

administrator for purposes of initial qualification of “soft claims.”¹ The term “soft claims” referred to claims for which the Consent Decree did not include a formula including harassment, termination and other adverse treatment claims.

Again, pursuant to the Consent Decree, claims forms were sent to all possible claimants known to the parties. Advertisements were run in newspapers across the country to notify possible claimants who were not known to Eagle and EEOC. By the end of March 2003, the deadline for filing claims had passed. Over 2,200 claims were received by the Claims Administrator MFR. MFR did an initial review of all claims and recommended a group of over 1,750 to be disqualified. Approximately 450 claimants were recommended as prequalified for a share of the settlement. MFR completed this task in late April 2003.

In the 18 months since MFR made its recommendations with respect to disqualification and prequalification of claimants, EEOC and Eagle have worked collegially while separately reviewing the claims. There were numerous calls, conference calls, e-mails and one meeting between counsel for EEOC and Eagle. In addition, the EEOC has been in contact with dozens of claimants regarding the status of the case and updating their address information.

Pursuant to agreement of the parties, the first group of claims which were reviewed were those which presented hiring claims. MFR divided the hiring claims into two major groups; those which it designated prequalified and those designated as initial disqualifications. The group of initial disqualifications was further divided by MFR into groups according to the reason for their disqualification². A group of 83 claimants was disqualified because MFR labeled them “claimants who never worked or sought employment at EGL.” This description implies that MFR disqualified some or all of these claimants because they couldn’t find application information other than the claim form. If this is the case, it is clearly an incorrect interpretation of the Consent Decree. Paragraph 26.B. provides that a “claimant is entitled to be considered for each position, solely dependent on his or her assertion on the claim form.” Therefore, the claim form alone is enough to trigger a search to determine whether the claimant applied at a time and

¹ See e-mail from Nancy Patterson to Katharine Kores attached hereto as Exhibit A.

² See pages from EGL/EEOC database attached hereto as Exhibit B.

place where a position was filled and whether the claimant was as qualified as an individual who was hired for the position. It is not the EEOC's position that these additional claimants should automatically be paid. The action which is appropriate is to search Eagle's hiring records to answer the question whether a position was filled at the time and place involved and, if so, to compare the qualifications of the claimant to those who were hired.

The EEOC has been reasonable in its dealings with Eagle on this matter. Although MFR disqualified 83 claimants, before asking Eagle to do any additional searching of its records, all 83 were studied to determine if there were any other basis for their disqualification. By doing this, EEOC was able to reduce the number of claims in question to 28.³

Another group of MFR disqualifications was labeled "hiring claimants with link to database." Because an individual may have applied for jobs with Eagle at some time earlier than the time the claimant was actually hired, EEOC deemed it appropriate to look more closely at this group which consisted of 24 claimants. Upon the EEOC's review, the number which required a search of Eagle's records was reduced to 17.^{4 5}

The EEOC has asked that Eagle conduct searches of its records for a total of only 45 additional claims. For the vast majority of the hiring class claims, the parties have reached agreement. The completion of the review of these remaining 45 claims would allow the parties to move forward towards paying the hiring class claimants and completing the review of the other categories. The parties have made significant progress in their review of the other categories.

Defendant's Motion Should Be Denied

The Consent Decree is the product of negotiation of the parties which was signed by the

³ See Letter from Katharine Kores to Nancy Patterson dated September 27, 2004 attached hereto as Exhibit C

⁴ The review of these claims revealed that MFR had mistakenly categorized all of them as hiring claims when, in fact, only three asserted discrimination in hiring. The others made claims of adverse treatment, failure to promote and disparate pay.

⁵ See Letter from Katharine Kores to Dean Herms dated October 14, 2004 attached hereto as Exhibit D.

Court and its terms should be observed. In ¶19.A., Eagle agrees to pay \$8,500,000 to a Class Fund to “be distributed among all “Qualified Claimants” (as that term is defined herein), in accordance with the provisions of the Decree.”

Eagle asks the Court to relieve the parties of their responsibility to oversee the claims process apparently because it believes the process is taking too long. The Consent Decree provides at ¶43:

.... Claims Administrator shall make its recommendations to the Commission Such preliminary recommendations by the Claims Administrator may be subject to change based on: (i) whether and the extent to which the Claims Administrator’s determinations as to eligibility and tier placement are modified pursuant to the oversight process provided for in this Decree to assure decision making by the EEOC and Eagle....

The Consent Decree clearly anticipates and requires that the Claims Administrator’s recommendations be subject to oversight by the EEOC and Eagle. Paragraph 43 makes clear that the parties and not the Claims Administrator are to make decisions regarding the eligibility of claimants.

Not only is Eagle’s position not supported by the Consent Decree, it is not supported by Eagle’s own actions. Eagle states in its motion at page 2 that of 115 claims which MFR prequalified for hiring claims, Eagle recommended only 79 for a share of the settlement. Eagle has no hesitance to review and disagree with the Claims Administrator with respect to claims which were prequalified. However, Eagle argues that the parties have no responsibility to review or question the work of the Claims Administrator with respect to the claims which it disqualified. Eagle’s argument is illogical and it ignores the clear language of the Consent Decree which places decision-making responsibility for claims with EEOC and Eagle. It is the EEOC’s position that the parties have the responsibility to review both disqualified and prequalified claims.

Another indication that Eagle actually recognizes its responsibility to oversee the Claims Administrator’s work is its agreement with the EEOC to consider 75 additional hiring claims⁶

⁶ See page 5 of Eagle’s motion.

pursuant to the terms of the Consent Decree. EEOC brought to Eagle's attention the existence of conflicting application information for these 75 claims. Pursuant to ¶26.B.4 which provides: "If a claimant submitted an application, resume or candidate fact sheet and it is inconsistent with the claim form the information provided on the application will be considered dispositive", these claims which were initially disqualified by MFR, were reconsidered.

There is no provision in the Consent Decree which terminates the responsibility of the EEOC and Eagle to make decisions regarding claims. Eagle's argument seems to be that the passage of time somehow relieves the parties of this responsibility. Eagle is unable to cite any provision in the Consent Decree which supports this argument.

Eagle incorrectly asserts that the EEOC desires to disregard the terms of the Consent Decree and distribute the Claims Fund to all claimants. In fact, the EEOC is seeking to obtain adherence to the requirements of the Consent Decree. Based on the work that has been completed on claims so far, the EEOC has very often agreed with Eagle's analysis. Where the parties disagreed, pursuant to the Consent Decree, the parties reviewed their positions, tried to reach agreement and then submitted the disputed claims to the Claims Monitor, Tom Daffron. The process has worked so far and there is no reason to believe that it will not continue to work for the rest of the claims. The terms of the Consent Decree should be respected.

The work which is required to review personnel records for the 45 additional claims is not onerous. Whatever inconvenience it may create for Eagle is outweighed by the requirement that the terms of the Consent Decree be upheld and that the remedies provided therein be fairly and appropriately distributed. While Eagle has exaggerated the number of additional claims for purposes of this motion, even if the number were higher, it is the responsibility of the parties to not only disqualify claimants but to make sure that all those who qualify are included. The purposes and intent of the Consent Decree are not served by excluding claimants based on the possible mistakes of the Claims Administrator.

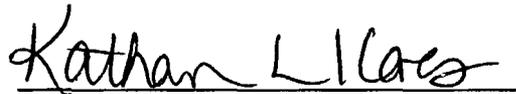
Conclusion

Eagle and EEOC are responsible for oversight of the claims process and the work of the Claims Administrator. It is a violation of the terms of the Consent Decree to accept without

review the recommendations of the Claims Administrator. Therefore, Eagle's motion should be denied.

Pursuant to Local Rule 7.4, a draft order accompanies this response.

Respectfully submitted,

A handwritten signature in black ink that reads "Katharine W. Kores". The signature is written in a cursive style and is positioned above a horizontal line.

Katharine W. Kores
TN Bar No. 6283
Regional Attorney

Equal Employment Opportunity Commission
1407 Union, Suite 621
Memphis, TN 38112
901-544-0151

CERTIFICATE OF SERVICE

I certify that the attached **EEOC's Response in Opposition to Defendant's Motion to Strike** was served upon the following via facsimile transmission and first class United States mail, postage prepaid to:

Nancy L. Patterson
Baker & Hostetler
1000 Louisiana, Suite 2000
Houston, TX 77002-5009
Fax Number 713-751-1717

Dean Herms
Baker & Hostetler
1000 Louisiana, Suite 2000
Houston, TX 77002-5009
Fax Number 713-751-1717

this 23^d day of November 2004.

Katharine W. Kores
Katharine W. Kores
Regional Attorney

KATHARINE KORES - Claims Administration Process

From: "Patterson, Nancy" <NPatterson@bakerlaw.com>
To: "KATHARINE KORES" <KATHARINE.KORES@EEOC.GOV>
Date: 4/1/03 10:39 AM
Subject: Claims Administration Process
CC: Brad Green <bgreen@edwards-george.com>, "Miley, Diane" <DMiley@bakerlaw.com>, "Montano, Anton" <AMontano@bakerlaw.com>, "Herms, Dean" <DHerms@bakerlaw.com>

Kathy,

I just wanted to bring you up to date on a meeting I had yesterday with Rigo Delgado of Mir Fox. I arranged the meeting after speaking with Rigo late last week as I had some concerns regarding the manner in which they were reviewing the claims they had received thus far. In short, I was not confident that they were fully understanding the eligibility requirements set forth in the Consent Decree.

The meeting was informative. Rigo and Juan Carlos showed us some of the databases they have been constructing for each of the separate sub-classes. We also reviewed and made some changes to the flow charts and protocols they have developed for the analysis of each type of claim. I have asked them to focus first on the hiring claims and provide us (EGL and the EEOC) with a list of the Claimants who do not qualify based on the objective criteria (i.e. where a claimant claims to have applied at a time before or after the dates covered by the Consent Decree or where a claimant applied within the Consent Decree period, however, there was no non-minority hired for the position applied for during the relevant 8 month window described in the Decree). Once MFR isolates those Claimants who did apply during the relevant timeframe and where a non-minority was hired during the 8 month window, they will advise EGL so that we can provide them the relevant information regarding the experience and qualifications of the non-minority who was hired for the position. This information will have to be manually pulled from EGL's files. Rigo hopes to be able to give us an idea by this Friday as to when he thinks they can accomplish this portion of the analysis.

I do have one item on which I would like your input with regard to the Hiring Class. Our initial review of the claims indicates that there are a number of Claimants who did not specify or do not recall the date (or even an approximate date) on which they claim to have applied for employment. In addition, there are others who do not specify the position applied for. How do you propose to handle these claims?

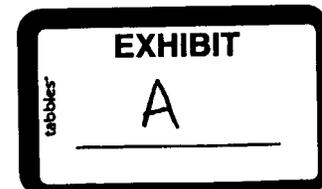
Select a default

We also looked at the protocols for the other subclasses (promotions, demotions, disparate pay, adverse treatment) and made some appropriate revisions to make the databases more user friendly. Also, we determined what portion of the analysis--the objective portion-- MFR will be able to perform before submitting these "soft claims" to John Williams. Again, Rigo believes he will be able by this Friday to give us a better idea as to how long this will take.

I also wanted to update you on my discussions with John Williams regarding his role in reviewing the "soft claims". Brad and I met with John this past Friday to give him some general background on the case and the history of the litigation. We also tried to give him an overview of the nuts and bolts of the Consent Decree and the claims administration process. We told John that we have no firm idea at this point as to how many claims he may be asked to review, but that we hope to know more in the next 2 to 3 weeks after MFR completes some of its preliminary analysis as mentioned above. I think John understands that the scope of the project of the project is potentially quite large and he says he will make himself available as needed.

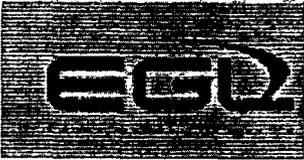
Please let me know if you have any questions at this point. Hope all is well with you.

Nancy L. Patterson



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INITIAL DISQUALIFICATION

User Name: Katherine Kores

Claimants who never worked at, or sought employment, at EGL.

Update List

Number of Records: 83

ID	ATTACHMENTS	EGL DB LINK	FIRST NAME	MIDDLE NAME	LAST NAME	RACE	GENDER	STATUS	COMMENTS	NOTES	JHARBIN	BMEADOR	RDELGADO	JCASTIL
25		83711	JULIUS	ALONZO	JACKSON	Black	M	Disqualified	Claimant never sought employment or worked at EGL.	/				
55		63892	MIRANDA	FAYE	KERNELL	American Indian	F	Disqualified	Claimant never sought employment or worked at EGL.	/				
59		81558	JAMES	THOMAS	GRAYSON	White	M	Disqualified	Claimant never sought employment or worked at EGL.	/				
69		83015	OSCAR		DIAZ	Hispanic	M	Disqualified	Claimant never sought					



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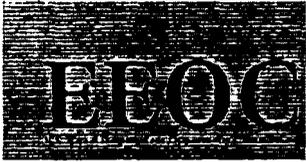
INITIAL DISQUALIFICATION

User Name: Katherine Kores

Hiring Class Claimants who have a link to EGL's employee database

Number of Records: 24

ID	ATTACHMENTS	EGL DB LINK	FIRST NAME	MIDDLE NAME	LAST NAME	RACE	GENDER	STATUS	COMMENTS	NOTES	JHARBIN	BMEADOR	RDELGADO	JCASTILLO	CONSEN
33	<i>printed</i>	67440	KIMBERLY	LARISSA	MCDOWELL	Black	F	Disqualified	Hiring Class claimant states he/she was not an employee at EGL, but has records in the EGL database.						
53	<i>printed</i>	69785	RAY	ANTHONY	WILLIAMS	Black	M	Disqualified	Hiring Class claimant states he/she was not an employee at EGL, but has records						



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INITIAL DISQUALIFICATION

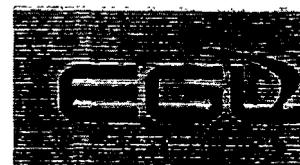
User Name: Katherine Kores

Employee Claimants who do not have a link to EGL's employee database

Update List

Number of Records: 78

ID	ATTACHMENTS	EGL DB LINK	FIRST NAME	MIDDLE NAME	LAST NAME	RACE	GENDER	STATUS	COMMENTS	NOTES	JHARBIN	BMEADOR	RDELGADO	JCASTI
<u>18</u>		0	MARVIN	CRAIG	SHUMATE	Black	M	Disqualified	Claimant states he/she was an EGL employee, but does not have records in the EGL database. Claimant states he/she was an EGL employee, but does not have records in the EGL database.				<input checked="" type="checkbox"/>	
<u>42</u>		0	SUSAN	CAROL	WHITE	White	F	Disqualified	Claimant states he/she was an EGL employee, but does not have records in the EGL database.					



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INITIAL DISQUALIFICATION

User Name: Katherine Kores

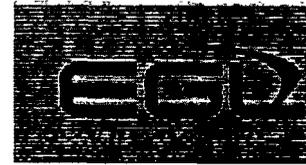
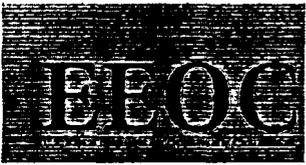
Employee Claimants who do not meet gender and race requirements

Update List

Number of Records: 48

ID	ATTACHMENTS	EGL DB LINK	FIRST NAME	MIDDLE NAME	LAST NAME	RACE	GENDER	STATUS	COMMENTS	NOTES	JHARBIN	BMEADOR	RDELGADO	JCASTILLO	CONSENSUS
11		63488	FRANK	JAMES	ROMAN	White	M	Disqualified							
113		65557	KEITH	E	FRANZEN	White	M	Disqualified							
121		55955	CARLOS	PABLO	RIMBLAS	White	M	Disqualified							
167		65398	RICHARD	ROLAND	BULLOCK	White	M	Disqualified							
178		80369	SCOTT	E	GROTJAN	White	M	Disqualified							
239		51690	SCOTT	ALLEN	ORBIN	White	M	Disqualified							
328		57595	BARRY	DELANO	RUSSELL	White	M	Disqualified							
401		67194	JOHN	STEVEN	SULLIVAN	White	M	Disqualified							

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INITIAL DISQUALIFICATION

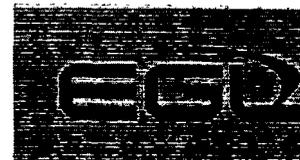
User Name: Katherine Kores

Hiring Class Claimants who do not meet gender and race requirements

Number of Records: 28

ID	ATTACHMENTS	EGL DB LINK	FIRST NAME	MIDDLE NAME	LAST NAME	RACE	GENDER	STATUS	COMMENTS	NOTES	JHARBIN	BMEADOR	RDELGADO	CASTILLO	CONSEN:
108		0	JERRY	W	LIVINGSTON	White	M	Disqualified		/			<input checked="" type="checkbox"/>		
119		0	RAYMOND	JOSEPH	ADAMS	White	M	Disqualified		/			<input checked="" type="checkbox"/>		
135		0	EDWARD	MATHEW	LISSY	White	M	Disqualified		/			<input checked="" type="checkbox"/>		
228		0	STEPHEN	SHERIDAN	GRAETER	White	M	Disqualified		/			<input checked="" type="checkbox"/>		
235		0	MICHAEL	JOSEPH	WACHOWSKI	White	M	Disqualified		/			<input checked="" type="checkbox"/>		
294		0	KEVIN	JOHN	THIEL	White	M	Disqualified		/			<input checked="" type="checkbox"/>		
341		0	DONALD	LLOYD	COBB	White	M	Disqualified		/			<input checked="" type="checkbox"/>		
438		0	PETER	S	TRAINITO	White	M	Disqualified		/			<input checked="" type="checkbox"/>		

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INITIAL DISQUALIFICATION

User Name: Katherine Kores

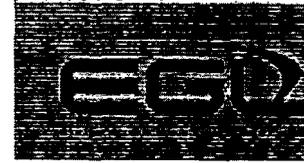
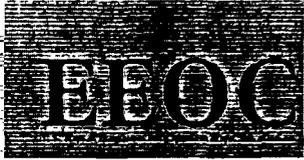
Claimants who worked or applied outside the U.S.

Update List

Number of Records: 12

ID	ATTACHMENTS	EGL DB LINK	FIRST NAME	MIDDLE NAME	LAST NAME	RACE	GENDER	STATUS	COMMENTS	NOTES	JHARBIN	BMEADOR	RDELGADO	JCASTILLO	CONSENSUS	EM
366			ALBERTO	FONTÁN	FONTÁN	American	M	Disqualified	Claimants who worked outside the U.S.	/	<input type="checkbox"/>					
✓ 646			JOSE	ANTONIO	LAMPON	Hispanic	M	Disqualified	Claimants who worked outside the U.S.	/	<input type="checkbox"/>					
875			JOSÉ	ANTONIO	DIAZ-TORRES	Hispanic	M	Disqualified	Claimants who worked outside the U.S.	/	<input type="checkbox"/>					
✓ 1101			MARIA		VILLAFANE	Hispanic	F	Disqualified	Claimants who worked outside the U.S.	/	<input type="checkbox"/>					

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INITIAL DISQUALIFICATION

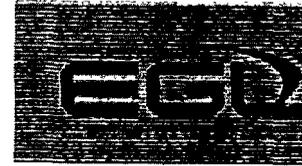
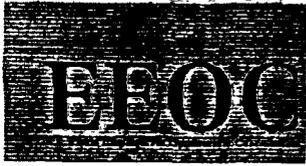
User Name: Katherine Kores

Claimants who submitted their forms after due date.

Update List

Number of Records: 73

ID	ATTACHMENTS	EGL DB LINK	FIRST NAME	MIDDLE NAME	LAST NAME	RACE	GENDER	STATUS	COMMENTS	POSTMARKDATE	NOTES	JHARBIN	BMEADOR
2183			ODESSA	G.	MADISON	Black	F	Disqualified	Claimants who submitted their claim forms after due date	04/24/03	/		
2184			DESIREE	DEVEIANE	MORGAN	Black	F	Disqualified	Claimants who submitted their claim forms after due date	02/05/03	/		
2185			ALBERT	JAMES	NICHOLSON	Hispanic	M	Disqualified	Claimants who submitted their claim forms after due date	02/08/03	/		



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INITIAL DISQUALIFICATION

User Name: Katherine Kores

Claimants who declined to participate

Update List

Number of Records: 107

ID	ATTACHMENTS	EGL DB LINK	FIRST NAME	MIDDLE NAME	LAST NAME	RACE	GENDER	STATUS	COMMENTS	NOTES	JHARBIN	BMEADOR	RDELGADO	ICASTILL
480		68787	CHRIS	ORLANDO	FONTANEZ	Hispanic	M	Disqualified	Claimant does not want to participate.					
664		68676	GARY	MICHAEL	ALLIN	White	M	Disqualified	Claimant does not want to participate.					
704		57848	EDDIE	JAMES	ROBINSON	Black	M	Disqualified	Claimant does not want to participate.					
802		68386	LINDA	CECILIA	BURRELL	Black	F	Disqualified	Claimant does not want to participate.					
841		0	DEBORAH		BROWN	Black	F	Disqualified	Claimant does not want to participate.					

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U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Memphis District Office

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Memphis, TN 38104
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TTY (901) 544-0112
FAX (901) 544-0111

September 27, 2004

Nancy Patterson
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1000 Louisiana, Suite 2000
Houston, Texas 77002-5009

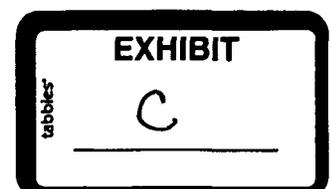
Sent as E-Mail Attachment to NPatterson@bakerlaw.com

RE: Initial Disqualification Claims

Dear Nancy:

Plaintiff has reviewed the group of 83 claims that are contained in the group initially disqualified by Mir Fox because they labeled them as "Claimants who never worked or sought employment at EGL". It appears that Mir Fox did not properly consider all of the claims. Plaintiff contends that 28 of these claims should be reevaluated.

1. Jackson, J.A. #25 Black/Male. The claim form dated 12/17/02 indicates that he applied twice. He first applied for "warehouse/forklift" at "Airport, JFK" on 3/7/96. He also applied for a driver position at "Airport, JFK" on 9/10/97. He had previous experience at two companies, and he has two years of community college.
2. Kernell, M.F. #55 American Indian Female. The claim form dated 12/17/02 indicates that she applied once for "CSR/Data Entry" for Austin, Texas on 10/25/00. She had CSR experience at Wal-Mart, fast food experience at Taco Bell, and a GED.
3. Adodo, G.A. #88 Black/Male. The claim form dated 12/22/02 indicates that he applied once for Operations Manager for Houston, Texas on 2/22/96. He says that he spoke with the Station manager and interviewed on 3/25/96. He had experience with the New York State Department of Transportation, a degree in Business Administration, and a Master's Degree in Transportation.
4. Estis, V.L. #146 Black Female. The claim form dated 12/19/02 indicates that she applied once in 12/97 for "Handler" at Rickenbacker. She had experience at Sears as a merchandise handler and stocker, and some college.



5. Marcum, K.K. #190 White Female. The claim form dated 12/22/02 indicates that she applied twice. She first applied for "Quality Control or anything" at Grove City, Ohio on 5/98. She also applied for "any" at Grove City on 8/98. She had experience in quality control, lead, picking, and data entry.
6. Kristoff, S.B. #273 White Female. The claim form dated 12/30/02 indicates that she applied once for "sales" for Dayton, Ohio on 10/00.
7. Garcia, C.E. #329 Hispanic Male. The claim form dated 12/26/02 indicates that he applied twice. He applied for the position of "Bobtail Driver" on 7/99 and 3/00 for Ontario, California. He had five years experience.
8. Anderson, R.A. #338 Black Female. She lives in Houston, Texas. The claim form dated 12/28/02 indicates that she applied for three positions – Dispatcher, Customer Service, AR/AP Clerk – on 4/96. The location listed for all three positions is "249."
9. Palakiko, M #389 Black Female. The claim form dated 12/20/02 indicates that she applied twice. She applied for a data entry position at the L.A. Hub (Hawthorne, California) on 6/00 and she also applied for a customer service position (no date or location listed). She had experience in warehouse and data entry.
10. Rivera, N.R.#402 Hispanic Female. She lives in Brooklyn, New York. The claim dated 1/4/03 indicates that she applied once for the position of data entry clerk for EWR on 5/00. She has five years of experience and has attended a Technical Institute.
11. Garza, L.R. #520 Hispanic Female. She lives in Houston, Texas. The claim form dated 1/15/03 indicates that she applied twice. She applied for a "entry level clerical" position for "Near Intercontinental Airport" in Fall of 1996 and again in 1997. She has experience in human resources and in processing mortgage claims. She has an Associate's degree.
12. Lacey, D.M.#550 Black Female. She lives in Houston, Texas. The claim form dated 1/10/03 indicates that she applied once for "accounts payable" for the location on Sam Houston Parkway on 9/18/00. She has seven years of experience in accounts payable.
13. Laney, K.L. #622 White Female. She lives in Canal Winchester, Ohio. The claim form dated 1/1/03 indicates that she applied once in "late 97-98" for a position in the office at New World Drive. She has experience as

- an administrative assistant, office manager, in accounting, receptionist, insurance agent and customer service.
14. White, C.A. #633 Black Male. The claim form dated 12/24/02 indicates that he applied once "around 2/99" for a position as "International Manager" for Charlotte, North Carolina. He has five years airfreight experience, five years trucking experience, and five years managerial experience. He has an associate's degree in Mechanical Engineering Technology.
 15. Dalton, A. #751 White Female. She lives in Littleton, Colorado. The claim form dated 1/22/03 indicates that he applied for a data entry position at "DIA near I-70 Smith Road." She had two years of college.
 16. Jackson, A.L. #845 Black Female. She lives in Houston. The claim form dated 12/18/02 indicates that she applied three times for positions in Houston on Vickery Drive. On 8/99 she applied for the position of data entry clerk. On 12/99 she applied for the position of administrative assistant. She applied for the third time on 02/2000 for a "general clerical position." She has sixteen years experience in data entry and administration. She attended college for one year.
 17. Hunter, M. #890 Black Female. She lives in Raleigh, North Carolina. The claim form date 12/20/02 indicates that she applied once for "office work" in Raleigh. She has "many years of management experience."
 18. Spears, T.C. #1044 Black Female. She lives in Austin, Texas. The claim form dated 1/11/03 indicates that she applied twice for various positions at "Austin Airport Road." She applied in 6/99 and 12/99. She has five years of experience with airfreight logistics in operations and she has some college.
 19. Costanzo, T. #1071 White Female. She lives in No. Royalton, Ohio. The claim form dated 01/07/03 indicates that she applied twice for "operations" in Cleveland. The first application was December 1996 and the second was January 1997. She has thirteen years of management experience in the Transportation Industry and two years of college.
 20. Dennis, K. #1109 Black Male. He lives in Lewisville, Texas. The claim form dated 1/19/03 indicates that he applied once for "dock worker / forklift" in 6/96 for DFW Station. He had experience in shipping and some college.
 21. Pirela, P. #1146 Hispanic Male. He lives in W. Chicago, Illinois. The claim form dated 1/20/03 indicates that he applied once in 8/00 for sales in

Bensonville, Illinois. He was interviewed by three people. He has four years of experience in the computer industry, five years management experience, and 97 college hours.

22. Jointer, R. #1427 Black Female. She lives in Chicago, Illinois. The claim form dated 12/27/02 indicates that she applied once in 10/96 for an office position for Bensonville, Illinois. She had five years experience as a customer service shipping clerk.
23. Diggs, J. #1448 Black Male. He lives in Mesa, Arizona. The claim form dated 1/24/03 indicates that he applied once between 10/99 and 4/00 for "dispatcher/customer service" for the Seattle Station. He has six years experience in the Army and eight years experience in customer service.
24. Haynes, T.M. #1449 Black Female. She lives in Indianapolis, Indiana. The claim form dated 1/22/03 indicates that she applied once in 1999 for "account sales rep" for South Bend, Indiana. She had two interviews. She has experience with Federal Express and two years of college.
25. Rice, N.L. #1695 Black Female. She lives in Houston, Texas. The claim form dated 1/26/03 indicates that she applied once in 2/99 for a clerk position for Houston. She worked for Eagle as a temporary employee from 9/97 to 1/99. She had over ten years general accounting experience.
26. McWhorter, K #1826 Black Female. She lives in Los Angeles, California. The claim form dated 1/26/03 indicates that she applied twice. She applied on 12/95 for a sales position in Inglewood. She applied on 11/00 for a "sales/manager" position in Hawthorne. She had five years experience with DHL in sales and other work experience. She also had a bachelor's degree.
27. Goodloe, L.B. #1830 Black Female. She lives in Los Angeles, California. The claim form dated 1/6/03 indicates that she applied once in 4/00 for "customer service and customer service supervisor" for Hawthorne, California. She had fifteen years experience in customer service and sales for a printing company and some college.
28. Patterson, D. #1866 Black Female. She lives in Compton, California. The claim form dated 1/10/03 indicates that she applied once in 10/98 for "credit and collection / accounts receivable" in Torrance. She had two interviews. She had twenty years experience in accounting and credit collection, accounts payable, accounts receivable. She had two years of college.

I faxed to you on Thursday, my analysis of the group of 24 claimants which Mir Fox initially disqualified because they labeled them "Hiring Class Claimants with a link to EGL database." For some of this group of 24, no additional work is necessary but for others, I asked that you look to see if your client has documentation which would either support the claim or its disqualification.

In our telephone conversation on Thursday, I also mentioned another group of Mir Fox initial disqualifications of 78 claimants who were labeled "Employee claimants with no link to EGL database." I asked that you verify this determination of no link to EGL. If you verify Mir Fox's finding, no more work is required on these claims.

Finally, I received a fax from you late this afternoon regarding the 75 "Resubmitted Claims" in the hiring group. In your letter, you ask me to give you my position on ten claims by noon tomorrow. I do not have any free time between now and tomorrow noon in which to review these claims. I will commit to look for time to review them this week and I will let you know our position as soon as our review is complete. I agree with your assessment that only these ten seem to be in question since there were no comparative hires for 31 of the resubmitted claimants.

Sincerely,

/signed/

Katharine W. Kores
Regional Attorney



U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
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October 14, 2004

C. Dean Herms, Jr.
Baker & Hostetler, LLP
1000 Louisiana, Suite 2000
Houston, TX 77002-5009

VIA FAX TO 713-751-1717

RE: EGL Claims Administration

Dear Dean:

I am responding to your faxed letter of October 13, 2004 which I received today.

It is clear to me that you have misunderstood my position with respect to the 24 claimants listed in my September 23, 2004 fax to Nancy Patterson. Except that we have agreed to remove from this list the seven claimants you name in your letter, we have not taken a position on the eligibility of any of these claimants to share in the settlement.

We believe the Claims Administrator mistakenly disqualified these claimants as "hiring claimants with connection to EGL database." As I have explained to you previously, it is possible under the Consent Decree, for an individual to have a hiring claim even though they were eventually hired by EGL. It is appropriate that EGL review its records to determine whether there were covered positions filled at the place and time the individual states that they applied and if so, whether the individual hired was not in the same protected group and finally, whether the claimants' qualifications matched those of the individual hired. I have asked that you send this information to me as you have for the other hiring claimants. Only then will the EEOC be in a position to decide whether or not any of these claimants should receive an award.

The Consent Decree provides in ¶22 that the Claims Administrator recommends who is a qualified claimant. It does not provide that the Claims Administrator makes the decision. I believe it is our responsibility to look at all of the claims to determine if they have been properly disqualified and that is what we have done with respect to the disqualified Hiring claimants.

The Consent Decree in ¶23 describes the matters which will be referred to Claims Monitor Tom Daffron for a final decision. The matters are the eligibility of a claimant, a claimant's tier assignment and the award amount. This paragraph does not give the Claims Monitor authority to decide that a claimant should be disqualified without even being given consideration. I do not believe these claims are ripe for a Claims Monitor decision because the merits of these claims have not been considered.

If it is your intention to consider the merits of each of these 17 claims, you will save

EXHIBIT

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your client time and money if you simply send your positions to me, rather than sending them straight to the Claims Monitor. We have agreed on many of the claims we have considered so far and there is no reason to believe that we will not agree on some or perhaps, most, of these.

As I have stated to you and Nancy many times, I have been pleased that we have been able to work together in such a collegial manner on the administration of the terms of the Consent Decree. Since we have already agreed to a conference call on Friday, October 15 at 2:00 p.m., I would like to add this matter to the agenda for discussion.

Sincerely,

A handwritten signature in black ink that reads "Katharine W. Kores". The signature is written in a cursive, flowing style.

Katharine W. Kores
Regional Attorney

cc: Nancy Patterson via fax to 713-75101717
William A. Cash, Jr. via fax to 501-324-5991