

## **FIRST AMENDED ATTACHMENT E**

### **NOTICE OF SETTLEMENT AND FAIRNESS HEARING**

On August 1, 2011, the United States and the State of New Jersey and the New Jersey Civil Service Commission (the "State") executed a settlement of a lawsuit filed by the United States on January 7, 2010, in the United States District Court for the District of New Jersey. In its Complaint, the United States alleges that the State has pursued policies and practices that discriminate against and deprive or tend to deprive African Americans and Hispanics of employment opportunities because of their race and/or national origin, in violation of Section 703(a) of Title VII, 42 U.S.C. § 2000e-2(a). Specifically, the United States alleges that since 2000, the State's (1) pass/fail use of a police sergeant written examination and (2) certification of police sergeant candidates in descending rank order based on a combination of candidates' written examination scores and seniority credits have resulted in a disparate impact upon African-American and Hispanic candidates for promotion to police sergeant in local jurisdictions participating in New Jersey's civil service system. The United States further alleges that the State's uses of the written examination have not been shown to be job related for the position of police sergeant and consistent with business necessity, as required by federal law.

The United States alleges only disparate impact discrimination. The United States does not allege that the State has intentionally discriminated against any person or group of persons.

The State denies that it has violated Title VII. However, in the interest of resolving this matter and to promote the purposes of Title VII, the United States and the State have voluntarily entered into a Consent Decree ("Decree") settling the lawsuit.

The terms of the Decree include an agreement by the State that it will develop a new selection procedure for the screening and selection of candidates for promotion to police sergeant in local jurisdictions. The State also has agreed to provide \$1,000,000 in back pay to be distributed among African-American and Hispanic Claimants from specified jurisdictions who were determined to have been adversely affected by the State's uses of the written examination. Per the Decree, "Claimant" refers to any African-American or Hispanic person from specified jurisdictions who has not been promoted to police sergeant and who (1) between 2000 and 2009, failed a police sergeant written exam where appointments from the eligible list resulted in a shortfall of his or her race or (2) between 2000 and 2008, passed a police sergeant written exam where appointments from the eligible list resulted in a shortfall of his or her race, but ranked below the lowest-ranking candidate appointed from that eligible list.

The State also has agreed to certify Claimants in specified jurisdictions for priority promotion over all other candidates subject to any reemployment lists until a minimum of, and no more than, 68 priority promotions have been made pursuant to the Decree. To be eligible for a priority promotion, a Claimant must pass the new selection procedure for police sergeant as developed under the Decree. If promoted, these individuals would be awarded retroactive seniority based upon the median appointment date for candidates on the eligible list that would have included the Claimant or from which the Claimant would have been appointed. The State has also agreed to cease using current eligible lists in the jurisdictions listed in First Amended

Attachment D to the First Amended Consent Decree where such continued use will result in an unlawful impact. For those jurisdictions, the State will provide all certification requests to the United States prior to certifying candidates. If the United States through its expert determines that the certification will not result in additional African-American or Hispanic victims, it will approve the certification, which the State may then issue.

Attachments to the Decree set forth (1) a list of those individuals who meet the definition of "Claimant" and are eligible for back pay (Attachment B); (2) a list of those individuals who meet the definition of "Claimant" and are eligible for both back pay and priority promotion, including their presumptive appointment dates for purposes of retroactive seniority (Attachment C); (3) a list of those jurisdictions from which priority promotions will be made and the allocation of priority promotions among such jurisdictions (Attachment K); and (4) a list of those jurisdictions where the State will cease its use of existing eligible lists (Attachment D). The Decree is publicly available on the New Jersey Civil Service Commission website at [www.\\_\\_\\_\\_\\_](http://www.njcs.com) and on the Department of Justice website at <http://www.justice.gov/njscs>. Copies of the Decree also are available from the Office of the Attorney General for the State of New Jersey, located at 25 Market Street, Trenton, New Jersey 08625.

The Decree has been entered by Order of the Court provisionally, and the parties now have requested that the Court hold a "Fairness Hearing" to determine whether the terms of the Decree are fair, reasonable, equitable and otherwise consistent with federal law. This Fairness Hearing will be held on March 12, 2012 at 10:00 a.m., at the Martin Luther King Building and United States Courthouse, 50 Walnut Street, Newark, New Jersey 07101. **You have the right to attend this Fairness Hearing.**

In addition, you have the right to submit a written objection to any of the terms of the Decree that you believe are unfair or unlawful. Instructions for filing an objection are enclosed with this notice. **Making an objection is voluntary, but if you do not object at this time, you may be prohibited from taking any action against this Decree in the future.**

**INSTRUCTIONS FOR FILING AN OBJECTION**  
**PRIOR TO THE FAIRNESS HEARING**

1. If you believe the terms of the Consent Decree are unfair, unreasonable or unlawful, you may object to its final entry by the Court. **Making an objection is voluntary, but if you do not object at this time, you may be prohibited from taking any action against this Consent Decree in the future.** If you decide to object, you must follow the instructions set out on this page. If you choose to object, the judge will consider your objection before deciding whether to approve the terms of the Consent Decree.
2. **All objections must be returned by January 27, 2012. If your objection is not returned by this date, your objection may not be considered and you may be prohibited from objecting at a later time. The date of return of the objection will be the date of the postmark by United States Postal Service.**
3. **All objections must be made in writing.** Your objection should be made on the attached form, showing the caption of the case. You must fill out this page completely. You must include a description of the basis of your objection. If you have retained an attorney to assist you in this matter, indicate with your objection the name, address and phone number of your attorney. You may attach additional pages to the caption page/form if necessary.
4. You must submit one copy of your objection to the following address:

State of New Jersey Settlement Team  
Employment Litigation Section  
U.S. Department of Justice  
Civil Rights Division  
Post Office Box 14400  
Washington, DC 20044-4400  
Telephone: 1-800-556-1950, select mailbox option **number 1**  
Website: <http://www.justice.gov/njcsc>
5. The court will hold the Fairness Hearing on March 12, 2012 at 10:00 a.m. You may attend this hearing if you wish, but you need not attend to have the Court consider any written objections you submit.
6. If you have any questions concerning the procedure to submit an objection, you may consult with an attorney of your own choosing and at your own expense, or you may call the Employment Litigation Section of the Civil Rights Division of the Department of Justice at 1-800-556-1950, select mailbox option number 1. If you do call this number, please leave your name, social security number, telephone number and a time when you can be reached. Your call will be returned as soon as possible.

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY  
NEWARK VICINAGE

_____	)	
UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil Action No.
	)	2:10- cv-00091-KSH-MAS
STATE OF NEW JERSEY AND	)	
NEW JERSEY CIVIL SERVICE	)	Hon. Katharine S. Hayden
COMMISSION,	)	
	)	
Defendants.	)	
_____	)	

**OBJECTION TO THE ENTRY OF THE CONSENT DECREE**

I am objecting to the terms of settlement of this case included in the Consent Decree agreed to by the United States and the State of New Jersey and New Jersey Civil Service Commission.

Name: \_\_\_\_\_ Attorney's name (if any): \_\_\_\_\_

Address: \_\_\_\_\_ Attorney's address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Telephone: \_\_\_\_\_ Attorney's Telephone: \_\_\_\_\_

Social Security Number: \_\_\_\_\_

Basis of my objection:

Are you requesting the opportunity for you (or your attorney if you have one) to state your objection in person at the Fairness Hearing? [ ] Yes [ ] No

**YOU MAY USE ADDITIONAL PAGES TO EXPLAIN THE BASIS OF YOUR OBJECTION IF NECESSARY. YOU MUST SEND YOUR OBJECTION TO THE DEPARTMENT OF JUSTICE AT THE ADDRESS PROVIDED IN THE INSTRUCTIONS. YOUR OBJECTION MUST BE POSTMARKED BY JANUARY 27, 2012.**