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U.S. DISTRICT COURT  
EASTERN DISTRICT OF LOUISIANA

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**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF LOUISIANA**

**U.S. EQUAL EMPLOYMENT  
OPPORTUNITY COMMISSION,**

**Plaintiff**

**v.**

**LIBERTY MARITIME CORP.**

**Defendant**

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**CIVIL ACTION NO.  
98-3144**

**DIVISION "D"  
JUDGE McNAMARA**

**MAG. NO. 4  
MAG. WELLS ROBY**

**CONSENT DECREE**

WHEREAS, the United States Equal Employment Opportunity Commission ("the Commission") has instituted the captioned civil action in this the United States District Court for the Eastern District of Louisiana, charging Liberty Maritime Corporation ("Liberty" or "Defendant"), with violations of the Americans with Disabilities Act of 1990, as amended ("ADA" or the "statute"), and alleging that Defendant discriminated against a group of identified and

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unidentified aggrieved individuals on the basis of disability by virtue of a policy of not hiring any person claiming to have asbestosis;<sup>[1]</sup>

WHEREAS, Defendant has not admitted and does not admit that it has engaged in any unlawful employment practices and no court finding of any unlawful employment practice has been made; and

WHEREAS, this Court has jurisdiction over the subject matter of this action and over the parties to this action; and

WHEREAS, Defendant, the Commission, and the Intervenors have agreed to settle this matter for the relief specified in this Consent Decree (sometimes referred to hereinafter as "this Decree"); and

WHEREAS, the parties to this lawsuit now wish to resolve all claims and controversies encompassed by this lawsuit without the burden, expense or delay of further litigation;

Therefore, it is **ORDERED, ADJUDGED, AND DECREED** that:

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<sup>[1]</sup> For purposes of this Decree, "asbestosis" shall mean asbestosis or any asbestos-related condition.

1. The negotiation, execution and entry of this Consent Decree will fully and finally resolve any and all claims of the ADA violations brought by the Commission against Defendant alleged in the instant civil action.

2. The purposes of the ADA will be furthered by the entry of this Decree, the terms of which constitute a fair and equitable settlement.

3. Neither the negotiation, nor the execution, nor the entry of this Consent Decree shall constitute an acknowledgment or admission of any kind by Defendant that its officers, agents or employees have violated or have not been in compliance with the ADA or any other applicable law, regulation or order. The parties agree that this Consent Decree is not evidence of any alleged violation of, or non-compliance with, the ADA.

4. a. This Consent Decree relates only to the violations alleged in the instant civil action. EEOC reserves all rights to proceed with respect to matters like and related to these matters but not covered in this Consent Decree and to secure relief on behalf of aggrieved persons not covered by the terms of this Consent Decree.

b. Defendant has identified the following individuals as all persons who have been rejected for hire by virtue of the policy which is the subject of the instant lawsuit,<sup>[2]</sup> hereinafter referred to as "claimants":

- i. Marvin Zimbardo - Charging Party, 2 rejections
- ii. Gerald Corelli - Charging Party, 2 rejections
- iii. Caesar Guitierrez - Charging Party, 1 rejection
- iv. Neville Johnson - Charging Party, 2 rejections
- v. Efstratios Zoubantis - Charging Party, 1 rejection
- vi. Carnavius Michael Davalie - Charging Party, 1 rejection
- vii. Claude Hollings, III - Charging Party, 1 rejection
- viii. Sebastian C. Bermudez - Charging Party, 1 rejection
- ix. Tobe Dansley - Charging Party, 1 rejection
- x. Nicholas Sakellarides - Charging Party, 2 rejections
- xi. Henry Colar - non-Charging Party
- xii. John L. Foster - non-Charging Party
- xiii. Howard Levine - non-Charging Party
- xiv. Willie James Franks - non-Charging Party
- xv. Michael Jackson - non-Charging Party
- xvi. Andrew Hunter - non-Charging Party
- xvii. Thomas E. Driggers - non-Charging Party
- xviii. Rubin Mitchell - non-Charging Party

5. a. Within ten (10) business days of the latter of entry of this Consent Decree or receipt by Liberty of a signed release by the claimant,

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<sup>[2]</sup> Defendant does not agree that the claimants were rejected pursuant to a "policy," *per se*. However, strictly for purposes of this Decree, all persons rejected for materially the same reason as were the 18 identified claimants shall be deemed to have been rejected by virtue of the subject "policy."

Defendant shall pay: \$15,666.66 to each claimant who filed a charge of discrimination with the Commission and who was rejected for hire on one occasion; \$23,499.99 to each claimant who filed a charge of discrimination with the Commission and who was rejected for hire on more than one occasion; and \$8,000.00 to each claimant who did not file a charge of discrimination with the Commission. The total of these payments will be \$251,999.92.

Payments made under this sub-paragraph include attorneys' fees and costs and shall be subject to withholding of all applicable payroll and other taxes. Any portions of the payments representing attorneys fees, however, shall not be subject to withholding but shall be reflected on Forms 1099. Any portions of payments not representing attorneys fees shall be reflected on W-2 forms issued to the claimants. Liberty may rely on the representations of lead counsel for the intervenors in determining what portion of the payment constitutes attorneys fees. The total payment of \$251,999.92 is understood by all the parties to constitute the total payment to be paid to the above-listed claimants, regardless of any claims of attorneys fees, regardless of whether a claimant was represented by counsel, and regardless of the number of times

any claimant was rejected for employment and of whether he filed a charge of discrimination.

b. Liberty represents that the claimants identified in subparagraph 4(b) above are the only individuals whom Liberty rejected for employment based on the asserted policy.

c. The parties understand that claimants who are represented by counsel will be asked and required to execute separate releases, and that a portion of the consideration to be paid pursuant to this Consent Decree represents consideration for such releases. Payment to such individuals pursuant to this Consent Decree shall be paid only after the releases have been signed and any revocation period provided in the releases has expired. Liberty agrees to include, in any release demanded in exchange for monies paid pursuant to this Consent Decree, advice to the releasing party that s/he is encouraged to seek legal counsel before signing the release.

6. a. Defendant, its directors, officers, agents, employees, successors, and assigns shall comply with the ADA in its hiring practices. Specifically, Liberty agrees that it will not reject any person for employment

solely because that person contends that s/he has asbestosis or has filed a claim seeking compensation for having asbestosis.

b. Defendant specifically reserves the right, subsequent to the execution of this Decree, to refuse to employ any person for knowingly having made false statements to Liberty in the application process or for having attempted to defraud Liberty. However, Defendant agrees that any person's filing of a claim alleging asbestosis or any other impairment is not, in and of itself, evidence of false statements or fraud.

c. Defendant promises not to retaliate against any person for having participated in any way in the Commission's investigation of this matter. Liberty specifically promises not to retaliate against any claimant who receives payment from Defendant in connection with this Decree. Liberty also promises to consider for employment all claimants covered by this Decree (*i.e.*, all persons who were rejected for hire because of any reason relating to their allegedly having (or claiming to have) asbestosis, including but not limited to the 18 individuals identified hereinabove), without regard to whether they have asbestosis and without regard to whether they have filed any claim alleging to have asbestosis. Liberty reserves the right to refuse to employ any claimant

who knowingly makes false statements to Liberty in the application process or attempts to defraud Liberty after the date of execution of this Consent Decree.

7. Defendant agrees to provide the Commission with four written reports, at six month intervals beginning six months after the execution of this Decree, setting forth all instances in which any person, referred by any authorized union or collective bargaining representative, is rejected for hire (a) as a result of information obtained from third-party reports pertaining to asbestosis-related medical claims (including but not limited to reports from MIB Services, Inc.) or (b) because of any alleged asbestosis-related medical condition. These reports will be accompanied by all documentation relevant to such rejections for hire.

8. In the event that Defendant fails to perform its obligations herein, Plaintiff EEOC is empowered to enforce this Consent Decree through the applicable judicial enforcement procedures and to seek sanctions which may be due as a result of the need to enforce this Decree.

9. Should any provision of this Decree be declared or be determined by any Court to be illegal or invalid, the validity of the remaining parts, terms



or provisions shall not be affected thereby and said illegal or invalid part, term or provision shall be deemed not to be a part of this Decree.

10. This Decree sets forth the entire agreement between the Commission and Defendant as to the captioned lawsuit, and fully supersedes any and all prior agreements or understandings between the Commission and Defendant pertaining to the subject matter herein.

11. All parties to this action will bear their own attorney's fees and costs incurred in connection with the litigation of this case.


12. This Decree shall remain in effect for a period of two years from the date of its execution.

13. The Court shall retain jurisdiction of this action for purposes of enforcing this Decree, as appropriate.

14. While the Commission does not agree to any general confidentiality requirement concerning the resolution of this matter, the Commission agrees that it will not issue any press or media releases concerning the resolution of this matter, including the terms of the resolution, and will not contact the press or media nor respond to press or media inquiries concerning this case, nor prior to the entry of this Consent Decree has the Commission taken such actions.

IT IS SO ORDERED.

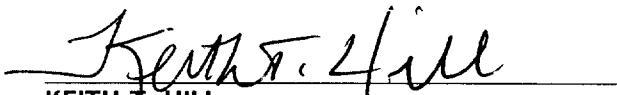
THUS DONE AND SIGNED, Neil DeLoans, Louisiana, this 19  
day of April, 2000.

  
UNITED STATES DISTRICT JUDGE

APPROVED AS TO FORM AND CONTENT:  
FOR THE PLAINTIFF:

**C. GREGORY STEWART**  
General Counsel  
No Bar Roll Number Assigned

4-19-00  
Date

  
**KEITH T. HILL**  
Regional Attorney  
Bar Roll No. 15200000  
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FOR THE DEFENDANT:

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Date

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FOR THE INTERVENORS:

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**COUNSEL FOR INTERVENORS**