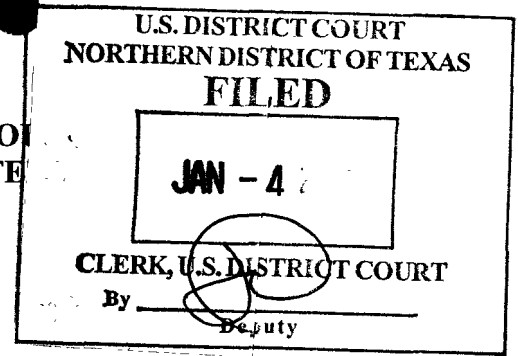


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ORIGINAL

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION



**EQUAL EMPLOYMENT OPPORTUNITY  
COMMISSION,**

**Plaintiff,**

v.

**TRANSIT MIX CONCRETE &  
MATERIALS COMPANY, a wholly owned  
subsidiary of TRINITY INDUSTRIES, INC.,**

**Defendant.**

**CIVIL ACTION NO.**

**3-01-CV-1885-R**



**CONSENT DECREE**

THIS CONSENT DECREE is made and entered into by and between the Equal Employment Opportunity Commission ("EEOC"), and Transit Mix Concrete & Materials Company ("Transit Mix") ("Defendant"), a wholly owned subsidiary of Trinity Industries, Inc., in the United States District Court for the Northern District of Texas, Dallas Division, with regard to the EEOC's First Amended Complaint filed on October 11, 2001 (Complaint), in Civil Action No. 3-01-CV-1885-R. The Complaint is based upon a Charge of Discrimination filed by Emmet Holmes, Charging Party, against the Defendant employer.

The above-referenced Complaint alleges that the Defendant violated Title VII of the Civil Rights Act of 1964 and Title I of the Civil Rights Act of 1991, by subjecting Emmet Holmes to a racially hostile work environment, discriminating against him because of his race, and refusing

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to promote him to Dispatcher because of his race. Transit Mix expressly denies all of EEOC's allegations against the company and furthermore expressly denies any violations of local, state, or federal law, common or statutory, including but not limited to Title VII of the Civil Rights Act of 1964, as amended. This decree does not constitute an admission by Transit Mix of any liability or wrongdoing.

NOW, THEREFORE, in consideration of the mutual promises and agreements set forth herein, the sufficiency of which is hereby acknowledged, the parties agree as follows, the Court finds appropriate and therefore, it is ORDERED, ADJUDGED AND DECREED that:

1. This Consent Decree resolves all issues directly or indirectly raised in EEOC Charge No. 31C 99 0393. This Decree further resolves all issues in the Complaint filed by the EEOC in this civil action. The EEOC waives further claims and/or litigation on all issues raised in the above-referenced Charge and Complaint.

2. The parties agree that this Consent Decree does not constitute an admission by Transit Mix of any liability or wrongdoing.

3. Nothing in this Decree shall be construed to expand, limit or reduce Defendant's obligation to comply with Title VII of the Civil Rights Act of 1964, as amended.

4. Defendant will make every reasonable effort to ensure that all duty assignments, disciplinary actions and other terms and conditions of employment shall be maintained and conducted in a manner which does not discriminate on the basis of race in violation of Title VII of the Civil Rights Act of 1964, as amended. Defendant will make every reasonable effort to maintain a workplace environment free from racial harassment and race discrimination.

5. Within six months from entry of this Decree, Defendant agrees to establish a job posting system with the following provisions: all promotion vacancies shall be posted with opening and closing dates for applications. All such job postings shall be accompanied by a description of the job that includes all minimum qualifications. Defendant also agrees to establish objective selection criteria for all promotion vacancies, and also agrees to establish identifiable procedures and personnel who shall be responsible for all promotion decisions and agrees to provide a copy of these procedures to the EEOC prior to implementation and dissemination.

6. Defendant agrees to promote qualified applicants without regard to race for all promotion vacancies in the Central Texas Division of Transit Mix. After establishment of the system described in paragraph 5 above:

- a. Defendant agrees to provide to the EEOC the name, race, date of promotion, and plant location for each employee promoted to the position of Batchter, Dispatcher or Plant Manager in the Central Texas Division on a quarterly basis during the pendency of this Consent Decree.
- b. On a quarterly basis, during the pendency of this Consent Decree, Defendant agrees to provide to the EEOC the name, race, date of bid and plant location for each employee who bid, but was not promoted to, the position of Batchter, Dispatcher, or Plant Manager in the Central Texas Division.
- c. As to any employee reported in paragraphs "a" and "b" above, the parties agree that the EEOC may request all application materials required to be

kept, interview notes if any, the identity and titles of all employees involved in the selection process, and all other materials received from the bidder, if any, and a written statement signed by corporate counsel as to all reasons for promotion and/or non-promotion. The above documents shall be sent to the EEOC within fifteen (15) business days after the date of receipt of the EEOC's written request for the information contained in this paragraph.

7. During the pendency of this Decree, Defendant Transit Mix agrees to post a notice appended hereto as Attachment "A" in conspicuous places upon the premises of all plants located in the Central Texas Division where notices to employees, applicants for employment, and trainees are customarily posted within twenty (20) days after the entry of this Consent Decree. Defendant will report to the EEOC that it has complied with this requirement within (fourteen) 14 days after posting the notice(s). The posting of the notice(s) is to inform applicants and employees about race discrimination.

8. Defendant shall implement Equal Employment Opportunity training for all management and supervisory personnel in Transit Mix's Central Texas Division regarding policies and procedures related to racial harassment and race discrimination in the workplace. Within six months after the Consent Decree is entered, Transit Mix agrees to conduct racial harassment and race discrimination training for all such employees of Transit Mix's Central Texas Division. The training will advise such employees of the requirements and prohibitions of Title VII of the Civil Rights Act of 1964. The training will inform such employees of the complaint procedure for individuals who believe they have experienced racial harassment and/or

race discrimination. The training will advise such employees of the consequences of violating Title VII. The training will also include a specific discussion or instruction relating to the issue of racial harassment and race discrimination. The training shall be at least one hour in duration. Within ten (10) days after the training is conducted, Defendant agrees to give written notice to the EEOC as to the date and location of the training, the name of the person providing the training and the substance of the training.

9. Transit Mix agrees to provide a neutral employment reference for Emmet Holmes limited to the dates of his employment, the last position held and the last salary earned.

10. Defendant Transit Mix agrees to pay the amount of \$150,000.00 to Emmet Holmes, as they agreed, by hand delivery on or before December 24, 2001 with proof thereof forwarded to EEOC attorney David Rivela within ten days of payment.

11. Defendant Transit Mix agrees to report to the EEOC within ninety (90) days of entry of this Consent Decree regarding its progress towards compliance with the agreements set forth in paragraphs 4 through 9 above.

12. All reports to the EEOC required by this Decree shall be sent to David Rivela, Trial Attorney, EEOC, third floor, 207 S. Houston, Dallas, Texas 75202.

13. Neither the EEOC, Emmet Holmes, nor Defendant Transit Mix, shall contest the validity of this Consent Decree nor the jurisdiction of the federal district court to enforce this Consent Decree and its terms or the right of either party to the Consent Decree to bring an enforcement action upon breach of any term of this Consent Decree by either such party. Nothing in this Decree shall be construed to preclude the EEOC from enforcing this Decree in the event that Defendant Transit Mix fails to perform the promises and representations contained

herein. The EEOC and Defendant also reserve the right to seek contempt sanctions for non-payment and non-compliance with this Court Order.

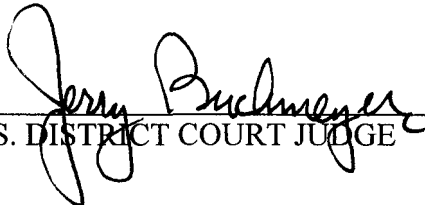
14. The EEOC shall not bring further suit or intervene in any suit against Defendant based upon facts and issues raised in Mr. Holmes' charge and complaint.

15. The parties to this Consent Decree agree to bear their own costs and attorney's fees associated with the above-referenced Complaint.

16. The term of this Decree shall be for two years.

SO ORDERED, ADJUDGED AND DECREED this 4 day of JAN.,

200<sup>2</sup>1.

  
\_\_\_\_\_  
U.S. DISTRICT COURT JUDGE

AGREED AS TO FORM AND SUBSTANCE:

Signed this 19<sup>th</sup> day of December, 2001.

FOR THE PLAINTIFF EEOC

SUZANNE M. ANDERSON  
Acting Regional Attorney  
Texas State Bar No. 14009470  
*Toby W. Costas*  
TOBY W. COSTAS  
Supervisory Trial Attorney  
Texas State Bar No. 04855720

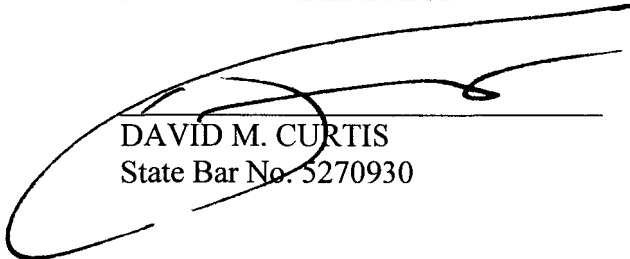


DAVID RIVELA  
Trial Attorney  
Texas State Bar No. 00797324

EQUAL EMPLOYMENT OPPORTUNITY  
COMMISSION  
Dallas District Office  
207 S. Houston Street  
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214) 655-3358  
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FOR THE DEFENDANT



DAVID M. CURTIS  
State Bar No. 5270930

GARDERE WYNNE SEWELL LLP  
3000 Thanksgiving Tower  
1601 Elm Street  
Dallas, Texas 75201-4761  
(214) 999-3000  
FAX (214) 999-4667

## NOTICE

1. This Notice is being posted pursuant to an agreement entered into with the U.S. Equal Employment Opportunity Commission.
2. Federal Law requires that company policy provides there be no discrimination against any employee or applicant for employment because of the employee's race, color, religion, sex, national origin, or age (40 and above) with respect to hiring, firing, compensation, or other terms, conditions or privileges of employment.
3. Employers are obligated to follow federal law which provides employees a workplace free from racial comments, slurs, epithets or other forms of racial harassment.
4. Employers are also obligated to make all promotion decisions without regard to the employee's race.
5. Transit Mix supports and complies with such Federal Law in all respects, and will not take any action against employees because they have exercised their rights under the law.
6. Transit Mix forbids any and all racial harassment at the workplace.

An employee has the right, and is encouraged to exercise that right to report allegations of racial harassment in the workplace. An employee may do so by notifying the Human Resources Manager. Any report of such an allegation will be thoroughly investigated, with appropriate disciplinary action taken against any person(s) found to have engaged in such conduct.

Employees are required to report all race discrimination allegations to company officials. Also, employees who believe they have been subject to unlawful race discrimination may write to the Equal Employment Opportunity Commission at 207 S. Houston Street, 3rd Floor, Dallas, Texas 75202, or call the Equal Employment Opportunity Commission at 214-655-3355.

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President

This notice shall remain posted until December 24, 2003.

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**ATTACHMENT "A"**