

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
FORT WAYNE DIVISION**

WILLIAM ANTHONY HILL,
ELIZEBETH A. WORTHMAN, and
GOLDA BAILEY,
on Behalf of Themselves and Others
Similarly Situated,

Plaintiffs,

v.

MERRILL GARDENS LLC,

Defendant.

EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION,

Plaintiff,

v.

MERRILL GARDENS LLC,

Defendant.

CAUSE NO.: 1:04-CV-248

CAUSE NO.: 1:05-CV-4

**JOINT VERIFIED FINAL REPORT
AND REQUEST FOR APPROVAL**

Comes now, Plaintiff, the Equal Employment Opportunity Commission ("EEOC"),
Plaintiffs William Anthony Hill ("Plaintiff Hill") and Plaintiff Golda Bailey ("Plaintiff Bailey"),
on behalf of themselves and others similarly situated, by counsel, Shane C. Mulholland
and John T. Menzie of the law firm of Burt, Blee, Dixon, Sutton & Bloom, LLP, and
Defendant Merrill Gardens LLC ("Defendant Merrill Gardens") and hereby submit this Joint
Verified Final Report and Request for Approval.

On October 6, 2005, this Court issued its Opinion and Order Granting Final Approval to Class Action Settlement, Entry of Final Judgment and Entering Consent Decree after conducting a full hearing and opportunity to be heard on September 9, 2005. Said Order:

1. Provided that the proposed Settlement Class and subclass satisfied the requirements of Rule 23(a) and (b)(3), granted final approval to plaintiffs Hill and Bailey as representatives of the settlement class and respective subclass and confirmed the appointment of John T. Menzie and Shane C. Mulholland as Class Counsel for purposes of implementing and carrying out the Class Action Settlement.

2. Gave final approval of the proposed Consent Decree in the EEOC action and gave final approval in the Hill/Bailey action under Rule 23 of the Federal Rules of Civil Procedure.

3. Found that the members of the settlement class were provided the best notice practicable and that such notice satisfied all requirements of due process and Rule 23 of the Federal Rules of Civil Procedure.

4. Provided that no members of the settlement class and/or the respective subclass requested exclusion that all persons met the definition of a class member, the Court making determinations as to individual objections as to exclusion from the settlement class.

5. Made final approval of the class action settlement ordering payment to class and subclass members who had not opted out of the settlement and who had returned timely, executed Releases and approved payment of attorneys' fees and expenses.

Pursuant to the Court's Order, payment was to be made by Defendant Merrill Gardens to known class members in the amount of Three Hundred Twenty Four Thousand Dollars (\$324,000.00), and payment of up to Three Hundred Twenty Six Thousand Dollars and Eight Cents (\$326,000.08) for class members not known at the time the settlement agreement was negotiated, payments to be made pursuant to the Class Action Distribution Spreadsheet attached hereto, made a part hereof and incorporated herein as Exhibit "A". Class Counsel has issued payments to the class members, both known and unknown, pursuant to the Schedule attached hereto as Exhibit "A".

The parties stipulate that the information and calculations set forth in Exhibit "A" hereto accurately reflect the amounts due to individual class and subclass members pursuant to this Court's October 6, 2005 Order.

Moreover, Class Counsel represents that class and subclass members have satisfied all conditions precedent to receipt of payments including, but not necessarily limited to, execution of a Settlement Agreement and related documents within the requisite time. Class Counsel and class and subclass members as well as the EEOC agree that Defendant Merrill Gardens has no further contractual obligation to pay any further amounts arising out of, resulting from or related to this litigation and further stipulate and agree that no further payments will be paid or are due by Defendant Merrill Gardens to Class Counsel or any other class or subclass member or representative.

Moreover, by way of this Report, Class Counsel acknowledges receipt of payment for attorneys' fees and other litigation related expenses as set forth in this Court's October 6, 2005 Order.

Class Counsel further represents by way of this Report that disbursement of all settlement checks were made to all class and subclass members in person by hand-delivering same to each class and subclass member at the offices of Burt, Blee, Dixon, Sutton & Bloom, LLP at which time each class and subclass member executed an acknowledgment of Receipt of Payment with appropriate withholdings made as determined by the information provided by the class and subclass members by way of an Internal Revenue Service W-4 Form which had been submitted by each class and subclass member prior to disbursement contemporaneous with the execution of the Settlement Agreement; with the exception of Known Class Member, Elizebeth Worthman ("Worthman"), whose settlement check was mailed via certified mail, return receipt requested which was mailed on December 9, 2005. Class Counsel further reports that the certified return receipt ("green card") was received by Class Counsel on December 12, 2005, acknowledging Worthman's receipt of her settlement proceeds.

By way of this Stipulated Report, the parties hereby represent and agree that the parties have fully complied with the Court's Order dated October 6, 2005 and the Court-approved settlement agreement between Defendant Merrill Gardens and the Class as well as the Consent Decree between Defendant Merrill Gardens and the EEOC.

The parties hereto further request that this Court acknowledge that the parties have complied with their respective obligations concerning settlement and the disbursement of the settlement proceeds and request that this Court approve this Report and the actions described herein as being in compliance with this Court's October 6, 2005 Order.

VERIFICATION

The undersigned attorneys confirm under the penalties for perjury that the foregoing representations are true and accurate.

Respectfully submitted,

BARNES & THORNBURG

BURT, BLEE, DIXON, SUTTON & BLOOM, LLP

s/ Kathleen M. Anderson
Kathleen M. Anderson, #16351-92
Tiffany L. Gooden, #24199-02
600 One Summit Square
Fort Wayne, IN 46802
Telephone: (260) 423-9440
Facsimile: (260) 424-836
ATTORNEY FOR DEFENDANT

s/ Shane C. Mulholland
John T. Menzie, #10255-02
Shane C. Mulholland, #20637-57
200 East Main Street, Suite 1000
Fort Wayne, IN 46802
Telephone: (260) 426-1300
Facsimile: (260) 422-2722
CLASS COUNSEL

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION

s/ Kenneth Bird
Kenneth Bird, #10780-02
101 West Ohio Street, Suite 1900
Indianapolis IN 46204-4203
Telephone: (317) 226-7204
ATTORNEY FOR EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION

CERTIFICATE OF FILING

I hereby certify that on 2006 April 11 I electronically filed the foregoing Joint Verified Report and Request for Approval with the Clerk of the Court using the CM/ECF system, which sent notice of such filing to the following:

Kathleen M. Anderson
Tiffany L. Gooden
BARNES & THORNBURG LLP
600 One Summit Square
Fort Wayne IN 46802

John T. Menzie, #10255-02
Shane C. Mulholland, #20637-57
200 East Main Street, Suite 1000
Fort Wayne IN 46802

/s/ Kenneth L. Bird
Kenneth L. Bird, #10780-02
Senior Trial Attorney

Equal Employment Opportunity
Commission
101 W. Ohio St., Ste 1900
Indianapolis IN 46204-4203
Phone: (317) 226-7204
Fax: (317) 226-5571
email: Kenneth.Bird@eeoc.gov

COURT APPROVAL AND FINAL ORDER

The Court approves the above-referenced Report and the actions described therein as being in compliance with this Court's October 6, 2005 Order. Upon the representations made herein, that Defendant Merrill Gardens has made the requisite payments and that said payments were distributed to class and subclass members and that all attorneys' fees and litigation related expenses are hereby acknowledged to have been paid and that no other additional payments to Class Counsel or to class and sub class members are required, this Court finds that all terms and conditions finalizing the Class Action Settlement have been completed.

APPROVED this _____ day of April, 2006.

Dated: _____

Judge, United States District Court