

UNITED STATES DISTRICT COURT

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REC'D 09 MAR 4 15:01 USDC-ORP

DISTRICT OF OREGON

DAVID ECKHARDT,

Plaintiff,

Civil No.

CV '09 256 ST

CONSENT DECREE

v.

STIMSON LUMBER COMPANY,

Defendant.

INTRODUCTION

This matter is before the Court for entry of this decree by consent of the parties to effectuate a compromise and settlement of all claims. After review and consideration, the Court believes that entry of this decree is in the interest of justice.

1. Plaintiff, David Eckhardt ("Eckhardt"), commenced the above entitled action in the United States District Court for the District of Oregon, alleging that the Defendant Stimson Lumber Company ("Stimson") violated the Uniformed Services Employment and Reemployment Rights Act of 1994 ("USERRA") by failing to re-employ Eckhardt in the position of boiler operator, which is the position Eckhardt would have been employed in had his employment not been interrupted by Eckhardt's military service.

2. Stimson denies that it has violated USERRA.

3. Nevertheless, Eckhardt and Stimson (collectively referred to as the "Parties"), as a result of settlement discussions, have resolved their differences and have agreed that this action should be settled by entry of this Consent Decree. It is the intent of the parties that this Consent Decree be a final and binding settlement in full disposition of all claims alleged in the Complaint filed in this case.

STIPULATED FACTS

4. Pursuant to USERRA, the parties acknowledge the jurisdiction of the United States District Court for the District of Oregon over the subject matter of this action and of the parties to this case for the purpose of entering this Decree and, if necessary, enforcing this Decree.

5. Venue is proper in this district for purposes of this Decree and any proceedings related to this Decree only. Stimson agrees that all statutory conditions precedent to the institution of this lawsuit have been fulfilled.

FINDINGS

6. Having examined the terms and provisions of the Consent Decree, the Court finds the following:

- a. The Court has jurisdiction over the subject matter of the action and the parties to this action.
- b. The terms and provisions of this Consent Decree are fair, reasonable, and just. The rights of the parties are protected adequately by this Decree.
- c. This Consent Decree conforms with the Federal Rules of Civil Procedure and USERRA, and is not in derogation of the rights and privileges of any person. The entry of this Consent Decree will further the objectives of USERRA and other applicable laws and will be in the best interest of the parties.

**NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED
AS FOLLOWS:**

NON-ADMISSION

7. This Decree is being entered with the consent of the parties and shall not constitute an adjudication or finding on the merits of the case or be construed as an admission by

Stimson of any violations of USERRA, or any other law, rule or regulation, dealing with or in connection with equal employment opportunities.

NON-RETALIATION

8. Stimson shall not take any action against any person which constitutes retaliation or interference with the exercise of such person's rights under USERRA, or because such person gave testimony or assistance or participated in any manner in any investigation or proceeding in connection with this case.

REMEDIAL REQUIREMENTS

9. For and in consideration of the settlement of all claims in this action, Stimson has agreed to provide remedial relief to Eckhardt in the form of an undisclosed monetary payment. The parties have agreed to keep confidential the monetary amount relating to the remedial relief provided to Eckhardt and have executed a Private Letter of Agreement reflecting these terms.

DISPUTE RESOLUTION AND COMPLIANCE

10. This Court shall retain jurisdiction over this matter and will have all available equitable powers, including injunctive relief, to enforce this Decree. Upon motion of either party, the Court may schedule a hearing for the purpose of reviewing compliance with this Decree. The parties shall engage in good faith efforts to resolve any dispute concerning compliance prior to seeking a resolution of such dispute by the Court. In the event of a dispute, the parties shall give notice to each other ten (10) business days before moving for review by the Court. The parties may conduct expedited discovery under the Federal Rules of Civil Procedure for the purpose of determining compliance with this Decree or defending against a claim of non-

compliance.

MISCELLANEOUS

11. All parties shall bear their own costs and expenses of litigation, including attorneys' fees.

12. This Consent Decree constitutes the entry of final judgment within the meaning of Rule 54 of the Federal Rules of Civil Procedure on all claims asserted in this action.

13. The terms of this Consent Decree shall be binding upon the present and future directors, employees, agents, administrators, successors, representatives, and assigns of Stimson and upon the heirs, successors, and assigns of Eckhardt.

14. This Consent Decree constitutes the entire agreement and commitments of the parties. Any modifications to this Decree must be mutually agreed upon and memorialized in a writing by all parties.

EFFECTIVE DATE

15. The effective date of this Consent Decree shall be the date upon which it is entered by the Court.

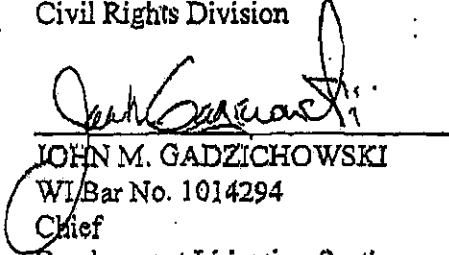
16. This Decree shall expire, and this action shall be dismissed, without further order of this Court one year from the date of the entry of this Consent Decree. Eckhardt may move, for good cause, to extend the decree if the remedial relief called for herein has not been effectuated. The Decree will not be extended, however, unless the Court grants Eckhardt's motion. Any such extension may be granted by the Court only for such time as is necessary to effectuate the relief set forth in this

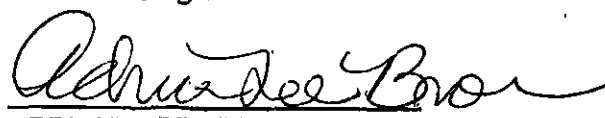
Decree.

Respectfully submitted on this 4th day of March, 2009.

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APPROVED and ORDERED this 6th day of March, 2009.



UNITED STATES DISTRICT JUDGE