

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

EQUAL EMPLOYMENT OPPORTUNITY )  
COMMISSION, )  
 )  
Plaintiff, )  
 )  
and )  
 )  
KARL SMITH, DeLEON PIGGEE, )  
FRANK EARL, III, TORRIS WILLIAMS, ) CIVIL ACTION NO.  
JOSEPH JONES, and DAVID BELL, )  
 ) 4:03-CV-01393 CEJ  
Plaintiff-Intervenors, )  
 )  
v. )  
 )  
FEDEX FREIGHT EAST, INC., formerly )  
known as AMERICAN FREIGHTWAYS, )  
INC., )  
 )  
Defendant. )

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**PLAINTIFF EEOC'S MOTION TO MODIFY CONSENT DECREE**

Comes now Plaintiff Equal Employment Opportunity Commission and moves this Court to modify the consent decree entered in this action by adding Marquis D. Avant and Calvin L. Nelson as additional aggrieved parties identified on Attachment A to the Consent Decree. Attached hereto is a modified Attachment A which includes Marquis D. Avant and Calvin L. Nelson. In support of its motion Plaintiff EEOC states:

1. After the parties submitted the proposed consent decree to the court, Plaintiff EEOC was contacted by Marquis D. Avant and Calvin L. Nelson, each of whom claimed that he was an African American who had been hired as a part-time dock docker and passed over for a full-time dock worker position by a less senior Caucasian part-time dock worker.

2. Plaintiff EEOC was able to verify from the records provided by FedEx Freight, Inc., that Nelson was an African-American, that he had been passed over for full time employment by a less senior Caucasian part-time dockworker six (6) days before Nelson's employment ended. Accordingly, he should be entitled to a proportionate share of the relief to be provided to the additional aggrieved parties as provided by Paragraph II. C of the Consent Decree.

3. Plaintiff EEOC believes based upon information provided by Marquis Avant that he was hired as a part-time dock worker in February 1998 and became full-time on June 28, 1998, and that Warren W. Beem, Joseph J. Dunn and Shaun W. Shaffer, are Caucasians and that each was hired part-time after Avant and became full time before him. Records provided by FedEx Freight East, Inc., show that Beem, Dunn, and Shaffer are Caucasians and that each became full-time dock workers on June 1, 1998, and that Avant became a full-time dockworker on June 28, 1998. Defendant's records do not reflect part-time employment for Beem, Dunn, Shaffer, or Avant. Plaintiff has provided the assertions of Avant to Defendant FedEx Freight East, Inc., for verification and it does not dispute Avant's claim. Defendant's records also show that Avant is an African-American. Accordingly, Plaintiff EEOC believes Avant should be entitled to a proportionate share of the relief to be provided to the additional aggrieved parties as provided by Paragraph II. C of the Consent Decree.

4. No other provision of the Consent Decree needs to be modified.

5. Defendant and the Plaintiff-Intervenors do not oppose this motion.

WHEREFORE for good cause shown, the Plaintiff respectfully requests the Court to modify the consent decree entered in this action by adding Marquis D. Avant and Calvin L. Nelson as additional aggrieved parties.

Respectfully submitted,

FOR PLAINTIFF:

/s/ C. Felix Miller  
C. FELIX MILLER, No. 10549  
Senior Trial Attorney

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**Certificate of Service**

The undersigned counsel hereby certifies the foregoing was filed electronically with the Clerk of Court to be served by operation of the Court's electronic filing system on this 16th day of November, 2005, upon:

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/s/ C. Felix Miller

Attachment A (modified)

1. Robert Addison, Jr.
2. David A. Bell, Jr.
3. Eric N. Booker
4. Robert H. Buckner
5. Michael Green
6. Desmond William Harper
7. Willie J. Harris
8. William Phillip McRath
9. Patrillo Quarles
10. Jody A. Stanley
11. Michael Corey Stone
12. Anthony J. Tucker
13. Terence Turner
14. Rodney C. Williams
15. Marquis D. Avant
16. Calvin L. Nelson