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THE NATIONAL ASSOCIATION FOR THE
ADVANCEMENT OF COLORED PEOPLE, THE
NEW JERSEY STATE CONFERENCE OF
BRANCHES, NAACP, ANTOINE FORD,
ANTHONY GRAVES, FRANK GREGORY,
RAUN HALL, ANTONIO MELENDEZ, JAMAL
POYNER, SEAN WILLIAMS, ROBERT
GUZMAN AND RYAN MARSH, on behalf of
themselves and all other persons similarly situated,

Plaintiffs,

vs.

THE STATE OF NEW JERSEY, DEPARTMENT
OF LAW AND PUBLIC SAFETY, DIVISION OF
STATE POLICE,
Defendant.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: MERCER COUNTY

DOCKET NO.: MER-L-002687-96

Civil Action

NOTICE OF PROPOSED SETTLEMENT

NOTICE OF PROPOSED SETTLEMENT OF THIS LAWSUIT

To: (a) All unsuccessful African-American and Hispanic applicants for entry-level jobs as State Troopers who previously applied for such positions in the 114th through 118th State Police Academy classes, or who are currently applicants for entry-level jobs as State Troopers, or who apply for entry-level jobs as State Troopers in the future; and

(b) All African-American and Hispanic persons who have been prevented or discouraged from applying for entry-level jobs as State Troopers since January 1993 because of the defendant's college requirement for such positions, or who are currently prevented or discouraged from applying for such positions because of such requirement, or who will be prevented or discouraged from applying for such positions because of any educational requirement above high school.

The African-Americans and Hispanics who personally filed or joined the lawsuit (the "plaintiffs") have filed this lawsuit to challenge the hiring practices of the New Jersey Division of State Police ("defendant") regarding entry-level State Troopers. In particular, plaintiffs challenge the defendant's use of the Law Enforcement Candidate Record ("LECR"), the defendant's educational requirements, and the defendant's recruiting practices. The lawsuit claims that these practices all discriminated against African-American and Hispanic applicants in violation of Title VII of the Civil Rights Act of 1964 and the New Jersey Law Against Discrimination. The State Police denies the allegations of intentional discrimination and denies that it has unlawfully used selection and recruitment practices that discriminated against African-American and Hispanic applicants. In addition to the individual African-Americans and Hispanics, the National Association for the Advancement of Colored People and the New Jersey State Conference of Branches, NAACP, are plaintiffs in this lawsuit.

The plaintiffs and the defendant have agreed to settle this lawsuit without a trial. The settlement will not take effect unless the Court grants final approval to the settlement.

This lawsuit is a class action, which means that the plaintiffs are representing your interests as well as their own interests. If the settlement is finally approved, it will bind you and you will not be able to file your own lawsuit about the recruitment process, and about the use of the LECR and of the educational requirements for hiring of State Troopers by the New Jersey State Police.

The Court has ordered that this information be provided to you so that you can decide whether to approve the proposed settlement or object to the proposed settlement and try to persuade the Court not to give it final approval.

If you decide to make an objection, you must file it in writing with the Clerk of the Superior Court, Law Division, Mercer County Courthouse, 175 South Broad Street, Trenton, New Jersey 08650. In order to be considered, the Clerk must receive the objection no later than the close of business on April 28, 2000. An objection will **not** be on time if it is postmarked by that date. It will only be on time if it is **received by the Clerk** by that date. Any objection must include the name of this case, "NAACP v. New Jersey," the number of this case, "MER-L-002687-96," the name, address, and telephone number of the objector, whether the objector will appear at the hearing, and the grounds of the objection.

If you are in favor of the settlement and want it to be approved, there is no need to file anything.

The following is a summary of the most important terms of the proposed settlement:

a) **Recruitment:** The State Police has made substantial changes in its recruitment program, to reflect the diversity of the qualified available pool. If these changes are not effective in substantially achieving that diversity for any class, the plaintiff may ask the Court to order changes in the recruitment program.

b) **Education:** Paragraphs 12, 13 and 14 of the proposed Consent Order state:

12. Prior to 1993, State Troopers were only required to have a high school education. Beginning in January 1993 with the 114th Class, the State Police instituted a new educational requirement for applicants for State Trooper, namely, either (1) a four-year college degree from an accredited college or university or (2) sixty college credits and two years of military service or two years prior police experience. This requirement has remained in effect since 1993. . . .

13. For three years after the preliminary approval of the settlement, the State Police will not use a four-year college-degree requirement on an exclusive basis, but will use the following requirement: either (1) a four-year college degree from an accredited college or university or (2) an Associate's degree—or the successful (i.e. "C" average) completion of sixty college credit hours from an accredited college or university—plus at least two years of experience indicating the maturity of the applicant. The experience part of the requirement shall be satisfied by at least two years of military experience culminating in an honorable discharge, or two years of satisfactory employment experience. The State Police agrees that it will not make a distinction among recruits, cadets, or entry-level State Troopers satisfying the educational requirement, based on which of the two ways described in this paragraph they satisfied the requirement.

14. The State Police shall be free to employ a four-year college degree requirement on an exclusive basis when, after three years of recruitment, the State Police demonstrates that it has been successful in recruiting invited applicants to take the written examination having four-year college degrees that on a cumulative basis have been at least 22% African-American and at least 11% Hispanic, provided that in making this determination the State Police

may disregard performance for one class. The State Police agrees that if it has been unable to satisfy this standard it will comply with the provisions of ¶ 13 above for the recruitment of entry-level State Troopers for an additional four years, during which time the plaintiffs . . . shall be free to seek prospective relief on the college education requirement pursuant to the Third Amended Complaint.

c) **Testing:** As long as the Consent Order lasts—which will be at least for three years—the State Police will use a selection device other than the LECR (which the State Police was encouraged to use by the U.S. Department of Justice and which it has used for the 114th through the 118th classes) for hiring in the future. Paragraph 15(b) of the proposed Consent Order states in part: "In determining what examination or examinations to use in place of the LECR, and in determining their manner of use, the State Police has agreed to select one or more examinations and manners of use that, based upon available validity studies and impact data, are likely to be good predictors of job performance and have significantly less adverse impact against African-Americans and Hispanics than the selection device and manners of use previously used, and than other examinations available. An applicant's score on the examination shall not be considered for any additional purpose in the selection process, in training, in initial assignments, or for any other post-employment purpose." Other alternatives may also be tried in the future. The State will share information with the plaintiffs, and both sides will have access to the plaintiffs' expert. The plaintiffs reserve the right to challenge any examination. The plaintiffs expect that these provisions will substantially increase the numbers of African-American and Hispanic candidates who are hired.

d) **Relief for class members:** The State Police has already complied with most of paragraph 23(a) of the proposed Consent Order, by inviting "each of the unhired African-American applicants,

and each of the unhired Hispanic applicants, for the 114th through 118th Academy classes to re-apply for the 119th or 120th State Police Academy classes." The proposed Consent Order goes on to state: "Each of the class members who re-applies, and who is not subject to disqualification for any of the reasons set forth at page 2 of the application form, shall be treated as an invited applicant." This means that they will be invited to take the examination. In addition, paragraph 23(b) of the proposed Consent Order states: "The State Police agrees to allow each of the unhired African-American applicants, and each of the unhired Hispanic applicants, who had verifiably taken and passed the LECR administered by the New Jersey Department of Personnel and were on an eligibility list for referral for other law enforcement positions in 1997 but were not allowed to pursue an application for entry-level jobs as State Troopers because they did not meet the educational requirement then in force, to re-apply for the 119th or 120th State Police Academy classes. Each of the class members who re-applies, and who is not subject to disqualification for any of the reasons set forth at page 2 of the application form, shall be treated as an invited applicant."

e) **Age Limits:** Paragraph 24 of the proposed Consent Order states that because of New Jersey law, "the State Police cannot waive the maximum age limit for applicants of not having reached their 35th birthday at the time of graduation from the State Police Academy. However, class members who re-apply under the provisions of ¶ 23, and who are already members of the New Jersey Police and Fire Retirement System, will be considered for pension purposes as if they had graduated from the State Police Academy as of the date of their enrollment in the New Jersey Police and Fire Retirement System, and will be credited in the State Police Retirement System for the service credit they have accumulated in the New Jersey Police and Fire Retirement System."

f) **Monetary relief for class members:** There is no monetary relief for individual class members in this case, in part because of the difficulty of proving which class members would have been hired and which would not, and in part because of the expense of the changes the State Police will be required to make under the Consent Order.

g) **Monetary Relief for the Named Plaintiffs:** The State Police will provide monetary relief to the individual named plaintiffs in recognition of their participation in the case. Robert Guzman and Ryan Marsh will received \$50,000 each, Antonio Melendez, Antoine Ford, Anthony Graves, Frank Gregory, Raun Hall, Jamal Poyner, and Sean Williams will receive \$35,000 each, and Sean Carter will receive \$10,000.

h) **Attorneys' Fees and Costs:** The State will pay the reasonable attorneys' fees and costs (including expert fees and expenses) of the attorneys for the plaintiffs. There is no agreement at this time on the amounts to be paid. The plaintiffs' attorneys have informed the State of the approximate numbers of hours they have spent on this case, and of their approximate expenses, but there has been no bargaining about these claims. The State Police will pay the attorneys for plaintiffs the amount of their reasonable fees and expenses, in an amount to be negotiated by the parties or determined by the Court. The State Police will also pay the plaintiffs' attorneys their reasonable fees, costs and expense for future services in monitoring the defendant's compliance with the Consent Order, and in defending the Consent Order from attack. These fees, costs, and expenses shall be capped at \$50,000 for the first year and \$30,000 for the second and third years, provided that either party may move for an increase in the cap, if services and expenses justifying a higher amount have been incurred.

D) **Court Oversight:** The Court will keep jurisdiction over this case for a period of at least three years. If the State Police does not demonstrate that it has been successful in recruiting African-Americans and Hispanics with college degrees pursuant to this Consent Order during that time, this Consent Order will be extended for an additional four years. The State Police will make reports to plaintiffs' lawyers throughout the time this Consent Order remains in effect.

You have the right to get a copy of the Consent Order, which provides additional details.

Copies are available directly at the following location:

Division of State Police
Equal Employment Opportunity/Affirmative Action Bureau
P.O. Box 7068
West Trenton, New Jersey 08628-0068

You may also write to the Division of State Police at the above address to request a copy of the Consent Order by providing the name of the case and your name and complete mailing address.

The complete text of the Consent Order is also available at www.njsp.org.

Before the Consent Order goes into effect, the Court will consider any objections that are filed by the deadline. You have the right to object to the proposed Consent Order and ask the Court not to approve it. The hearing on the objections shall be held on May 15, 2000, in Courtroom 3D, at 2:00 p.m. Mercer County Civil Courts Building, 175 South Broad Street, Trenton, New Jersey.

Any objections will be considered without regard to whether the objector appears at the hearing. In the event that no objections are filed by the deadline, the proposed Consent Order shall stand without further Order of the Court as finally approved.

If the person to whom this notice was sent is deceased, a representative of the estate or relative may submit objections to the enclosed Consent Order.

If you have any questions, you may call Assistant Attorney General Allison E. Accurso at (609) 292-8866, Richard Seymour at (202) 662-8350, David L. Rose at (202) 331-8555, Lori Outzs Borgen at (973) 596-4500, Renée Steinhagen at (973) 642-8700 or Bruce I. Gear at (410) 486-9191, Monday through Friday, 9:00 a.m. to 5:00 p.m. DO NOT CALL THE COURT OR THE CLERK OF THE COURT.

NEIL H. SHUSTER, J.S.C.