Farm General Insurance Company, State Farm Mutual Automobile Insurance Company, State Farm Life Insurance Company, and State Farm Fire and Casualty Company (Injunctive Relief)

Keywords

Kraszewski, Jackson, Tipton State Farm General Insurance Company, State Farm Mutual Automobile Insurance Company, State Farm Life Insurance Company, State Farm Fire and Casualty Company, C-79-1261 TEH, Consent Decree, Disparate Treatment, Assignment, Hiring, Promotion, Training/ Advancement, Service, Sex, Female, Employment Law, Title VII

1 RAYMOND L. WHEELER
KIRBY WILCOX
2 ERICA B. GRUBB
MORRISON & FOERSTER
3 California Center
345 California Street
4 San Francisco, CA 94104-2105
Telephone: (415) 434-7000

5 Attorneys for Defendants
6
7

GUY T. SAPERSTEIN
BRAD SELIGMAN
FARNSWORTH, SAPERSTEIN
& SELIGMAN
505 Fourteenth Street
Suite 1150
Oakland, CA 94612
Telephone: (415) 763-9800

Attorneys for Plaintiffs

8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA

10
11 MURIEL E. KRASZEWSKI,)
DAISY O. JACKSON and WILDA)
12 TIPTON, on behalf of them-)
selves and all other persons)
13 similarly situated,)
)
14 Plaintiffs,)
)
15 v.)
)
16 STATE FARM GENERAL INSURANCE)
COMPANY, STATE FARM MUTUAL)
17 AUTOMOBILE INSURANCE COMPANY,)
STATE FARM LIFE INSURANCE)
18 COMPANY, and STATE FARM FIRE)
AND CASUALTY COMPANY,)
19 Defendants.)
20 _____)

Case No. C-79-1261 TEH

21 CONSENT DECREE REGARDING INJUNCTIVE RELIEF
22
23
24
25
26
27
28

TABLE OF CONTENTS

	<u>Page</u>
1	
2	
3	I. INTRODUCTION 1
4	II. PURPOSES OF THIS DECREE REGARDING
5	INJUNCTIVE RELIEF 2
6	III. STANDARDS OF COMPLIANCE WITH THIS
7	DECREE 3
8	IV. EFFECTIVE DATE AND DURATION OF DECREE..... 5
9	V. GEOGRAPHIC SCOPE OF DECREE 5
10	VI. NON-ADMISSION OF LIABILITY 5
11	VII. INJUNCTIVE RELIEF 6
12	A. Appointment Goals for Trainee
13	Agents 6
14	B. Appointment of Career Agents 9
15	C. Method of Recruiting Female Trainee
16	Agents 11
17	1. Recruitment Administrators 11
18	2. Mechanisms for Filling Trainee
19	Agent Vacancies 13
20	3. Management Training 15
21	4. Selection/Training of Trainee
22	Agents 16
23	5. Outside Recruitment 17
24	a. Community Contacts 17
25	b. Advertising 17
26	6. Modification of Recruitment or
27	Advertising Program 18
28	D. Annual Reporting 19
	1. Timing 19
	2. Contents 20

	<u>Page</u>
1	a. Recruitment 20
2	b. Trainee Agent Appointment 20
3	c. Career Agent Appointment 21
4	d. Total Numbers 21
5	e. Deselection Statistics 21
6	3. Discovery 22
7	4. Disparate Impact Challenge 23
8	a. Initial Showing 23
9	(i) If Goal Not Met 23
10	(ii) If Goal Met 23
11	b. Discovery 24
12	c. Applicable Principles and
13	Defenses 24
14	d. Challenge by Class Counsel 25
15	5. Confidentiality 26
16	E. Duration of Injunctive Relief 26
17	F. Non-Retaliation 28
18	G. Non-Discrimination 28
19	H. Alternative Dispute Mechanism 28
20	VIII. RETURN OF DOCUMENTS 29
21	IX. ATTORNEYS' FEES AND COSTS 30
22	X. AVAILABILITY OF ORDER 30
23	XI. PUBLICITY 30
24	
25	
26	
27	
28	

1 I. INTRODUCTION

2 Plaintiffs Muriel Kraszewski and Daisy Jackson
3 filed this action on June 1, 1979, on behalf of themselves
4 and a class of women who alleged that the State Farm
5 Insurance Companies ("State Farm" or the "Company") had
6 discriminated against them in the recruitment, selection,
7 hiring, job assignment, training, and termination of
8 insurance sales agents within California. On May 1, 1980,
9 Wilda Tipton filed a complaint in intervention making
10 substantially the same allegations as were set forth in the
11 initial complaint filed by plaintiffs Kraszewski and
12 Jackson.

13 On November 6, 1981, the Court bifurcated the
14 proceedings into a liability phase (Stage I) and a remedy
15 phase (Stage II). On April 29, 1985, after the Stage I
16 trial, the Court issued Findings of Fact and Conclusions of
17 Law which found State Farm liable for sex discrimination.
18 Kraszewski v. State Farm Ins. Co., 38 Fair Empl. Prac. (BNA)
19 Cas. 197 (N.D. Cal. 1985) ("Stage I Findings"). The Court
20 found liability as to "all female applicants and deterred
21 applicants who, at any time since July 5, 1974, have been,
22 are, or will be denied recruitment, selection and/or hire as
23 trainee agents by defendant companies within the State of
24 California." 38 Fair Empl. Prac. (BNA) Cas. at 258.

25 Following issuance of the Stage I Findings, the
26 parties engaged in discovery and litigation to establish the
27 forms and types of relief appropriate for Stage II. On
28

1 July 17, 1986, the Court issued an order tentatively
2 approving individualized Stage II claim hearings for
3 monetary relief, and directing the parties to attempt to
4 reach agreement on the form and extent of class notice.
5 41 Fair Empl. Prac. (BNA) Cas. 1988 (N.D. Cal. 1986)
6 ("July 17 Order").

7 On October 14, 1986 ("October 14 hearing"), the
8 Court rescheduled a hearing on plaintiffs' pending motion
9 for injunctive relief, and the parties subsequently
10 postponed the motion to give themselves an opportunity to
11 negotiate about such relief and to conduct further
12 discussions regarding class notice. Since the October 14
13 hearing, the parties have engaged in comprehensive and
14 extensive discussions regarding all aspects of Stage II.

15 In the course of those discussions, the parties
16 reached agreement on disputed issues concerning injunctive
17 relief. While the parties have not yet reached agreement on
18 the other issues to be resolved at Stage II, they have
19 incorporated their agreements regarding injunctive relief
20 into this Consent Decree Regarding Injunctive Relief
21 ("Decree") so that they may turn their full attention to
22 negotiations on such other components.

23
24 II. PURPOSES OF THIS DECREE REGARDING
INJUNCTIVE RELIEF

25 The parties have entered into this Decree for the
26 following purposes:
27
28

1 A. To increase the utilization of women in State
2 Farm's insurance sales agent positions in California and to
3 remedy past underutilization of women in such positions in
4 California.

5 B. To provide injunctive relief to all class
6 members by means of the goals, timetables, and other
7 procedures set forth in this Decree.

8 C. To avoid further protracted, expensive, and
9 disruptive litigation.

10 D. To reach definitive agreement on one essential
11 element of Stage II relief, so that the parties may direct
12 their full attention to attempting to resolve the other
13 disputed elements prior to the issuance of class notice.

14 III. STANDARDS OF COMPLIANCE WITH THIS DECREE

15 The parties have entered into this Decree with the
16 following understandings:

17 A. The only injunctive relief obligations that
18 shall be imposed on State Farm are expressly set forth in
19 this Decree; no other injunctive obligations are to be
20 imposed or implied.

21 B. The parties agree, on behalf of themselves and
22 those they represent, that compliance with the terms of this
23 Decree shall constitute compliance with Title VII with
24 regard to the appointment of women into Trainee Agent
25 positions. In the event that the recruitment measures set
26 forth in this Decree produce an applicant flow in excess of
27 the placement goals set forth herein, such discrepancy

28

1 between applicant flow and placements shall not be the basis
2 for a violation of this Decree.

3 C. State Farm is subject to legal obligations
4 under the terms not only of Title VII, but also of other
5 federal and state laws, regulations, rules, and executive
6 orders, as well as other obligations that may be negotiated
7 or ordered by the Court in Stage II of this action. State
8 Farm's compliance with its obligations under this Decree
9 shall in no way be interpreted to conflict with the other
10 legal obligations of the Company set forth in subsection B,
11 above.

12 D. Should any provisions of this Decree appear to
13 conflict with any other legal obligations, the parties shall
14 attempt to resolve such conflicts, and if the conflicts
15 cannot be resolved, the parties may seek declaratory relief
16 from this Court.

17 E. Should any provision of this Decree be
18 declared or determined by any court to be illegal or
19 invalid:

20 1. The validity of the remaining parts,
21 terms, or provisions shall not be affected
22 thereby; and

23 2. Said illegal or invalid part, term, or
24 provision shall be deemed not to be a part of
25 this Decree; and

26 3. The parties shall have the right to seek
27 modification of this Decree to ensure that its
28 purposes are fully effectuated.

1 IV. EFFECTIVE DATE AND DURATION OF DECREE

2 This Decree shall become effective on January 1,
3 1988. Such date shall hereinafter be referred to as the
4 "effective date" of this Decree. Upon approval by the
5 Court, this Decree shall be effective and binding upon the
6 parties in accordance with the specific provisions set forth
7 in Section VII.E, infra, and the terms of this Decree shall
8 not be appealed by class counsel or counsel for State Farm.

9 V. GEOGRAPHIC SCOPE OF DECREE

10 The terms of this Decree shall apply only to the
11 Agency Division of State Farm in California.

12 VI. NON-ADMISSION OF LIABILITY

13 Neither the terms of this Decree nor the
14 negotiations connected with it shall be construed or used
15 as:

- 16 A. an admission of liability as to any Findings of
17 Fact and Conclusions of Law rendered at
18 Stage I, or any allegations that State Farm has
19 violated Title VII or any other law,
20 regulation, order or rule; or
- 21 B. a waiver of State Farm's right to appeal such
22 Findings of Fact and Conclusions of Law; or
- 23 C. evidence in any other proceeding for any
24 purpose, including but not limited to an
25 admission of wrongful or illegal activity on
26 the part of State Farm, or an admission of
27 injury to any claimant.

1 VII. INJUNCTIVE RELIEF

2 A. Appointment Goals for Trainee Agents: State Farm
3 shall use its best efforts to make Trainee Agent
4 appointments in California at an annual female
5 appointment rate ("goal") of fifty percent (50%),
6 beginning on the effective date of this Decree and
7 continuing for each of the ten (10) years following
8 such effective date.

9 1. Except as provided in any Stage II claims
10 procedure, in making the appointment of any
11 woman, or in considering the relative
12 qualifications of competing candidates for any
13 Trainee Agent position, State Farm shall have
14 the right to appoint the best qualified
15 applicant, and shall not be required to do any
16 of the following:

- 17 a. Displace any current agent from his or her
18 current position.
- 19 b. Appoint any specific individual to any
20 Trainee Agent position.
- 21 c. Appoint any woman who does not meet the
22 criteria set forth in Exhibit 1 (which are
23 substantially the same as those approved by
24 the Court in Equal Employment Opportunity
25 Commission v. State Farm, Civil Action
26 No. C-84-1700 (N.D. Cal., June 8, 1984)
27 ("Byrd Decree")), or any new selection
28

1 criteria that State Farm may adopt during
2 the life of this Decree which are disclosed
3 in advance to class counsel and to the
4 Court. However, these criteria shall not
5 constitute a defense to the Company's
6 failure to meet its Trainee Agent
7 appointment goals, which defenses are set
8 forth in Section VII.A.2 of this Decree.

9 d. Create any Trainee Agent vacancies or hire
10 any specific number of Trainee Agents.

11 e. Appoint any individual who has any
12 insurance sales experience with any other
13 insurance company or agency. However, this
14 criterion shall not constitute a defense to
15 the Company's failure to meet its Trainee
16 Agent appointment goals, which defenses are
17 set forth in Section VII.A.2 of this
18 Decree.

19 2. In the event that State Farm fails to achieve a
20 fifty percent (50%) female appointment rate in
21 any particular year, State Farm shall
22 nonetheless be in compliance with the annual
23 Trainee Agent appointment goal if:

24 a. Its female appointment rate during the
25 previous year exceeded the goal by the same
26 number of women that is the current
27 shortfall; or

28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

- b. Its shortfall of female appointees in the previous year is made up in the current year, in addition to its goal for the current year; or
- c. State Farm establishes to the satisfaction of class counsel, or by a preponderance of the evidence to the Court, that:
 - i. a disproportionately high percentage of women who were offered Trainee Agent appointments declined them, for reasons not attributable to sex discrimination; or
 - ii. a disproportionately high percentage of women failed to complete precontract activities satisfactorily, for reasons not attributable to sex discrimination; or
 - iii. despite aggressive recruitment in accordance with procedures set forth in Section VII.C of this Decree, there were insufficient numbers of qualified female applicants in locations where there were Trainee Agent vacancies, for reasons not attributable to sex discrimination; or
 - iv. State Farm's failure to achieve a fifty percent (50%) female appointment rate

1 is based on other factors not
2 attributable to sex discrimination.

3 3. For the purposes of this Decree, applicants for
4 appointment to Trainee Agent positions shall
5 not include women whose application for such
6 appointment is solely a prerequisite to
7 participation in the Claim Procedure set forth
8 in the Consent Decree Regarding Monetary
9 Relief, Instatement Relief, and Notice.

10 B. Appointment of Career Agents: State Farm shall not
11 discriminate against female Trainee Agents
12 interested in Career Agent positions in California.
13 State Farm shall appoint female Trainee Agents as
14 Career Agents in California based on the same
15 criteria that are used to appoint male Career
16 Agents from the same Trainee Agent class.

17 1. If State Farm's female Career Agent appointment
18 rate for any three (3) year aggregate of
19 Trainee Agent classes is not within two (2)
20 standard deviations of the male Career Agent
21 appointment rate for those classes of Trainee
22 Agents, class counsel shall have the right:
23 a. to seek an explanation from State Farm; and
24 b. if not satisfied with the Company's
25 explanation, to seek Career Agent
26 appointment goals or other affirmative
27 relief from the Court.

28

- 1 2. The Court shall impose such Career Agent
2 appointment goals or other affirmative relief
3 unless State Farm establishes by a
4 preponderance of the evidence that:
- 5 a. a disproportionately high percentage of the
6 female Trainee Agents from the
7 aforementioned three (3) year aggregate of
8 Trainee Agent classes declined offers of
9 Career Agent appointments, made within
10 twenty-four (24) months of becoming Trainee
11 Agents, for reasons not attributable to sex
12 discrimination; or
- 13 b. a disproportionately high percentage of
14 female Trainee Agents from the
15 aforementioned three (3) year aggregate of
16 Trainee Agent classes voluntarily chose not
17 to continue as Trainee Agents for at least
18 twenty-four (24) months, for reasons not
19 attributable to sex discrimination; or
- 20 c. a disproportionately high percentage of
21 female Trainee Agents from the
22 aforementioned three (3) year aggregate of
23 Trainee Agent classes failed to perform
24 satisfactorily as Trainee Agents, for
25 reasons not attributable to sex
26 discrimination; or

1 d. State Farm's female Career Agent placement
2 rate is lower than its male Career Agent
3 placement rate for other reasons not
4 attributable to sex discrimination.

5 C. Method of Recruiting Female Trainee Agents:

6 1. Recruitment Administrators: By the effective
7 date of this Decree, State Farm shall nominate
8 one female for each of State Farm's three
9 California regions to serve as Recruitment
10 Administrators.

11 a. Their function shall be to work with and
12 train Agency Managers and other responsible
13 individuals in recruiting and retaining
14 qualified female Trainee Agents pursuant to
15 the terms of this Decree.

16 b. The persons nominated as Recruitment
17 Administrators shall have a Bachelor's
18 degree and at least two (2) years
19 experience in direct recruitment of
20 professional level employees, shall be
21 committed to effectuating the purposes of
22 this Decree, shall be or become familiar
23 with State Farm's marketing system, and
24 shall be compensated at a starting salary
25 of at least \$10,500 base dollars which will
26 be adjusted periodically in accordance with
27 State Farm's applicable cost-of-living
28

1 adjustment policy. As of March 2, 1987,
2 \$10,500 base dollars is the equivalent of
3 \$34,965.

4 c. Prior to appointing any nominee(s) as
5 Recruitment Administrator, State Farm shall
6 furnish class counsel with a copy of the
7 resume of the nominee(s) that the Company
8 intends to appoint, and class counsel shall
9 have the right to interview each nominee.
10 If within two (2) weeks of class counsel's
11 receipt of such resume(s), the parties
12 cannot agree that such nominee(s) satisfy
13 the criteria in Section VII.C.1.a-b, above,
14 class counsel shall have the right to move
15 for disapproval of the Company's nominee(s)
16 by a Special Master who is a neutral
17 attorney admitted to practice before the
18 United States District Court for the
19 Northern District of California and who has
20 experience in employment discrimination
21 litigation. If the parties are unable to
22 agree upon the selection of the Special
23 Master, the Court shall appoint one after
24 reviewing suggestions from the parties and
25 holding a hearing to determine the person
26 who best fits the qualifications set forth
27 above.

28

1 d. If class counsel move for such disapproval,
2 State Farm shall postpone appointing its
3 nominee for thirty (30) days, during which
4 time the Special Master must either approve
5 the nominee or find that class counsel have
6 established, by a preponderance of the
7 evidence, that the nominee fails to satisfy
8 the criteria in Section VII.C.1.a-b, above.

9 e. If State Farm's nominee is not approved by
10 the Special Master, the Company shall
11 nominate a substitute within thirty (30)
12 days of the Special Master's decision, and
13 the procedures set forth in paragraphs b
14 through d immediately above shall apply to
15 such further nominee.

16 2. Mechanisms for Filling Trainee Agent Vacancies:

17 Beginning on the effective date of this Decree,
18 and continuing for each of the ten (10) years
19 following such effective date, State Farm shall
20 develop and maintain a monthly list of current
21 and projected vacancies for Trainee Agent
22 positions in each California region.

23 a. This list shall be (1) provided to every
24 female employee or applicant for employment
25 at State Farm who expresses an interest in
26 a Trainee Agent position; (2) posted
27 conspicuously for fifteen (15) days at each
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

regional and claims office, including
employee bulletin boards; (3) mailed to
each Agency Manager's office with an
instruction that it be conspicuously posted
and provided to female applicants for
Trainee Agent positions; and
(4) distributed to each Recruitment
Administrator and Agency Manager. No
Trainee Agent position shall be filled
during the life of this Decree until State
Farm has complied with these four (4) steps
and fifteen (15) days have elapsed from the
date of posting.

b. The list shall include a description of the
Trainee Agent position, the necessary
qualifications, the method of financial
compensation for the position, and the
procedure for applying. This procedure
will ensure that applications filed within
seven (7) days of posting will be
considered before the posted position is
filled.

c. The selection pool for each Trainee Agent
position shall consist of all applicants in
the Agency Manager's active selection file
and any applicants referred to the Agency
Manager by the personnel office, a

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Recruitment Administrator, or any other source.

d. Each Agency Manager shall retain all applicant files, other than those which have been withdrawn or rejected for failure to satisfy the screening criteria set forth in Exhibit 1, in his or her active recruitment file for one (1) year. Thereafter, such applicant files shall be retained at the Regional Office for three (3) years. Following the lapse of three (3) years, such applicant files shall be retained for the duration of this Decree in a storage facility designated by State Farm.

3. Management Training: State Farm, with the assistance of the Recruitment Administrators, shall develop programs to educate Agency Managers and other individuals responsible for the recruitment of Trainee Agents, regarding effective means of recruiting and hiring females to fill such positions.

a. Such programs shall include monthly meetings during the first year of this Decree, quarterly meetings during the next three (3) years, and annual meetings during the remainder of this Decree if State Farm

1 has met its Trainee Agent appointment goals
2 for the first four (4) years.

3 b. Such programs and meetings shall be
4 conducted by the Recruitment Administrators
5 and attended by Agency Managers and other
6 individuals responsible for the recruitment
7 of Trainee Agents.

8 4. Selection/Training of Trainee Agents: Agency
9 Managers and Agency Directors shall continue to
10 be responsible for selection of Trainee Agents,
11 in accordance with the criteria set forth in
12 Exhibit 1 and the following specifications:

13 a. Agency Managers shall document the progress
14 of each Trainee Agent who has been
15 selected. For every female deselected
16 during that period, the Agency Manager
17 shall document in writing, and provide a
18 copy to the Trainee Agent, the reasons for
19 her deselection, and the stage at which she
20 was deselected.

21 b. The Regional Recruitment Administrator
22 shall conduct an exit interview with each
23 deselected female Trainee Agent in her
24 region, and shall prepare a written report
25 of each such interview. These reports
26 shall be reviewed on at least a monthly
27 basis by the Regional Vice President and
28

1 other individuals responsible for the
2 recruitment of Trainee Agents, in order to
3 carry out effectively the terms of this
4 Decree.

5 c. Every six (6) months during the life of
6 this Decree, the Recruitment Administrators
7 shall meet with current female Trainee
8 Agents to encourage such Trainee Agents to
9 continue with their training and to accept
10 offered appointments as Career Agents.

11 5. Outside Recruitment

- 12 a. Community Contacts: Each Recruitment
13 Administrator shall make regular and
14 periodic visits to appointment offices of
15 colleges and universities in California
16 which have large female enrollments, as
17 well as to community organizations with
18 female outreach programs, in an effort to
19 locate potential female applicants for
20 Trainee Agent positions. Such efforts
21 shall include both the use of recruitment
22 brochures specifically directed to females
23 and the use of videotapes which depict
24 female State Farm Agents as role models.
- 25 b. Advertising: State Farm shall develop for
26 use in California on a regular and periodic
27 basis a program of Agency female
28

1 recruitment advertisements to be
2 disseminated through newspapers, magazines,
3 and trade journals. Such advertisements as
4 are in print shall feature female Agents as
5 role models, shall indicate the interest of
6 the Company in the appointment of female
7 Trainee Agents, and shall include an
8 appropriate Equal Employment Opportunity
9 designation.

10 6. Modification of Recruitment or Advertising

11 Program: State Farm may eliminate or modify
12 any aspect of its recruitment or advertising
13 program after use for at least one (1) year, in
14 accordance with the following specifications:

15 a. If State Farm has met its Trainee Agent
16 placement goal for that year and the
17 Recruitment Administrators find any
18 recruitment or advertising program to be
19 impractical or nonproductive, State Farm
20 may eliminate or modify such program.

21 b. If State Farm has not met its Trainee Agent
22 placement goal for that year, but the
23 Recruitment Administrators find any
24 recruitment or advertising program
25 impractical or nonproductive, State Farm
26 may eliminate or modify such program, if:

27 i. Class counsel stipulate to the proposed
28 elimination or modification; or

1 ii. State Farm establishes to the
2 satisfaction of the Special Master that
3 the existing recruitment or advertising
4 program is impractical or nonproductive
5 and that an alternative program appears
6 more likely to effectuate the purposes
7 of the Consent Decree.

8 c. If State Farm has not met its Trainee Agent
9 placement goal for that year, and the
10 applicant flow is less than fifty percent
11 (50%) female, class counsel shall have the
12 right to move for modification of State
13 Farm's recruitment or advertising
14 program(s), and substitution of other
15 programs which appear more likely to
16 achieve an applicant flow of qualified
17 candidates that is fifty percent (50%) or
18 more female.

19 D. Annual Reporting: State Farm shall serve Annual
20 Reports upon class counsel in accordance with the
21 following specifications, and shall file copies of
22 such Annual Reports with the Court.

23 1. Timing: The first Annual Report shall
24 contain information concerning the first
25 twelve (12) months following the effective
26 date of this Decree, and shall be filed
27 within sixty (60) days of the anniversary
28 of such effective date. All further Annual

1 Reports shall contain information for
2 subsequent periods of twelve (12) months,
3 and shall be filed within sixty (60) days
4 of the anniversary of such effective date.

5 2. Contents: Each Annual Report shall contain
6 the following information and such
7 additional information as State Farm may
8 deem relevant to its compliance with this
9 Decree:

10 a. Recruitment: State Farm shall describe
11 the actions that it has taken to
12 implement the terms of Section VII.C of
13 this Decree.

14 b. Trainee Agent Appointment: State Farm
15 shall specify the number of persons by
16 sex who were appointed as Trainee
17 Agents, and the number of applicants by
18 sex, for Trainee Agent positions during
19 the reporting period. Data regarding
20 applicants shall reflect, to the extent
21 available, the percentage of applicants
22 who have responded to advertisements
23 and the percentage of applicants who
24 have responded to recruitment efforts
25 by the Recruitment Administrators
26 ("applicant flow data"). For the
27 purposes of complying with this
28

1 obligation only, the word "applicant"
2 shall refer to individuals who sign a
3 Declaration of Understanding ("DOU") or
4 who take the Career Profile
5 Questionnaire ("CPQ"). As set forth in
6 Section VII.A.3 above, however,
7 individuals who sign a DOU or who take
8 the CPQ solely as a prerequisite to
9 participation in the Claim Procedure
10 set forth in the Consent Decree
11 Regarding Monetary Relief, Instatement
12 Relief, and Notice are not applicants
13 under this Decree.

14 c. Career Agent Appointment: State Farm
15 shall specify the number of persons by
16 sex who were appointed as Career Agents
17 during the reporting period.

18 d. Total Numbers: State Farm shall
19 specify the total number of Trainee
20 Agents by sex and the total number of
21 Career Agents by sex as of the most
22 recent effective date of this Decree.

23 e. Deselection Statistics: State Farm
24 shall specify the number of persons by
25 sex who were deselected during the
26 reporting period:

27 i. from the pre-contract phase; and
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ii. from the Trainee Agent training phase.

3. Discovery: For any year of this Decree:

a. If State Farm has failed to meet its Trainee Agent appointment goal, even when adjusted by any surplus of female appointments from previous years, class counsel may:

(i) seek a written explanation of the shortfall from State Farm; and

(ii) if not satisfied with the Company's explanation, seek an order from the Special Master directing State Farm to provide reasonable discovery regarding the shortfall on good cause shown; or

b. If State Farm has failed to come within two (2) standard deviations of its Trainee Agent appointment goal for that year, class counsel shall be entitled to reasonable discovery of other documents for such year(s), including but not limited to those mentioned in Sections VII.C.2.a,d; VII.C.4.a-b; VII.C.5.b; and applicant flow data that is the basis for Section VII.D.2.b; as well as data from prior years in which State Farm has met its goals.

1 c. The phrase "year of this Decree" refers to
2 a period of twelve consecutive months
3 measured from the beginning of a reporting
4 period.

5 4. Disparate Impact Challenge: Neither class
6 counsel nor any class member may challenge any
7 selection criterion in any forum on the grounds
8 of adverse impact except as follows:

9 a. Initial Showing:

10 (i) If Goal Not Met: Such challenge
11 may be brought for any year(s) of
12 this Decree in which State Farm
13 has failed to meet its Trainee
14 Agent appointment goal, if the
15 proportion of applicants for
16 Trainee Agent positions who are
17 female exceeds the proportion of
18 Trainee Agent appointees who are
19 female by two or more standard
20 deviations, even when adjusted by
21 any surplus of female appointments
22 from previous years.

23 (ii) If Goal Met: Such challenge may
24 be brought for any year(s) of this
25 Decree in which State Farm has met
26 its Trainee Agent appointment
27 goal, if the proportion of
28

1 applicants for Trainee Agent
2 positions who are female exceeds
3 the proportion of Trainee Agent
4 appointees who are female by two
5 and one-half or more standard
6 deviations, even when adjusted by
7 any surplus of female appointments
8 from previous years.

9 b. Discovery: Such challenge may be based
10 upon reasonable discovery of documents,
11 including but not limited to those
12 mentioned in Sections VII.C.2.a,d;
13 VII.C.4.a-b; VII.C.5.b; and applicant flow
14 data that is the basis for
15 Section VII.D.2.b; as well as data from
16 prior years of this Decree in which the
17 proportion of Trainee Agent appointees who
18 are female was within two (2) standard
19 deviations of the proportion of applicants
20 who were female, when adjusted by any
21 surplus of female appointments from
22 previous years. Such data from prior years
23 of this Decree may be aggregated for the
24 purposes of determining the existence of
25 any adverse impact.

26 c. Applicable Principles and Defenses: After
27 satisfying the standard deviation test set
28

1 forth above, such challenge shall be
2 governed by applicable Title VII
3 principles. Satisfaction of the standard
4 deviation test, however, shall not in and
5 of itself be determinative of adverse
6 impact liability. Furthermore,
7 satisfaction of the standard deviation test
8 shall not bar State Farm from asserting
9 that an adverse impact challenge is
10 inappropriate during this Decree, because,
11 as set forth in the Uniform Guidelines on
12 Employee Selection Procedures, "differences
13 in selection rate may not constitute
14 adverse impact . . . where special
15 recruiting or other programs cause the pool
16 of . . . female candidates to be atypical
17 of the normal pool of applicants from that
18 group." Finally, satisfaction of the
19 standard deviation test shall not bar State
20 Farm from asserting any other available
21 defense, including the defense that the
22 proper measurement of adverse impact is the
23 proportion of qualified female applicants
24 to female appointments.

25 d. Challenge by Class Counsel: Such
26 challenge, if made by class counsel, may be
27 brought only before the Special Master with
28

1 de novo review by the Court. Class counsel
2 need not exhaust federal or state
3 administrative prerequisites before
4 bringing such a challenge.

5 5. Confidentiality: Annual reports and the
6 information that they contain shall be covered
7 by the Stipulation and Order contained in
8 Exhibit 2 to this Decree, which is signed by
9 counsel for the parties and by the Court, and
10 which provides that:

- 11 a. Only the Court and counsel for the class
12 shall receive copies of the Annual Reports;
13 b. Annual Reports filed with the Court shall
14 be kept under seal and be made available by
15 the Court only to its employees; and
16 c. Annual Reports served upon class counsel
17 shall also be kept confidential pursuant to
18 the terms of the Stipulation and Order
19 contained in Exhibit 2.

20 E. Duration of Injunctive Relief: The Court shall
21 retain jurisdiction over this case for purposes of
22 enforcing this Decree while it remains in effect.

- 23 1. Following the expiration of ten (10) years from
24 the effective date of this Decree, all of State
25 Farm's obligations under this Decree shall
26 automatically terminate without further
27 intervention by the Court or the parties,
28

1 provided that fifty percent (50%) of the
2 Trainee Agents appointed by State Farm during
3 the term of this Decree are female.

4 2. In the event that State Farm achieves an
5 incumbent agent work force in California that
6 is twenty-five percent (25%) female before the
7 expiration of ten (10) years, State Farm shall
8 have the right to move for termination of its
9 obligations under this Decree. The Court shall
10 grant State Farm's motion if:

11 a. Class counsel stipulate that such
12 termination is appropriate; or

13 b. State Farm demonstrates, by a preponderance
14 of the evidence, that State Farm's
15 incumbent agents in California have been
16 twenty-five percent (25%) female for a
17 period of one (1) year.

18 3. Notwithstanding the provisions of
19 Section VII.A.2.c, above, if fifty percent
20 (50%) of State Farm's Trainee Agent appointees
21 during the term of this Decree are not female,
22 State Farm shall have the right to move for
23 termination of part or all of its obligations
24 under this Decree following the expiration of
25 ten (10) years from the effective date of this
26 Decree. The Court shall grant State Farm's
27 motion if State Farm establishes by a
28

1 preponderance of the evidence that its failure
2 to attain a fifty percent (50%) Trainee Agent
3 appointment rate for women is justified under
4 Section VII.A.2 of this Decree.

5 F. Non-Retaliation: State Farm shall not retaliate
6 against any person or the spouse of any person who
7 assists or participates in this litigation.

8 G. Non-Discrimination: State Farm shall not
9 discriminate against or deter female applicants or
10 potential applicants interested in any Trainee
11 Agent position. State Farm shall consider female
12 applicants and potential applicants for Trainee
13 Agent positions on the same bases that it considers
14 male applicants and potential applicants for
15 Trainee Agent positions.

16 H. Alternative Dispute Mechanism: In order to provide
17 an alternative dispute mechanism that minimizes the
18 involvement of counsel in monitoring the terms of
19 this Decree, the following alternative dispute
20 mechanism shall be followed.

21 1. Any Trainee Agent or female applicant for a
22 Trainee Agent vacancy who feels that the terms
23 or conditions of her employment, or denial of
24 employment, with State Farm is the result of
25 sex discrimination in violation of this Decree,
26 may file a written complaint with the
27 appropriate Recruitment Administrator within
28

1 sixty (60) days of the occurrence of such
2 alleged violation.

3 2. The Recruitment Administrator shall investigate
4 the complaint by interviewing relevant
5 witnesses and reviewing relevant documents.
6 She then shall submit a written summary of her
7 findings and her recommendation to the Regional
8 Vice President.

9 3. The Regional Vice President shall prepare a
10 written statement setting forth State Farm's
11 position in the matter, any proposed
12 resolution, and an explanation of its
13 reasoning. A copy of this statement shall be
14 provided to the complainant, class counsel, and
15 the Regional Recruitment Administrator within
16 two weeks from the date of the complaint. The
17 copy that is sent to class counsel shall
18 include a copy of the initial complaint.

19 4. Use of this mechanism is optional on the part
20 of the complainant, and use of or failure to
21 use this procedure shall in no way affect the
22 female's right to pursue other remedies.

23 VIII. RETURN OF DOCUMENTS

24 Within sixty (60) days after the termination of
25 this Decree, or within sixty (60) days after the conclusion
26 of any enforcement action following the termination of this
27 Decree, whichever is later, class counsel shall return to
28

1 counsel for State Farm all documents furnished to class
2 counsel during discovery in this case, together with all
3 copies thereof, whether or not the documents are covered by
4 the protective order in this case filed January 28, 1980.
5 Class counsel shall not use any work product developed in
6 this action in any subsequent litigation against State Farm,
7 or in any legal seminars, speeches, or presentations,
8 except in an action for enforcement of this Decree or with
9 the prior permission of State Farm.

10 IX. ATTORNEYS' FEES AND COSTS

11 Class counsel shall be entitled to reasonable
12 attorneys' fees, for attorneys, paralegals, and law clerks,
13 and costs on a current rate basis for all time reasonably
14 incurred in administering, monitoring, enforcing, modifying,
15 and defending this Decree, but class counsel shall not be
16 entitled to any multiplier on such attorney's fees and
17 costs.

18 X. AVAILABILITY OF ORDER

19 This Decree shall be available for inspection by
20 any class member at reasonable times and at reasonable
21 intervals in each Regional Office.

22 XI. PUBLICITY

23 It is the intent of the parties that notice of the
24 provisions of this Decree shall be furnished to the class at
25 the time that its provisions are submitted to the Court for
26 tentative approval in accordance with Section IV, above.

27 Pending issuance of such notice, neither class counsel nor

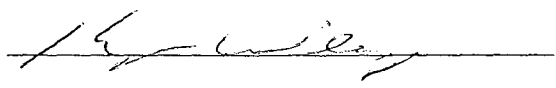
28

1 their agents or employees shall communicate the terms of
2 this Decree, or furnish a copy of it, to anyone except class
3 members who inquire as to the status of this case or request
4 a copy of this Decree. State Farm shall not communicate the
5 terms of this Decree to anyone except those of its employees
6 directly involved in the implementation of this Decree. Any
7 class member or State Farm employee who receives a copy of
8 this Decree prior to the issuance of formal notice shall be
9 specifically directed to the provisions of this Section XI
10 and the need for confidentiality pending submission to the
11 Court for tentative approval.

12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

DATED: January 13, 1988

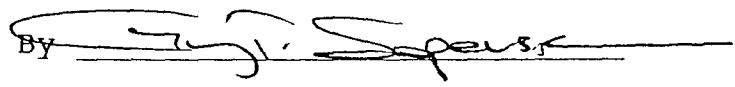
RAYMOND L. WHEELER
KIRBY WILCOX
ERICA B. GRUBB
MORRISON & FOERSTER

By 

Attorneys for Defendants STATE
FARM GENERAL INSURANCE COMPANY,
STATE FARM MUTUAL AUTOMOBILE
INSURANCE COMPANY, STATE FARM
LIFE INSURANCE COMPANY, and
STATE FARM FIRE AND CASUALTY
COMPANY

DATED: 1/13/88

FARNSWORTH, SAPERSTEIN &
SELIGMAN
A Professional Corporation

By 

Attorneys for Plaintiffs