

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

EQUAL EMPLOYMENT OPPORTUNITY )  
COMMISSION, )  
Plaintiff, )  
)  
CHARLES E. BROWN, JEFFREY BURKS, )  
ANTONIO COLON, JAMES DEMOSS, JAMESON )  
DIXON, CLARK FAULKNER, KENNETH GEORGE, )  
LEONARD GREGORY, MARSHUN HILL, MACK )  
LEONARD, CEDRIC MUSE, LAROY )  
WASHINGTON, DARRELL WILLIAMS, CHARLES )  
WOODS and MICHAEL WOODS, )  
Intervening Plaintiffs )  
v. ) Case No. 09 CV 7693  
)  
YELLOW TRANSPORTATION, INC. and YRC, Inc., ) Magistrate Judge Cox  
)  
Defendants. )  
)  
\_\_\_\_\_  
CHARLES BROWN, JEFFERY BURKS, )  
ANTONIO COLON, JAMES DEMOSS, )  
JAMESON DIXON, CLARK FAULKNER, )  
KENNETH GEORGE, LEONARD GREGORY, )  
MARSHUN HILL, CEDRIC MUSE, )  
LAROY WASHINGTON, DARRELL WILLIAMS, ) Case No. 08 CV 5908  
CHARLES WOODS, MICHAEL WOODS, MACK )  
LEONARD, on behalf of themselves and similarly ) Magistrate Judge Cox  
situated African-American employees, )  
Plaintiffs, )  
v. )  
)  
YELLOW TRANSPORTATION, INC., and YRC, INC., )  
Defendants. )  
\_\_\_\_\_ )

**JOINT MOTION FOR PRELIMINARY APPROVAL OF CONSENT DECREE**

Plaintiffs and Defendants, Yellow Transportation, Inc. and YRC Inc. ("YRC"), through their respective counsel, move this Court for an Order Preliminarily Approving the proposed Consent Decree in connection with the proposed settlement of all individual and class claims asserted in the above captioned action. The proposed Consent Decree is attached to this Motion as Exhibit

1. In support of this Motion, the Parties state as follows:

1. Plaintiff Equal Employment Opportunity Commission (the “EEOC”) filed suit (case number 09 CV 7693) against YRC under Title VII of the Civil Rights Act of 1964 (“Title VII”), 42 U.S.C. § 2000e, *et seq.*, (the “EEOC Chicago Ridge Title VII case”), alleging that YRC discriminated against African-American employees at its Chicago Ridge facility. EEOC alleged that YRC violated Title VII by unlawfully discriminating against a class of African-American employees by fostering a hostile work environment based upon race, and unlawfully discriminated against its African-American employees in the terms and conditions of employment. On October 6, 2010, current and former YRC employees Charles E. Brown, Jeffrey Burks, Antonio Colon, James DeMoss, Jameson Dixon, Clark Faulkner, Kenneth George, Leonard Gregory, Marshun Hill, Mack Leonard, Cedric Muse, Laroy Washington, Darrell Williams, Charles Woods, and Michael Woods (“Intervening Plaintiffs”) filed a Complaint in Intervention in the EEOC Chicago Ridge case alleging that YRC violated Title VII by unlawfully discriminating against them individually by fostering a hostile work environment based upon race, and unlawfully discriminated against them in the terms and conditions of their employment at Chicago Ridge.

2. Prior to the EEOC Chicago Ridge Title VII case, on October 15, 2008, 14 of the 15 Intervening Plaintiffs filed a Complaint (case number 08 CV 5908), alleging that YRC had violated Section 1981 of the Civil Rights Act of 1866, 42 U.S.C. § 1981 (“Section 1981”), by discriminating against them and a class of current and former African-American employees who worked on the dock or in the yard (as spotters) at Chicago Ridge (the “Chicago Ridge Section 1981 case”). On July 10, 2010, the Court allowed Mack Leonard to join in the Chicago Ridge Section 1981 case as a Named Plaintiff and allowed the Named Plaintiffs to file their Corrected Amended Complaint (“Amended Complaint”).

3. On May 11, 2011, the Court in the Chicago Ridge Section 1981 case certified a class of African-American employees who had worked at the Chicago Ridge facility under Rule 23(b)(3) of the Federal Rules of Civil Procedure (the “Class”), defined as follows:

All current and former African-American employees employed between October 15, 2004, and the present by YRC Inc. and Yellow Transportation, Inc., on its docks, in offices located on or near the docks, or in the yard in the positions of dock worker, hostler, spotter, janitor, supervisor, or clerical (including as a “casual,” “10%,” “regular,” full-time or other employee) at their facility located at 10301 S. Harlem Ave., Chicago Ridge, Illinois (“Chicago Ridge”) and including those Chicago Ridge African-American employees transferred in 2009 to work at the facility located at 2000 Lincoln Highway, Chicago Heights, Illinois (“Chicago Heights”).

4. The EEOC Chicago Ridge Title VII case and the Chicago Ridge Section 1981 case have been consolidated for purposes of entering this Consent Decree (the “Consent Decree”). Class Notice was issued to the Class on March 15, 2012, and it required any individual desiring to opt-out of the Class to notify Section 1981 Class Counsel, before May 15, 2012, of their desire to opt-out. No member of the Class opted-out of the certified Class, and YRC faces no additional exposure for Section 1981 claims of current or former African-American YRC employees, as described in the Class, arising on or after October 2004.

5. The Parties engaged in extensive and comprehensive class and merits discovery for over three years, including dozens of depositions and the exchange of voluminous documents. Through this exhaustive process, the Parties developed a thorough understanding of the facts and applicable law, which enabled them to assess the relative merits of the claims and defenses asserted by each side.

6. The Parties have participated in mediated settlement negotiations since September 2009. These negotiations have been conducted at arm’s length with the assistance of, at various times, Magistrate Judges and a professional mediator. These efforts resulted in a Consent Decree

that will settle both the EEOC Chicago Ridge Title VII case and the Chicago Ridge Section 1981 case prior to trials on the merits. This Consent Decree is subject to this Court's review and approval after notice to the Class, an opportunity for members of the Class to object to the settlement, and a Fairness Hearing.

7. The proposed Consent Decree is entered into by the EEOC, Class Counsel on behalf of the Named Plaintiffs and the Class in the Chicago Ridge Section 1981 case, and YRC. After carefully considering the facts and applicable law, the uncertainty of continued litigation, and as a result of having engaged in extensive arms-length negotiations, the Parties agree that it would be in their best interests to finally resolve all matters by entry of this Consent Decree. By entering into this Consent Decree, no Party makes any admission regarding any claims or potential claims or any defenses thereto.

8. The Consent Decree provides significant monetary relief to the Class. In terms of equitable relief, the Consent Decree recognizes that the Chicago Ridge facility has closed and the Class Members still employed by YRC or subject to recall by YRC now work at YRC's Chicago Heights facility. That facility is already subject to a Consent Decree that adequately protects the Class Members still employed by YRC or subject to recall by YRC.

9. The Consent Decree also provides an opportunity for members of the Class to object to the settlement and an evidentiary Fairness Hearing. The Consent Decree, however, does not provide Class Members with a second opt-out period because the initial Class Notice was issued to the Class in the Chicago Ridge Section 1981 case on March 15, 2012, and it required any individual desiring to opt-out of the Class to notify Class Counsel, before May 15, 2012, of their desire to opt-out. No member of the Class opted-out of the certified Class. The initial Class Notice provided Class Members with sufficient information so that they could make

a reasoned decision whether or not to opt-out of the class action and a second opt-out is not necessary.

10. Finally, the Consent Decree provides for the payment of attorneys' fees and costs to Class Counsel in the amount of One Million, One Hundred Thousand Dollars (\$1,100,000.00). Class Counsel will submit a motion for approval of their fees and costs prior to the Fairness Hearing so that any issue concerning the fees and costs can be addressed and resolved at the Fairness Hearing.

11. The Parties anticipate that upon its entry by this Court, this Consent Decree shall be final and binding upon the Class, the Parties, their successors, and assigns and shall release all claims to the extent allowed under Rule 23. The Parties, by and through their respective undersigned counsel, have agreed to this Consent Decree on the terms and conditions set forth in the Consent Decree, subject to the approval of this Court.

WHEREFORE, the Parties respectfully request that the Court enter an Order preliminarily approving the Consent Decree.

Respectfully submitted,

For the EQUAL EMPLOYMENT  
OPPORTUNITY COMMISSION

*s/Richard J. Mrizek*

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For INTERVENING PLAINTIFFS and the  
SECTION 1981 CLASS

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Dated: June 26, 2012

**CERTIFICATE OF SERVICE**

I, Richard J. Mrizek, an attorney, hereby certify that I caused a copy of the foregoing **JOINT MOTION FOR PRELIMINARY APPROVAL OF CONSENT DECREE** to be served electronically via the Court's ECF system on the following persons on June 26, 2012:

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**CERTIFICATE OF SERVICE**

I, Randall D. Schmidt, an attorney, hereby certify that I caused a copy of the foregoing **JOINT MOTION FOR PRELIMINARY APPROVAL OF CONSENT DECREE** to be served electronically via the Court's ECF system on the following persons on June 26, 2012:

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