

1 VII) and the Civil Rights Act of 1991, 42 U.S.C. §1981a. In the complaint the
2 Commission alleged that certain DMS employees discriminated in a variety of
3 ways against a class of individuals because of their race (African American), their
4 associations with African Americans, their sex (African American women and
5 pregnant women) and their national origin (Hispanic.) In addition, the
6 commission alleged that employees were retaliated against for opposing
7 discriminatory practices.

8 The parties do not object to the jurisdiction of the Court over this action
9 and waive their rights to a hearing and the entry of findings of fact and
10 conclusions of law.

11 In the interest of resolving this matter and as a result of having engaged in
12 comprehensive settlement negotiations the parties have agreed that this action
13 should be finally resolved by entry of this Decree.

14 It is hereby ORDERED, ADJUDGED AND DECREED;

15 1. This decree resolves all claims of the Commission, those it
16 represents and all putative class members against defendants, including back pay,
17 compensatory and punitive damages, interest, injunctive relief, and attorney's fees
18 and costs arising out of the issues in this lawsuit.

19
20 **INJUNCTION**

21 2. Direct Marketing Services, Inc., ACMR Enterprises, Inc., Universal
22 Teleservices Network Corp., Universal Teleservices Arizona Corp., and its
23 officers, agents, employees, successors, assigns and all persons in active concert
24 or participation with it, are permanently enjoined for the duration of the decree
25 from (a) racial discrimination, including harassment; (b) gender discrimination,
26 including pregnancy; (c) discrimination based on national origin and (b)
27 retaliation against any employee because he or she (i) opposed discriminatory
28 practices made unlawful by Title VII, (ii) filed a charge or is assisting or

1 participating in the filing of a charge of discrimination, or (iii) assisted or
2 participated in an investigation or proceeding brought under Title VII.

3
4 **MONETARY RELIEF**

5 3. Judgment is entered in favor of the Commission and against
6 Defendants in the amount of \$700,000. The monetary relief and penalties for
7 non-payment are to be paid to the eleven charging parties pursuant to the attached
8 Settlement Agreement, which is attached as Exhibit A and is incorporated herein
9 by reference.

10 4. Defendants shall pay the settlement amount separately to each
11 EEOC charging party by check, cashier's check, or money order, in accordance
12 with Exhibit A. These payments represent settlement of compensatory damages.
13 The defendant will issue 1099 forms for all payments.

14 5. The checks provided for in Paragraph 4 of this decree shall be
15 mailed directly by Defendants to each charging party at the addresses supplied by
16 the Commission. Within three business days of issuance of the checks,
17 Defendants shall submit a copy of each check and related correspondence to the
18 Regional Attorney, Equal Employment Opportunity Commission, 3300 North
19 Central Avenue, Suite 690, Phoenix, Arizona, 85012. Issuance and mailing of the
20 checks shall constitute compliance with the payment obligation set forth herein.

21
22 **OTHER RELIEF**

23 6. Defendants shall take steps to institute corrective action against the
24 alleged discriminating officials, including Ben Reeves. This action will include a
25 written reprimand to be placed in Mr. Reeves' personnel file.

26 7. Defendants shall expunge from the personnel files of each charging
27 party of all references to the charges of discrimination filed against defendant or
28 their participation in this action, and any derogatory documents which related to

1 complaints or investigation of complaints of race discrimination, intersectional
2 race/sex discrimination, pregnancy discrimination, associational discrimination,
3 or national origin discrimination.

4 8. Defendants shall provide each of the eleven charging parties with a
5 written apology on ACMR letterhead and signed by Steve Singer, as shown at
6 Exhibit B attached.

7 9. Defendants shall institute and carry out policies and practices that
8 help assure a work environment free from race discrimination, intersectional
9 race/sex discrimination, pregnancy discrimination, associational discrimination,
10 or national origin discrimination of its employees and that allow employees to
11 raise concerns or complaints without retaliation about matters, whether alleged,
12 perceived or actual, made unlawful by Title VII. To assist Defendants in its
13 efforts to assure a work environment free of discrimination and retaliation,
14 Defendants shall take the actions provided in ¶¶ 10-19.

15
16 **DEFENDANT'S CORRECTIVE POLICIES AND PRACTICES**

17 10. Defendants shall post for the duration of this decree, in a prominent
18 place frequented by its employees at its facilities, the notice attached as Exhibit C.
19 The notice shall be the same type, style and size as Exhibit C.

20 11. Defendants shall provide training on race discrimination,
21 intersectional race/sex discrimination, pregnancy discrimination, associational
22 discrimination, national origin discrimination and retaliation, according to the
23 following terms:

24 A. Defendants shall retain and pay for consultant/lecturer(s),
25 acceptable to the Commission, who shall provide consultation and training for a
26 period of two years from the date of this decree. At least sixty (60) days prior to
27 the proposed training session, defendant shall submit the name(s), address(es),
28 telephone number(s) and resume(s) of the proposed consultant/lecturer(s),

1 together with the dates of the proposed training session and an outline of the
2 contents of the training to the Regional Attorney, Equal Employment Opportunity
3 Commission, 3300 North Central Avenue, Suite 690, Phoenix, Arizona 85012.
4 The Commission shall have 30 days from the date of receipt of the information
5 described above to accept or reject the proposed consultant/lecturer and/or the
6 contents of the seminar. In the event the Commission does not approve the
7 designated consultant/lecturer and/or the contents of the training, the Commission
8 and Defendants shall attempt to resolve the matter.

9 B. During each of the next two years, the consultant/lecturer(s)
10 shall conduct one live seminar training session each year. The live session one
11 shall be for taping purposes and will be for executives, supervisors, human
12 resource personnel and top management. All of Defendants' supervisory, human
13 resource, and management employees, who are employed by the Defendant more
14 than 90 days, shall attend the live seminar sessions in both years. All of
15 Defendants' non-supervisory employees, who are employed by the Defendants
16 more than 90 days, shall watch the videotaped showing of the live session in both
17 years. Defendants shall keep a written record of all employees who are required
18 to watch the videotaped training and who attend the live training. Defendants
19 may at its election have duplicative videotaped sessions to accommodate staffing
20 needs. Defendants shall be responsible for any additional costs to provide such
21 duplicative sessions.

22 C. During the first year, 2000, the seminar-training session shall
23 be conducted within four months of the entry of this decree. For the second year,
24 the seminar-training session shall be conducted between 8 and 10 months after
25 the completion of the preceding session.

26 D. The seminar-training sessions shall be no less than one hour,
27 plus 15-30 minutes of questions and answers. All personnel, designated in
28 paragraph B, shall both register and attend the seminar-training session. The

1 registry of attendance shall be retained by Defendants for the duration of the
2 decree.

3 E. The seminars shall include the subject of what constitutes
4 race discrimination, intersectional race/sex discrimination, pregnancy
5 discrimination, associational discrimination, national origin discrimination and
6 retaliation; that race harassment, race discrimination sexual harassment and
7 retaliation in the hiring, firing, compensation, assignment or other terms,
8 conditions or privileges of employment violates Title VII; how to prevent
9 discrimination, harassment and retaliation; how to provide a work environment
10 free from discrimination, harassment and retaliation; and to whom and by what
11 means employees may complain if they feel they have been subjected to
12 discrimination, harassment or retaliation in the workplace. The session shall also
13 review and explain Defendants's policies set out in Paragraph 15 of this decree.

14 F. During the live training session, defendant's Chief Executive
15 Officer shall speak to the employees about the discipline that can be taken against
16 supervisors, managers and employees at Defendants who commit acts of
17 discrimination, harassment or retaliation or allow discrimination, harassment or
18 retaliation to occur in the workplace, the importance of maintaining an
19 environment free of discrimination, and Defendants's policy in regard to
20 discrimination and retaliation referred to in Paragraph 15 of this decree.

21 12. The Commission, at its discretion, may designate Commission
22 representatives to attend and participate in the seminar-training sessions, and the
23 representatives shall have the right to attend and fully participate in the sessions.

24 13. Within thirty days of the entry of this decree, Defendants shall revise
25 its written policy concerning discrimination and retaliation to conform with the
26 law and submit the policy for review to the Regional Attorney of the Phoenix
27 District Office of the EEOC. This written policy must include at a minimum:

28 A. A strong and clear commitment to a workplace free of race

1 discrimination, intersectional race/sex discrimination, pregnancy discrimination,
2 associational discrimination, or national origin discrimination;

3 B. A clear and strong encouragement of persons who believe
4 they have been discriminated against to come forward;

5 C. A description of the consequences, up to and including
6 termination, that will be imposed upon violators of the policy;

7 D. A promise of maximum feasible confidentiality for persons
8 who believe that they have been discriminated against in violation of the policy;

9 E. An assurance of non-retaliation for persons who believe they
10 have been discriminated against and witnesses;

11 F. That race discrimination, intersectional race/sex
12 discrimination, pregnancy discrimination, associational discrimination, or
13 national origin discrimination by all persons, including management officials,
14 supervisors, vendors, suppliers, third parties and customers is prohibited and will
15 not be tolerated;

16 G. The identification of specific individuals, internal and
17 external to Defendants, with their telephone numbers, to whom employees who
18 have been subject to race discrimination, intersectional race/sex discrimination,
19 pregnancy discrimination, associational discrimination, or national origin
20 discrimination can report the discrimination, including a written statement that the
21 employee may report the harassment to designated persons outside of their chain
22 of management.

23 H. Assurances that Defendants will investigate allegations of
24 race discrimination, intersectional race/sex discrimination, pregnancy
25 discrimination, associational discrimination, or national origin discrimination
26 promptly, fairly, reasonably and effectively by appropriate investigators and that
27 appropriate corrective action will be taken by Defendants to make victims whole
28 and to eradicate the discrimination;

1 These policies shall be transmitted to Defendants employees by its CEO
2 and distributed to each current employee within thirty days of the entry of the
3 decree. These policies shall be distributed to all new employees when hire. These
4 policies also shall be posted in a prominent place frequented by the employees.

5 14. Defendants shall institute a procedure which evaluates supervisors,
6 managers and applicable human resources personnel on their performance in
7 responding to complaints of discrimination and for their compliance with EEO
8 laws, including Title VII. The failure of such an employee to enforce the policies
9 and the anti-discrimination laws must result in disciplinary action.

10 15. Defendants shall promptly and appropriately investigate all
11 complaints of race discrimination, intersectional race/sex discrimination,
12 pregnancy discrimination, associational discrimination, or national origin
13 discrimination. The investigation must include a finding of whether
14 discrimination occurred, a credibility assessment, if necessary; interviews of all
15 potential victims and witnesses identified; and concurrent notes of the
16 investigation. Defendants shall take immediate appropriate corrective action to
17 make discrimination victims whole, to discipline violators and to eradicate the
18 discrimination.

19 16. Defendants shall not retain documents related to the investigation in
20 any of the victims' personnel files. All disciplinary actions taken against
21 employees for violation of Defendants's policy will be retained in the violator's
22 personnel file. In those cases in which no conclusion could be reached on the
23 allegations, the investigation documents shall remain in the alleged violator's file.

24
25 **REPORTING BY DEFENDANT AND ACCESS BY EEOC**

26 17. Defendants shall report in writing and in affidavit form to the
27 Regional Attorney of the Commission's Phoenix District Office at 3300 N. Central
28 Ave., Suite 690, Phoenix, Arizona 85012, beginning six months from the date of

1 the entry of this decree, and thereafter every six months for the duration of the
2 decree the following information:

3 A. Any changes, modifications, revocations, or revisions to its
4 policies and procedures which concern or affect the subject of race discrimination,
5 intersectional race/sex discrimination, pregnancy discrimination, associational
6 discrimination, national origin discrimination or retaliation.

7 B. The name, address, position, social security number and
8 telephone number of any individual who has brought allegations of discrimination
9 and/or retaliation against Defendants personnel, formal or informal, including, but
10 not limited to, management officials, vendors, agents, employees and/or
11 customers, during the six months preceding the report. The nature of the
12 complaint, investigatory efforts made by Defendants and the corrective action
13 taken, if any, shall be specified.

14 C. The registry of persons attending the live seminars required in
15 Paragraph 11 of this decree, a list of current personnel employed by Defendants
16 on the days of the seminar-training sessions, and a copy of the written record
17 required for the videotaped training sessions required in Paragraph 11.

18 D. Confirmation that (i) the Notice required in paragraph ten of
19 this decree was posted and the locations where it was posted, (ii) the policies
20 required in paragraph fifteen were distributed to each current and new employee
21 and posted, and (iii) the expungement from each charging party's personnel file as
22 required in paragraph seven of this decree took place, the date of the
23 expungement, and the specific documents expunged.

24 F. A copy of each apology letter mailed pursuant to Paragraph 8.

25 18. The Commission, upon reasonable notice, shall have the right to
26 enter and inspect Defendants's premises to insure compliance with this decree and
27 Title VII's prohibition of race discrimination, intersectional race/sex
28 discrimination, pregnancy discrimination, associational discrimination, national

1 origin discrimination and retaliation.

2 COSTS AND DURATION

3 19. Each party shall bear its costs and attorney's fees incurred as a result of this
4 action through the filing of this decree.

5 20. The duration of this decree shall be two years from its entry. This
6 Court shall retain jurisdiction over this action for the duration of the decree,
7 during which the Commission may petition this Court for compliance with this
8 decree. Should the Court determine that defendant has not complied with this
9 decree, appropriate relief, including extension of this decree for such period as
10 may be necessary to remedy its non-compliance, may be ordered. This decree
11 shall expire by its own terms at the end of twenty-four months from the date of
12 entry, without further action by the parties.

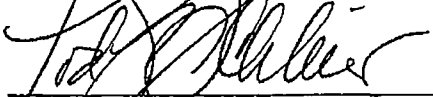
13 21. The parties agree to entry of this decree and judgment subject to
14 final approval by the Court.

15 ENTERED AND ORDERED this 5 day of May, 2000.

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18 The Honorable Stephen M. McNamee
19 United States District Court Judge
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1 APPROVED AND CONSENTED TO:


2 **SCHLEIER, JELLISON &
3 SCHLEIER**

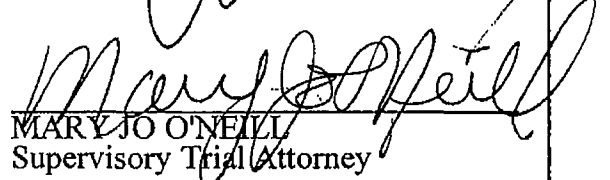
4 
5 TOD F. SCHLEIER
6 3101 N. Central Ave., Suite 800
7 Phoenix, Arizona 85012
8 Attorneys for Defendants

**EQUAL EMPLOYMENT
9 OPPORTUNITY COMMISSION**

10 
11 RICHARD R. TRUJILLO
12 Regional Attorney

13 **THE LANGERMAN LAW OFFICES**

14 
15 AMY G. LANGERMAN
16 The Langerman Law Offices
17 2020 North Central Ave., Suite 1150
18 Phoenix, Arizona 85004
19 Attorneys for Applicants/Intervenors
20 Battle, Denman, Hamilton, Hughes,
21 Mack, Kaufman and Clayton

22 
23 MARY JO O'NEILL
24 Supervisory Trial Attorney


25 
26 SALLY C. SHANLEY
27 Trial Attorney
28 Phoenix District Office
3300 North Central Avenue, Suite 690
Phoenix, Arizona 85012
Attorneys for Plaintiff

EXHIBIT A

Settlement Agreement

Mary Jo O'Neill, representative for the EEOC and charging parties George Diggs, Robert Balance, Rebecca Williams and Gracie Rangel and Amy G. Langerman, representative for Regina Battle, Audria Clayton, Kathy Denman, Denise Hamilton, Jason Hughes, Tevis Mack, Rodney Kaufman, (hereinafter charging parties) and Tod Schleier, on behalf of DMS Direct Marketing Services, Inc., ACMR Enterprises, Inc., Universal Teleservices Arizona Corp, Universals Teleservices Network Corp, CSG, (hereinafter defendants), having attended a settlement conference this date, and the matter having settled, the following terms are agreed upon, including attorneys' fees and costs:

1. Defendants will pay a total of \$700,000, as follows:

\$150,000 on or before June 15, 2000.

\$350,000 on or before October 25, 2000.

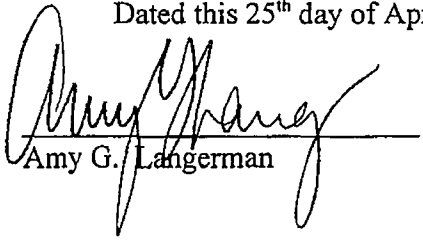
\$200,000 on or before December 29, 2000.

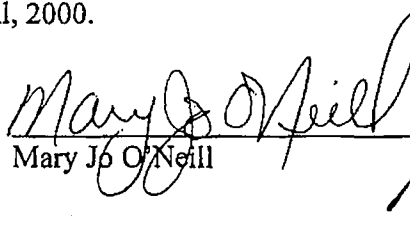
2. Defendant's counsel will sign a stipulation for entry of judgment in the amount of \$1,000,000 made payable to plaintiffs and against all defendants which includes admissions of liability and of wilful and intentional discrimination, prepared by counsel for charging parties. This stipulation will be signed within 5 days of the date of this agreement. Plaintiffs may file the stipulation for entry of judgment if defendants are in default on any of the above payments, provided however, that if defendants are in default, counsel for charging parties agree to give written notice to Tod Schleier of the default and a 15 day additional period to cure the default (subject to the interest provisions of paragraph 8), before filing the stipulation. If all payments are made, plaintiff's counsel will return the stipulation to defense counsel for destruction.
3. Within 5 days of this agreement, Amy G. Langerman and Mary Jo O'Neill will provide defendant's counsel with a break down of the total settlement, with the amounts to be paid to each individual plaintiff, for attorneys fees and for costs. Each payment identified in paragraph one will be prorated per charging party.
4. Defendants will issue 1099's based on the distribution provided.
5. Each payee will be responsible for their share of any tax liability.
6. The federal claims will be resolved by consent decree, a copy of which has previously been provided. The federal court will retain jurisdiction of the case until final payment and the expiration of the consent decree.
7. The Clayton lawsuit will be dismissed with prejudice, each party to bear their own fees and costs, by way of a pleading prepared by defense counsel. Dismissal will not occur until after the final payment is received. The parties will ask the court to keep the case on the inactive calender until dismissal.

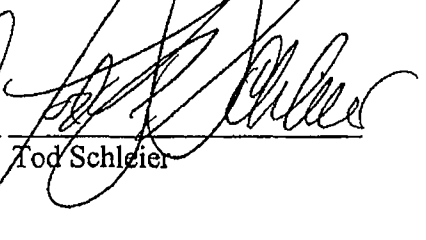
§ 7. With respect to charging parties Battle, Clayton, Denman, Hamilton, Hughes, Mack and Kaufman, there will be a separate settlement release and agreement, prepared by counsel for charging parties, signed which includes mutual release language, mutual non disparagement language and an agreement by defendants that any requests for references made to defendants will be answered by providing only each charging parties' date of hire, date of termination, title and last salary.

§ 8. All payments will be by check or draft. All late payments will bear interest at the rate of 10% retroactive to April 25, 2000, until paid.

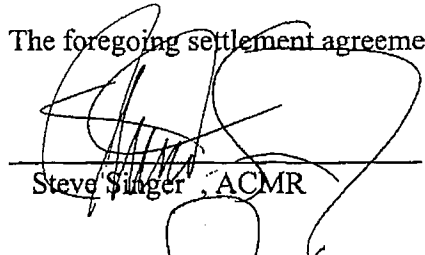
Dated this 25th day of April, 2000.

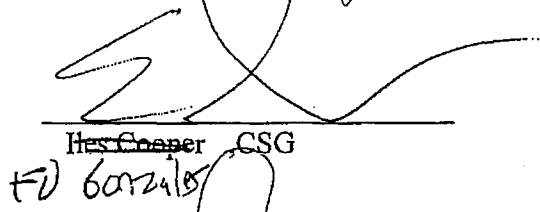

Amy G. Langerman

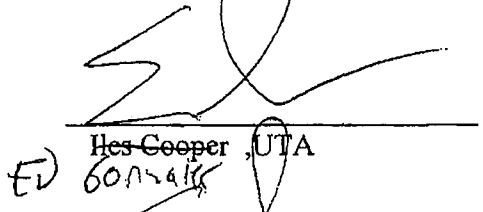

Mary Jo O'Neill

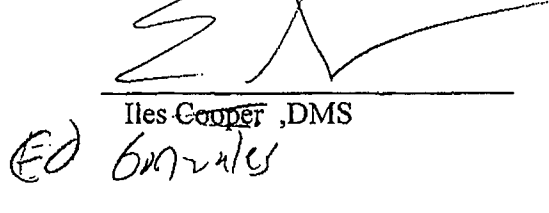

Tod Schleier

The foregoing settlement agreement is approved and agreed to by:


Steve Singer, ACMR


Hes Cooper, CSG
FD Gonzalez


Hes Cooper, UTA
FD Gonzalez


Hes Cooper, DMS
FD Gonzalez

1 EXHIBIT B

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3 [ACMR LETTERHEAD]

4 [DATE]

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6 Dear _____:

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8 As you are aware, a lawsuit was filed against DMS alleging race
9 discrimination, intersectional race/sex discrimination, pregnancy discrimination,
10 associational discrimination, discrimination on the basis of national origin, and
11 retaliation against employees of the company.

12 Please accept our sincere apology, on behalf of DMS and its management for
13 any language or conduct you found offensive or objectionable during your
14 employment with DMS. Please accept my commitment that the company will take
15 whatever steps are necessary to ensure that current and future DMS employees work
16 in an environment free of discrimination and harassment.

17 Sincerely,

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Steve Singer

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EXHIBIT C

NOTICE TO ALL EMPLOYEES OF DMS

This Notice is posted pursuant to a Consent Decree entered into between DMS and the Equal Employment Opportunity Commission (EEOC).

It is unlawful under federal law Title VII of the Civil Rights Act and state law to discriminate against an employee on the basis of race discrimination, intersectional race/sex discrimination, pregnancy discrimination, associational discrimination, or national origin discrimination. It is also unlawful to retaliate against any person because the person protested discriminatory practices or contacted the EEOC.

DMS shall not discriminate against any employee on the basis of race discrimination, intersectional race/sex discrimination, pregnancy discrimination, associational discrimination, or national origin discrimination, and shall not retaliate against any employee.

If you believe you have been discriminated against by DMS, you have the right to seek assistance from:

- (1) EEOC, 3300 North Central Avenue, Suite 690, Phoenix, Arizona 85012, (602) 640-5000; or
- (2) Arizona Civil Rights Division (ACRD) of the Attorney General's Office, 1275 W. Washington, Phoenix, Arizona, 85007, (602) 255-5263.

or have the right to file a charge with the EEOC or ACRD if you believe you are being discriminated against.

No Retaliation Clause. No action may be taken against you by any supervisory or management official of DMS for (1) opposing discriminatory practices made unlawful by federal law, (2) filing a charge or assisting or participating in the filing of a charge of discrimination, or (3) assisting or participating in an investigation or proceeding brought under Title VII. Should any such retaliatory actions be taken against you, you should immediately contact the EEOC or the ACRD and the address or telephone numbers listed above.