

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

SEAN K. THORNTON,

Plaintiff,

v.

WAL-MART STORES, INC.,

Defendant.

Civil No. 06:08-cv-471-Orl-18GJK

CONSENT DECREE

This matter is before the Court for entry of this Consent Decree ("Decree") agreed to by plaintiff Sean K. Thornton ("Thornton") and defendant Wal-Mart Stores, Inc. ("Wal-Mart"), with the purpose of effectuating a final compromise and settlement of all claims raised in Thornton's Complaint. After review and consideration, the Court believes that entry of this Decree is in the interest of justice.

1. Thornton commenced this action in the United States District Court for the Middle District of Florida, Orlando Division, alleging that Wal-Mart violated the Uniformed Services Employment and Reemployment Rights Act of 1994 ("USERRA") by denying Thornton reemployment and the wages Thornton would have earned from such reemployment after his completion of active military service in the uniformed services. Wal-Mart denies Thornton's allegations that it has violated USERRA with respect to him. Further, Wal-Mart asserts that it has been and remains committed to complying with all of the provisions of

USERRA, and remains supportive of veterans returning from service in the uniformed services. Wal-Mart agrees not to discriminate in employment against and not to take any adverse action against any person because such person has assisted or otherwise participated in an investigation or proceeding in connection with Thornton's USERRA complaint to the Department of Labor or this case.

2. As a result of settlement discussions, Thornton and Wal-Mart (collectively, the Parties") 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 Decree be a final and binding settlement in full disposition of any and all claims alleged against Wal-Mart in the Complaint. This Decree is being entered with the consent of the Parties, and shall not constitute an adjudication or finding on the merits of this action or be construed as an admission by Wal-Mart of any violations of USERRA, or any other law, rule or regulation, dealing with or in connection with equal employment opportunities.

STIPULATIONS

3. Pursuant to USERRA, the Parties acknowledge the jurisdiction of the United States District Court for the Middle District of Florida, Orlando Division, over the subject matter of this action and of the Parties to this case for the purpose of entering and, if necessary, enforcing this Decree.

4. The Parties acknowledge that venue is proper in this district for purposes of this Decree and any proceedings related to this Decree. All conditions precedent to the institution of this action have been fulfilled.

5. The Parties hereby waive findings of fact and conclusions of law.

FINDINGS

6. Having examined the terms and provisions of this Decree, the Court finds the following:
- a. The Court has jurisdiction over the subject matter of this action and the Parties to this action;
 - b. Both Thornton and Wal-Mart are adequately represented;
 - c. The terms and provisions of this Decree are lawful, fair, reasonable and just;
 - d. This Decree conforms with the Federal Rules of Civil Procedure and USERRA, and is not in derogation of the rights and privileges of any person; and
 - e. The entry of this Consent Decree will further the objectives of the USERRA and other applicable law, and will be in the best interests of the parties.

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

REMEDIAL REQUIREMENTS

7. Wal-Mart shall, within ten (10) days from the date of entry of this Decree, pay Thornton a certified check in the amount of Twelve Thousand Dollars (\$12,000.00) in back pay, less legally required employee income tax withholding and other statutory employee deductions. Wal-Mart shall pay all monies withheld from this back pay award to the appropriate governmental agencies. Wal-Mart shall separately pay the appropriate employer's contribution to the Social Security fund due on the monetary award; *i.e.*, the employer's contribution shall not

be deducted from the monetary award to Thornton. Wal-Mart shall mail Thornton the certified check addressed as follows:

Sean K. Thornton
1269 Polk Avenue
Deltona, FL 32738

Within fourteen (14) days from the date of Wal-Mart's mailing of its certified check to Thornton, Wal-Mart shall provide written confirmation of that fact to the following counsel for Thornton:

Timothy A. Johnson
Maria H. Rios
Trial Attorneys
United States Department of Justice
Civil Rights Division
Employment Litigation Section, PHB, Room 4015
950 Pennsylvania Avenue NW
Washington, D.C. 20530

8. Within thirty (30) days from the date of entry of this Decree, Wal-Mart shall ensure that Thornton's personnel file includes a record stating that Thornton resigned voluntarily from Wal-Mart.

9. Should Thornton require a reference from Wal-Mart, he may provide to the prospective employer or other third party Wal-Mart's "Work Number" (1-800-9-WORK-No), which will identify Thornton's total time with the company, termination date, and job title, and no additional information.

DISPUTE RESOLUTION AND COMPLIANCE

10. Upon motion of either party, the Court may schedule a hearing for the purpose of reviewing Wal-Mart's compliance with this Decree. The Parties shall engage in good faith efforts to resolve any dispute concerning compliance prior to either or both seeking review by the Court. The Parties shall be required to give notice to each other thirty (30) 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 Wal-Mart's compliance with this Decree or defending against a claim of non-compliance.

RETENTION OF JURISDICTION

11. The Court shall retain jurisdiction over this case and shall have all available equitable powers, including injunctive relief, to enforce this Decree. 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 by Thornton in this action. This Decree shall expire and this action shall be dismissed, without further order of this Court, one year from the date of entry hereof.

MISCELLANEOUS

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

13. The relief provided in this Consent Decree is specific to the facts of Thornton's situation and this case and should not be used as precedent in future matters. Nothing in this paragraph relieves Wal-Mart from fulfilling its obligations set forth under USERRA.


14. If any provision of this Decree is found to be unlawful, only the specific provision in question shall be affected and the other provisions will remain in full force and effect.


15. The terms of this Decree are and shall be binding upon the present and future owners, officers, directors, employees, creditors, agents, trustees, administrators, successors, representatives and assigns of Wal-Mart and upon the heirs, successors and assigns of Thornton.


16. This 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 signed by Wal-Mart and Thornton, and approved by the Court.

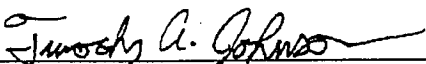
17. The effective date of this Decree shall be the date upon which it is entered by the Court.

APPROVED and ORDERED this 21 day of May, 2008.


UNITED STATES DISTRICT JUDGE
G. KENDALL SHARP
Senior U.S. District Judge


SEAN K. THORNTON


JOHN M. GADZICHOWSKI (WI Bar No. 1014294)
Acting Chief


WILLIAM B. FENTON (DC Bar No. 414990)
Deputy Chief

TIMOTHY A. JOHNSON (VA Bar No. 73077)

MARIA H. RIOS (PR Bar No. 10908)

Trial Attorneys

U.S. Department of Justice

Civil Rights Division

Employment Litigation Section

950 Pennsylvania Avenue, NW

Patrick Henry Building, Room 4015

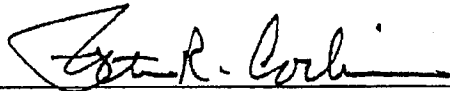
Washington, DC 20530

Telephone: (202) 353-8054

Facsimile: (202) 514-1005




ROBERT E. O'NEILL
United States Attorney
CYNTHIA A. HAWKINS (FL Bar No. 305049)
Assistant United States Attorney
501 West Church Street, Suite 300
Orlando, FL 32805
Telephone: (407) 648-7500
Facsimile: (407) 648-7643
ON BEHALF OF PLAINTIFF SEAN K. THORNTON

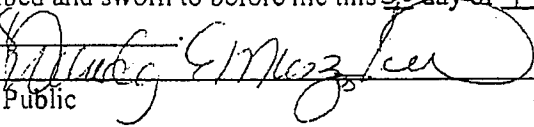


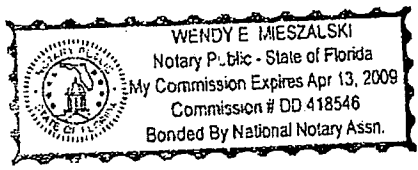
PETER R. CORBIN
Ford & Harrison, L.L.P.
225 Water Street, Suite 710
Jacksonville, FL 32202
Telephone: (904) 357-2002
Facsimile: (904) 357-2001
ON BEHALF OF DEFENDANT WAL-MART STORES, INC.

I HAVE READ THIS RELEASE AND UNDERSTAND THE CONTENTS
THEREOF AND I EXECUTE THIS RELEASE OF MY OWN FREE ACT AND DEED.

Signature: 
Sean K. Thornton

Date: 4/30/08

Subscribed and sworn to before me this 30 day of April,
2008

Notary Public



My Commission expires: