

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS
EAST ST. LOUIS DIVISION**

JOHN TUCKER, ANGELA MILLER,)
JOVAN HANEY, LEON BRADLEY, ARIEN)
JACKSON, WILLIAM STRICKLAND,)
OSCAR GREEN, MIKE JACKSON, KEVIN)
RIDDLE, AVERY ANDERSON, TRACI)
DANSBERRY, CARLOS ZIMMERMAN,)
CHRIS DARGIN and KIMBERLY WAFFORD) **CASE NO. 05-CV-440-GPM**
on behalf of themselves and others) **consolidated with 07-cv-00172**
similarly situated,)
) **Chief Judge G. Patrick Murphy**
) **Magistrate Clifford J. Proud**
)
Plaintiffs,)
)
and EQUAL EMPLOYMENT OPPORTUNITY)
COMMISSION and PEARLE PHILLIPS,)
)
)
Plaintiffs,)
)
v.)
)
)
WALGREEN COMPANY,)
)
)
Defendant.)

**JOINT MOTION FOR ENTRY OF ORDER
NECESSARY TO IMPLEMENT RELIEF UNDER CONSENT DECREE**

The parties hereby jointly file this Motion for Entry of Order Necessary to Implement Relief Under their Consent Decree. In support of their Motion, the parties state as follows:

1. On June 20, 2005, fourteen African American current and former employees of Walgreens filed a complaint on behalf of themselves and a class of current and former African American employees, alleging that they had been subject to race discrimination under 42 U.S.C. Section 1981. [Doc. 1]. The Complaint was later amended to include Title VII claims. [Doc. 86]. On March 7, 2007, the Equal Employment Opportunity Commission filed a complaint, alleging that Walgreens engaged in a pattern and practice of race discrimination against African American retail and pharmacy store management employees in violation of Title VII. [Case No.

3:07-cv-00172, Doc. 2]. The Court consolidated the two actions on April 23, 2007 (Case No. 3:07-cv-00172, Doc. 22].

2. On July 12, 2007, the parties submitted a proposed Consent Decree to the Court for approval [Doc. 122], and this Court granted preliminary approval to the settlement on October 5, 2007. [Doc. 125]. Following a fairness hearing, this Court granted final approval to the settlement on March 24, 2008. [Doc. 135].

3. Pursuant to the terms of the Decree, Settlement Services, Inc. (“SSI”) served as the Settlement Administrator. SSI was charged with opening an interest-bearing account, and making payments to class members from that account. SSI opened a Qualified Settlement Fund (“QSF”) for this purpose.

4. During the settlement administration process, SSI agreed that it, through the QSF, would calculate, prepare and file the unemployment compensation taxes on the class members’ settlement awards. In exchange, Walgreens agreed to reimburse the QSF for the taxes and any related administrative costs.

5. Upon information and belief, the unemployment taxes were paid by the QSF in mid to late 2008. However, Walgreens has only recently been advised by SSI that the QSF did not receive any reimbursement from Walgreens for these unemployment compensation taxes.

6. The QSF for this settlement has been dissolved and closed. Thus, the parties have consulted regarding how Walgreens should make the reimbursement for unemployment taxes. Section XI. D. 17 of the Decree provides that any remaining undistributed sums should be re-distributed to make any additional payments to Class Members occasioned by any errors or omissions. Thus, the parties propose that Walgreens should apply the reimbursement funds to pay the amounts due to those “late” class members whose shares were not previously paid out

because the class members did not surface until after the disbursement of all of the settlement funds.¹

7. Because the QSF has closed, the parties suggest that Walgreens make these class member payments directly to the class members, using the addresses provided by SSI. This process, however, differs from that approved by the Court in the parties' Decree, and therefore, the parties seek this Court's approval to proceed.

8. Pursuant to Section VI. A. of the Decree, the provisions of the Decree are remain in effect for a period of five (5) years from the approval date, unless Walgreens files a motion to be relieved of the provisions of the Decree following the expiration of four (4) years from the approval date. Further, pursuant to Section VI. D. of the Consent Decree, "the Court shall retain jurisdiction of this action during the Term of the Decree for the purpose of entering all orders authorized hereunder, which may be necessary to implement the relief provided herein or to enforce the Decree."

9. Therefore, in light of the above, the parties request this Court to enter the attached Order, permitting Walgreens to make payments to class members directly, outside of the structure of the Qualified Settlement Fund.

¹ The parties have further agreed that Walgreens will use the remainder of the reimbursement funds to defray a portion of Walgreens' payroll tax obligations on class member payments, and will apply any additional remainder as part of its scheduled donation to the cy pres beneficiary agreed upon by the parties.

Respectfully submitted,

s/Teresa Demchak (w/permission)

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Dated: August 11, 2011

CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that a copy of the foregoing pleading was served upon the following attorneys of record electronically with the Clerk of Court using the CM/ECF system, which sent notification of such filing on August 11, 2011:

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