

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

JACQUETTA HAWKINS, et al.,

Plaintiffs,

and

UNITED STATES OF AMERICA,

Plaintiff-Intervenor,

v.

SUMMIT COUNTY, OHIO, et al.,

Defendants.

CASE NO. 5:11CV2753

JUDGE SARA LIOI

MAGISTRATE JUDGE
KATHLEEN B. BURKE

[PROPOSED] CONSENT DECREE

I. INTRODUCTION

1. This action comes before this Court upon the filing of a Complaint by Plaintiffs Jacquetta Hawkins, Bethanne Scruggs, Angela Berg, Tracy Braziel, Elaine George-Pickett, Deidre Heatwall, Melissa House, Heather Stewart, Cynthia Young, Meredith Wade, Peggy Starr, Lyn Watters, Heather McPherson-Danner, Patricia Bennett, Angela Dent, Debra McMasters, Stacy Clark, Catherine Muncy, Shawntell Kennedy, Angela Ball and Cynthia Wood (“private Plaintiffs”) against Defendants Summit County, Ohio, the Summit County Sheriff’s Department, and the Summit County Sheriff and the Chief of Summit County Jail (in their official capacities) (“Summit County”) (collectively, “Defendants”).

2. Plaintiffs are or have been female deputy sheriffs employed by Summit County and assigned to the Summit County Jail. In their Complaint, Plaintiffs allege that Summit

County subjected them to disparate terms and conditions of employment on the basis of their sex by sex-segregating deputy sheriff positions at the Summit County Jail in violation of Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e, *et seq.*, as amended (“Title VII”), Ohio Revised Code (“ORC”) §§ 4112.02 and 4112.99, and 42 U.S.C. § 1983.

3. On June 7, 2012, the United States of America (“United States” or “Plaintiff-Intervenor”) moved to intervene in this action and filed a Complaint to enforce Title VII. In its Complaint, the United States alleges that Summit County, Ohio and the Summit County Sheriff, in his official capacity, discriminated against Plaintiffs and similarly situated female deputies in violation of Section 703(a) of Title VII, 42 U.S.C. § 2000e2(a) by adopting and implementing a sex-segregated job assignment system that was broader than required to safely and efficiently operate the Summit County Jail. The United States further alleges that Defendants’ acts and practices described in this paragraph constitute a pattern or practice of discrimination against female deputies assigned to Summit County Jail on the basis of their sex in violation of Section 707 of Title VII, 42 U.S.C. § 2000e-6. The United States filed its Complaint after receiving from the Equal Employment Opportunity Commission charges of discrimination against Summit County that were timely filed by Jacquetta Hawkins, Bethanne Scruggs, Angela Berg, Tracy Braziel, Elaine George-Pickett, Deidre Heatwall, Melissa House, Heather Stewart, Cynthia Young, Meredith Wade, Peggy Starr, Lyn Watters, Heather McPherson-Danner, Patricia Bennett, Angela Dent, Debra McMasters, Stacy Clark, Catherine Muncy, Stefanie Hoover, and Carole Mariner.¹

¹ Jacquetta Hawkins (Charge No. 532-2011-00539), Bethanne Scruggs (Charge No. 532-2011-00747), Angela Berg (Charge No. 532-2011-00525), Tracy Braziel (Charge No. 532-2011-00917), Elaine George-Pickett (Charge No. 532-2011-00892), Deidre Heatwall (Charge No. 532-

4. This Court has jurisdiction of the action under 42 U.S.C. § §1988 and 2000e-5(f), and 28 U.S.C. §§ 1331, 1343(3), 1343(4), 1345 and 1367.

5. Summit County denies that it has discriminated against private Plaintiffs and similarly situated individuals in violation of Title VII and other laws. Nevertheless, private Plaintiffs, the United States and Defendants, desire that this action be settled by an appropriate Consent Decree (“Decree”) without the burden and risks of protracted litigation and agree to the jurisdiction of this Court over the parties and the subject matter of this action. Plaintiffs, the United States and Defendants also hereby waive, for purposes of this Decree only, a trial by jury on the merits as well as findings of fact and conclusions of law on all issues, and further agree to the entry of this Decree as final and binding between them with regard to the issues raised in the Complaints filed by private Plaintiffs and by the United States in this case.

6. This Decree, being entered into with the consent of the parties, will in no way constitute an adjudication or finding on the merits of the case, nor be construed as an admission of liability by Defendants or a finding of wrongdoing or violation of any applicable law or regulation.

7. In resolution of this action, the parties hereby AGREE to, and the Court expressly APPROVES, ENTERS and ORDERS, the following:

II. PARTIES AND DEFINITIONS

2011-00746), Melissa House (Charge No. 532-2011-00543), Heather Stewart (Charge No. 532-2011-00891), Cynthia Young (Charge No. 532-2011-00748), Meredith Wade (Charge No. 532-2011-01119), Peggy Starr (Charge No. 532-2011-01112), Lyn Watters (Charge No. 532-2011-01113), Heather McPherson-Danner (Charge No. 532-2011-01121), Patricia Bennett (Charge No. 532-2011-01120), Angela Dent (Charge No. 532-2011-01111), Debra McMasters (Charge No. 532-2011-01109), Stacy Clark (Charge No. 532-2011-01110), Catherine Muncy (Charge No. 532-2011-01115), Stefanie Hoover (Charge No. 532-2011-00876) and Carole Mariner (Charge No. 532-2011-00526).

8. “Days” refers to calendar days. If any deadline referenced in this Decree falls on a weekend or federal holiday, the deadline will be moved to the next business day.

9. “Entry” of the Decree refers to the date that the Court enters this Decree.

10. “Defendants” refers collectively to Summit County, Ohio, Summit County Sheriff’s Department and the Summit County Sheriff (in his official capacity) and are referred to hereinafter as “Summit County” or the “County.” Summit County, Ohio and the Summit County Sheriff’s Department includes their current, former and future agents, employees, officials, designees and successors in interest.

11. “Parties” refers collectively to Private Plaintiffs, the United States of America by the Department of Justice (“United States”), Summit County, Ohio, the Summit County Sheriff’s Department and the Summit County Sheriff (in his official capacity).

12. “Private Plaintiffs” refers to Jacquetta Hawkins, Bethanne Scruggs, Angela Berg, Tracy Braziel, Elaine George-Pickett, Deidre Heatwall, Melissa House, Heather Stewart, Cynthia Young, Meredith Wade, Peggy Starr, Lyn Watters, Heather McPherson-Danner, Patricia Bennett, Angela Dent, Debra McMasters, Stacy Clark, Catherine Muncy, Shawntell Kennedy, Angela Ball and Cynthia Wood.

13. “Similarly situated claimants” refers to female deputy sheriffs who: (a) are or have been assigned to the Summit County Jail; (b) are not included among the private Plaintiffs; and (c) the United States has determined suffered losses of back pay, damages and/or emotional distress as a result of Summit County’s implementation of a sex-segregated job assignment system on January 2, 2012.

14. “Summit County Jail” refers to the jail operated by the Summit County Sheriff and where private Plaintiffs are or have been assigned to work as deputy sheriffs.

III. PURPOSE OF THE DECREE

15. The purposes of this Decree are to ensure that:
 - a. Female employees at the Summit County Jail are not subjected to discrimination on the basis of their sex in violation of Title VII and other laws;
 - b. Summit County reviews its staffing periodically and develops staffing plans for Summit County Jail that comply with Title VII and that utilize sex-based classifications, if at all, only to the extent that they are reasonably necessary to the normal operation of the jail; and
 - c. Summit County provides, as appropriate, individual relief in the form of compensatory damages to private Plaintiffs and similarly situated claimants who were affected by the County's implementation of the sex-segregated job assignment system challenged by private Plaintiffs and the United States in this case.

IV. FINDINGS

16. Having carefully examined the terms and provisions of this Decree, and based on the pleadings, record and stipulations of the parties, but without trial or adjudication of any issues of fact or law raised by private Plaintiffs' or Plaintiff-Intervenor's Complaints, the Court finds:

- a. It has jurisdiction of the action under 42 U.S.C. §§ 1988 and 2000e-5(f), and 28 U.S.C. §§ 1331, 1343(3), 1343(4), 1345 and 1367;

- b. The terms of this Decree are fair, reasonable, equitable and just, and adequately protect the rights of all Parties, affected persons and the public interest; and
- c. This Decree is entered into pursuant to Title VII, § 1983 and O.R.C. Chapter 4112, and those statutes will be carried out by implementation of this Decree.

17. This Decree is not an admission or concession by Summit County of any violation of Title VII, §1983 or O.R.C. Chapter 4112, or of any liability or wrongdoing.

V. GENERAL INJUNCTIVE RELIEF

18. The Summit County Sheriff and the Summit County Sheriff's Office are enjoined from:

- a. subjecting any individual or group to a policy or practice that discriminates on the basis of sex in violation of Title VII and other applicable laws, including implementation of an unlawful sex-segregated job assignment system;
- b. discriminating against any employee on the basis of sex in violation of Title VII and other applicable laws, by failing or refusing to hire or discharging any individual, or otherwise discriminating against any individual with respect to his or her compensation, terms, conditions, or privileges of employment, because of such individual's sex; and
- c. retaliating against or otherwise adversely affecting any individual because that individual has complained about discrimination on the basis of sex or because that individual has participated in or cooperated with the initiation, investigation, or litigation of this action, or the administration of this Decree.

VI. IMPLEMENTATION OF LAWFUL STAFFING PLAN

A. General Provisions

19. As an interim measure, pending the staffing analysis and development of a Staffing Plan as described in the subsequent paragraphs, Defendants will maintain the job assignment system that has been in place for the Summit County Jail since Defendants abandoned the County's sex-segregated job assignment system for the jail on or about July 16, 2012. This interim measure does not preclude Defendants from holding bids as scheduled, so long as shifts and positions are not designated specifically for male or female deputy sheriffs.

20. Summit County will develop a new Staffing Plan for the Summit County Jail that complies with Title VII and that utilizes sex-segregated job assignments, if at all, only to the extent that they are reasonably necessary to the normal operation of the jail and are otherwise consistent with the requirements of Title VII.

21. As part of its development of a new Staffing Plan that complies with Title VII, Summit County will conduct a staffing analysis that includes an evaluation of the factors that are considered reasonably necessary to the normal operation of the jail. The staffing analysis will include, but is not limited to, an evaluation of the following factors: arrestee flow information (specified by time of day, day of the week, and gender); deputy attrition; and any other information commonly collected in staffing analyses performed in accordance with accepted correctional standards.

22. All information and documentation, including source data, electronically-stored data and data generated as a result of or during the course of the design, development, and implementation of the staffing analysis and new Staffing Plan will be maintained by Summit County throughout the duration of this Decree.

B. Process for Development of New Staffing Plan

23. Within twelve (12) weeks after entry of this Consent Decree, the Parties will meet to discuss plans for Summit County's staffing analysis as described in paragraph 21. During the same twelve-week period, Summit County will complete the staffing analysis described in Section VI.A and submit to the private Plaintiffs and the United States a staffing analysis report, which will include all source data and all data generated as a result of or during the staffing analysis.

24. Within thirty (30) days of receiving the report and data described in paragraph 23, private Plaintiffs and the United States will provide comments to Summit County regarding the staffing analysis, including recommendations for additional or alternative actions to be undertaken as part of the staffing analysis, as appropriate. Upon request by any party, the Parties, through their counsel, will make themselves available for a telephone conference to discuss the staffing analysis within ten (10) days of such a request. If Summit County, private Plaintiffs and the United States cannot reach agreement upon the staffing analysis, the Parties will employ the dispute resolution process set forth in Section XI herein.

C. Proposal of New Staffing Plan

25. Summit County will submit to Plaintiffs and the United States the proposed new Staffing Plan no later than five (5) months after entry of the Consent Decree; or, in the event of a dispute regarding the staffing analysis, within thirty (30) days of the dispute resolution. The new Staffing Plan submitted to the Parties will also include all information and documentation related to its design and development, including, but not limited to: a description of the proposed use of the new Staffing Plan (including but not limited to the number of deputies per shift and how

many deputies will be assigned to each position, such as Intake and Security), whether the Staffing Plan involves the use of sex-segregated job assignments that require justification under Title VII of a bona fide occupational qualification (“BFOQ”), any such BFOQ justification asserted by the County, as well as supporting evidence, and an analysis of whether the new Staffing Plan is lawful under the Prison Rape Elimination Act of 2003.

26. Within thirty (30) days of receiving the proposed new Staffing Plan from Summit County, Plaintiffs and the United States will provide comments, if any, on the proposed new Staffing Plan. If Plaintiffs or the United States provide comments on the new Staffing Plan to Summit County in accordance with this paragraph, the Parties will make themselves available for a telephone conference within ten (10) days after the County receives the comments. If Summit County, Plaintiffs and the United States cannot reach agreement upon the new Staffing Plan, the Parties will employ the dispute resolution process set forth in Section XI herein. If the Parties agree to a new Staffing Plan, the date upon which they reach such agreement will be the “Plan Creation Date.” If the Parties are unable to agree and use the dispute resolution process instead, the date upon which the Court decides on a new staffing plan will be the “Plan Creation Date.”

D. Notice of Proposed Staffing Plan and Fairness Hearing

27. Upon execution of this Decree by the parties, the parties will move for Entry of the Decree by the Court. Once the Court enters the Decree, all of its provisions will take effect, including but not limited to those requiring the payment of full monetary relief by the County.

28. Notwithstanding the provisions contained in paragraph 27, within thirty (30) days of the Plan Creation Date, any Party may request a Fairness Hearing pursuant to Section 703(n) of Title VII. The sole issue to be determined by the court at a Fairness Hearing requested by a Party under this provision shall be whether the new Staffing Plan, developed through the process

described in subsection C, is fair, reasonable, equitable and otherwise consistent with federal law.

29. In order to provide the requisite notice described in paragraphs 30 and 31 below, the Parties request that the Court provide the Parties with at least ninety (90) days' notice of the date and time set for any Fairness Hearing requested under this provision.

30. The purpose of the Fairness Hearing and the related notification provisions described in this subsection is to provide both notice to all persons who may be affected by the new Staffing Plan as well as an opportunity for those persons to present objections prior to implementation of the Staffing Plan, in accordance with Section 703(n) of Title VII, 42 U.S.C. § 2000e-2(n).

31. No later than seventy-five (75) days prior to the Fairness Hearing, the County or its designee shall provide copies of a Notice of Staffing Plan and Fairness Hearing, Instructions for Filing an Objection Prior to the Fairness Hearing, and a blank Objection to the Implementation of the Staffing Plan, in the formats set forth in Attachments A, B, and C:

- a. via certified U.S. mail to the last known address of all female and male Deputy Sheriffs then assigned to work at the Summit County Jail, along with a cover letter in the format set forth in Attachment A to this Decree;
- b. to the Fraternal Order of Police, Ohio Labor Council, Inc., Lodge #139, by letter sent to its attorney; and
- c. to Jail employees generally by posting, in a conspicuous location in the Jail and on the Jail's intranet, where employee notices are regularly displayed, the documents set forth in Attachment A, B and C to this Decree.

32. Persons who wish to object to the Staffing Plan may file objections, in accordance with the requirements set forth in Attachment B, as follows:

- a. Objections shall state the objector's name, address and telephone number; set forth a description of the objector's basis for objecting; include copies of any documentation supporting the objections; state the name and address of the objector's counsel, if any; and state whether the objector wishes the opportunity to be heard in Court at the Fairness Hearing;
- b. Objections shall be mailed to the United States Department of Justice at the following address:

Summit County Settlement Team
Employment Litigation Section
U.S. Department of Justice
Civil Rights Division
[PO Box]
Washington, DC 20530
- c. Objections must be mailed and postmarked to the United States no later than forty-five (45) days prior to the date set for the Fairness Hearing.

Any person who fails to do so shall be deemed to have waived any right to object to the new Staffing Plan, except for good cause as determined by the United States.

33. The United States shall serve upon Summit County and private Plaintiffs' counsel copies of the objections it has received no later than thirty (30) days prior to the date set for the Fairness Hearing.

34. No later than ten (10) days prior to the Fairness Hearing, the United States shall file with the Court copies of all timely objections received by the United States, redacting the

addresses of objectors who are Deputy Sheriffs. If the United States receives any objection(s) timely sent but received after the deadline set forth in paragraph 32(c), the United States will supplement promptly its filing with the Court and its mailing to Summit County and private Plaintiffs' counsel. In addition, no later than ten (10) days prior to the Fairness Hearing, the Parties shall file their responses, if any, to all objections timely sent to the United States.

35. At or after the fairness hearing, the Court will approve the proposed staffing plan (with modification if necessary).

E. Implementation of the Staffing Plan

36. Within thirty (30) days of the Plan Creation Date or the Court's approval of Staffing Plan, whichever comes later, if the Staffing Plan involves any sex-specific jobs, Summit County may apply to the Ohio Civil Rights Commission ("OCRC") for certification of sex as a bona fide occupational qualification ("BFOQ") for those jobs under Ohio state law. If Summit County does not apply to the OCRC for BFOQ certification within that timeframe, Summit County will implement the new Staffing Plan within thirty (30) days of the Court's approval of the staffing plan by allowing deputies to bid for jobs under the new Staffing Plan.

37. If Summit County submits an application for BFOQ certification as described in paragraph 36, and the OCRC certifies sex as a BFOQ for any sex-specific jobs in the plan, Summit County will implement the new staffing plan within thirty (30) days of receiving the OCRC's approval by allowing deputies to bid for jobs under the new staffing plan.

38. The Parties agree that, in accordance with best practices, Summit County will conduct a new staffing analysis every 18-24 months. For the duration of this Consent Decree, if Summit County proposes to change or modify the new Staffing Plan, the County will provide written notice to private Plaintiffs and the United States at least sixty (60) days prior to the

intended effective date of the change(s) or modification(s), including all information and documentation related to the design and development of the proposed change(s) or modification(s), and including whether the proposed change would require sex-segregated job assignments. Summit County will provide information and documentation underlying any such staffing analyses and new staffing plans within fifteen (15) days of receiving a written request from any Party during the life of this Decree.

39. Within thirty (30) days of receipt of the written notice set forth above in the previous paragraph, private Plaintiffs and the United States will inform Summit County whether they object to the proposed change(s) or modification(s). If neither private Plaintiffs nor the United States objects, the County may implement the proposed change(s) or modification(s). If either private Plaintiffs or the United States object to the proposed change(s) or modification(s), and private Plaintiffs or the United States wishes to submit the issue to the Court for adjudication, the Parties will employ the dispute resolution process set forth in Section XI herein.

VII. TRAINING

40. Within one-hundred and twenty (120) days after entry of the Consent Decree, Summit County will provide mandatory training designed to prevent sex discrimination to all Summit County Jail supervisors, managers, administrators, and human resources officials in all divisions of the Summit County Jail. This training will be live and will last approximately two hours. During the life of this Decree, the County also agrees to provide initial training to all new hires within sixty (60) days of either hire or promotion for newly hired or promoted supervisors, managers, administrators, and human resources officials during the life of this Decree.

41. Summit County agrees to conduct this training or contract with an outside entity to do so. Summit County will pay any fee associated with that training. The United States will

consult with the individual(s) conducting the training in order to ensure that the content meets with the United States' approval.

42. The County will implement the training within twenty (20) days after the United States has approved the training. If the United States and the County are unable to reach agreement on the training, they will employ the dispute resolution process set forth in Section XI herein.

43. All persons who undergo the training will sign an acknowledgment of attendance at the training. Summit County will keep on file all signed acknowledgments for the duration of this Decree and provide it to any other Party within one (1) week upon written request.

VIII. RECRUITMENT OF DEPUTIES FOR THE SUMMIT COUNTY JAIL

44. In order to encourage qualified females to apply for deputy positions, Summit County will engage in recruitment efforts. At least sixty (60) days before the commencement of any recruitment efforts, Summit County will develop and submit to the United States and private Plaintiffs a written recruitment plan for deputy sheriffs at the Summit County Jail. The recruitment plan will include recruitment objectives, staffing, budget, media to be used, and a description of how the County intends to make the public aware of employment opportunities as a deputy sheriff. Summit County will designate one or more Summit County employees to coordinate and participate in recruitment activities as part of the employees' regular duties.

45. Within (30) days of receipt of Summit County's written recruitment plan, private Plaintiffs and the United States will notify the County whether they object to the written recruitment plan and provide any comments and written feedback regarding the recruitment plan and make any recommendations for changes to the recruitment plan.

46. If neither private Plaintiffs nor the United States notifies Summit County in accordance with the previous paragraph, the County will implement the written recruitment plan (or any agreed-upon portion thereof) before it hires any Deputies.

47. If private Plaintiffs or the United States notifies Summit County in accordance with paragraph 45, the Parties will employ the dispute resolution process set forth in Section XI herein, but the dispute will not be subject to court adjudication.

IX. INDIVIDUAL MONETARY RELIEF FOR PRIVATE PLAINTIFFS

48. In settlement of private Plaintiffs' claims, Summit County will provide \$360,000 in individual monetary relief and to cover the attorney fees and costs of private Plaintiffs. Private plaintiffs have set forth a schedule (attached to the Motion for Entry of the Consent Decree) that allocates the amount attributable to each private Plaintiff as well as the breakdown of attorneys' fees and costs and damages to be paid to each private Plaintiff. Upon approval of this Consent Decree and on the timeline set forth in the next paragraph, Summit County shall transfer \$360,000 to the IOLTA Account of Elfvin Besser, which shall be designated by Order of this Court as a qualified settlement fund (a 468b trust or "QSF") for the purposes of this Agreement. Private Plaintiffs and their attorneys will be responsible for the disbursement of all sums paid as compensatory damages for all losses claimed, any attorney fees and costs incurred, and for each private Plaintiff's release of her individual claims under federal and state law from the QSF. The Consent Decree will otherwise dismiss and resolve all claims of private Plaintiffs and the consideration will be the filing or deposit of the agreed funds in the QSF. The dismissal shall reflect a full dismissal of the Plaintiffs' Amended Complaint, and all claims of each individual Plaintiff up to the date of the Consent Decree against the Summit County Defendants with prejudice.

49. Summit County will pay the amount set forth in the previous paragraph in the following installments:

- a. \$175,000 within thirty (30) calendar days from the date of entry of this Decree;
- b. \$82,500 within ten (10) days of January 25, 2014;
- c. \$82,500 within ten (10) days of January 25, 2015; and
- d. \$20,000 within ten (10) days of January 25, 2016.

50. Private Plaintiffs agree that, for and in consideration of the acceptance of all or any part of the relief offered to them by Summit County pursuant to the provisions of this Decree, they forever release and discharge the County, and all of its current, former and future agents, employees, officials, designees, predecessors and successors in interest from all claims legal, equitable, and otherwise, arising out of the Complaint filed by private Plaintiffs in this action that accrued prior to the date that this Decree is entered with the exception detailed in the next paragraph. Summit County has identified certain grievances which may be impacted by this Consent Decree. The Private Plaintiffs agree that to the extent any of them are considered to be named in or a part of the Group Grievance (2011-27) filed by Danny Francis and/or under the Jacquetta Hawkins Grievance (2012-07), that Private Plaintiffs are not seeking additional monetary relief from Summit County based on these grievances in consideration of the injunctive and monetary relief in the Consent Decree provided to the Private Plaintiffs. The Private Plaintiffs are aware that Summit County and the Fraternal Order of Police, Ohio Labor Council, Inc. ("FOP"), a non-aligned party in this civil action, have deferred processing other grievances filed by deputies at the Summit County Jail pending the final resolution of this case. The parties acknowledge that upon entry of this Decree, the FOP and Summit County will

process these grievances, giving full force and effect to the terms and provisions of this Consent Decree.

51. With respect to Plaintiff Lyn Watters, the Plaintiffs and Defendants have agreed that any claims Ms. Watters has raised exclusive of her sex discrimination claims arising from the “BFOQ staffing plan,” which was in effect at the Summit County Jail from January 2012 to July 2012, are not included in or affected by the Consent Decree in this case. Nothing in this Consent Decree shall be a bar to the processing of Lyn Watters’s pending EEOC charges of discrimination or any claims made under the pending charge (EEOC Charge No. 532-20120-02686, as amended) including any litigation that may arise therefrom. Nothing in this Consent Decree bars the use of underlying facts related to the implementation or existence of the “BFOQ staffing plan,” which was in effect at the Summit County Jail from January 2012 to July 2012.

52. Each time Summit County transfers funds or pays monetary relief to private Plaintiffs and their attorneys, as specified in paragraph 49, the County will concurrently provide the United States with copies/confirmations of the payments made.

53. The QSF shall, by January 31st of any year in which a payment is made to any individual or their attorneys, issue appropriate Form 1099s to each individual or entity receiving funds for any amounts reportable under the applicable rules and consistent with the regulations of the IRS, including payment of attorney’s fees.

X. INDIVIDUAL MONETARY RELIEF FOR SIMILARLY SITUATED CLAIMANTS

54. Summit County will provide \$40,000 in individual monetary relief to be distributed among the following similarly situated claimants as follows:

- a. Timayka Lewis: a monetary award of \$10,000, which will be considered compensatory damages;
- b. Racquel Pamer: a monetary award of \$10,000, which will be considered compensatory damages;
- c. Amanda Haught: a monetary award of \$4,000, of which \$1,600 will be considered compensatory damages and \$2,400 will be considered backpay for lost overtime wages;
- d. Krista Seese: a monetary award of \$4,000, which will be considered compensatory damages;
- e. Stephanie Bollinger: a monetary award of \$300, which will be considered compensatory damages and \$1,200, which will be considered backpay for lost overtime wages;
- f. Nora Christian: a monetary award of \$1,500, which will be considered compensatory damages;
- g. Theresa Stark: a monetary award of \$7,500, which will be considered compensatory damages;
- h. and Deb Weiland: a monetary award of \$1,500, which will be considered compensatory damages.

55. Summit County will notify the similarly situated claimants of the individual relief being afforded to them under the terms of this Decree within ten (10) days after the date of entry by mailing to them, by certified mail, return receipt requested, Notice Letters as set forth in Attachment D (“Notice Letter”) and the Release and Election forms set forth in Attachment E. The Notice Letter will advise the similarly situated claimants that, in order to accept the

individual relief offered, they must execute the Release and Election forms, and return them to Summit County, by hand delivery or certified mail, within thirty (30) days of their receipt of the Notice Letter, unless they can demonstrate good cause, to be determined by the United States, for failure to do so. The Release forms sent to Raquel Pamer, Timakya Lewis and Amanda Haught, will include the language that is in brackets at the end of the first paragraph of Attachment E to this Decree and will reference Grievances 2011-28, 2011-29 and 2012-17, respectively.

56. Summit County will copy the United States on all correspondence sent to the similarly situated female deputies pursuant to the previous paragraph and will provide the United States with copies of the executed Release and Election forms received within one (1) week of receiving each form. Should the United States request a completed return receipt for any claimant, Summit County will provide a copy of such receipt within one (1) week of receiving the request.

57. Within thirty (30) days of the deadline for receipt of executed release forms set forth in paragraph 55, Summit County will pay the amounts set forth in paragraph 54 to those deputies who have signed the release. Summit County will pay the individual monetary relief amounts by mailing a certified or bank check made payable to the individual deputy to that deputy's address, on file with the County.

58. Within thirty (30) days after the United States informs Summit County that it has found "good cause" to accept an untimely release form, as described in paragraph 55, Summit County will pay the similarly situated claimant in question by the same method described in paragraph 57.

59. Each time Summit County pays the individual monetary relief to similarly situated claimants, as specified in paragraph 57 or 58, the County will concurrently provide the United States with copies of the payments.

60. By January 31, 2014, Summit County will issue Form 1099 to similarly situated claimants for the compensatory damage awards paid via First Class U.S. mail using each claimant's address, on file with the County. In paying the \$2,400 to Amanda Haught and \$1,200 to Stephanie Bollinger that is considered lost overtime, the County will treat the payment as wages, subject to appropriate wage-related withholdings and will issue the applicable tax forms for that amount by January 31, 2014. Summit County shall separately pay its portion of any Social Security tax and other applicable employer-side federal, state, or local taxes due on the back pay, and shall not deduct its portion of such taxes from the amounts paid to Ms. Haught and Ms. Bollinger. When Summit County issues the checks to Ms. Haught and Ms. Bollinger, it should provide them with an itemized statement of the specific amounts withheld from the payment which are attributable to taxes and any other statutory deductions.

XI. DISPUTE RESOLUTION

61. The Parties to this Decree will attempt to resolve informally any disputes that may occur under the Decree. If private Plaintiffs, the United States and Summit County are unable to reach agreement after informally seeking to resolve a dispute, the issue may be submitted by any Party to the Court for resolution upon at least thirty (30) days written notice to the other parties.

XII. RECORDKEEPING AND COMPLIANCE MONITORING

62. While the Decree remains in effect, Summit County will retain all records, including any papers, electronic files or writings of any kind, reports, studies, memoranda, letters, notes, charts, tables, rosters, manuals, guidelines, rules, lists, tabulations, press releases,

books, articles, treatises, recordings or transcriptions of minutes, electronic files, machine readable format files, computer files, or audio or video recordings, electronic mail and facsimiles, that come into its possession relating to complaints or charges of employment discrimination based on sex made against Summit County Jail or its employees, agents or representatives: (a) internally; (b) with the United States Equal Employment Opportunity Commission; or (c) through or with any other federal or state agency authorized to receive such complaints. The County will provide copies of such records to the United States within ten (10) days of its receipt of such complaints or charges. The United States will have the right to inspect and copy all documents related to such complaints or charges upon reasonable notice to the County.

XIII. COSTS AND FEES

63. The United States and Defendants will bear their own costs in this action, including attorney's fees.

64. The monetary payments to private Plaintiffs set forth in paragraph 49 are inclusive of attorney's fees and costs. Summit County and private Plaintiffs' counsel agree that consistent with paragraph 49(d), the sum of \$20,000 is in consideration for any work required by the private Plaintiffs' counsel under the consent decree. Private plaintiffs' counsel shall not apply for further compensation for any services under this Consent Decree.

XIV. RETENTION OF JURISDICTION

65. The Court will retain jurisdiction over this Decree for the purposes of implementing the relief provided herein, and resolving any disputes or entering any orders that may be necessary to implement the relief provided herein.

XV. ADDITIONAL PROVISIONS

66. The time limits set forth throughout this Decree may be expanded upon mutual consent of the Parties or upon motion to the Court following written notice to the other parties.

67. All documents required to be delivered under this Decree to private Plaintiffs will be sent to the following address: Elfvin Besser, c/o Bruce B. Elfvin, 4070 Mayfield Road, Cleveland, Ohio 44121-3031 and electronically to bbe@elfvinbesser.com.

68. All documents required to be delivered under this Decree to the United States should be sent to the following address via overnight delivery service: Barbara A. Schwabauer, Employment Litigation Section, Civil Rights Division, U.S. Department of Justice, 601 D Street, N.W., Room 4017, Washington, D.C. 20004, and electronically to Barbara.Schwabauer@usdoj.gov.

69. All documents required to be delivered under this Decree to Summit County will be sent to the following address: Michael Todd, Summit County Prosecutor's Office, 53 University Avenue, Akron, Ohio 44308 and electronically to toddm@prosecutor.summitoh.net. Any party may update mailing or electronic addresses to all other parties without requiring any changes to this Consent Decree.

XVI. DURATION OF THE DECREE

70. Unless otherwise ordered by this Court, and absent the pendency of any motion related to this Decree, this Decree shall expire without further order of the Court on the latest of the following dates:

- a. Five years from the date of the entry of the Decree;
- b. Upon fulfillment of the Parties' obligations regarding the individual relief to be awarded under this Decree as set forth in Sections IX and X; or

c. Upon the County's adoption and implementation of a new Staffing Plan as set forth in Section VI of this Decree and after the time for private Plaintiffs and the United States to make recommendations regarding the new Staffing Plan in accordance with paragraph 26 and 33 has expired.

71. Any party may move the Court to extend the duration of the Decree upon a showing of good cause.

It is so ORDERED this _____ day of _____, 2013.

The Honorable Sara Lioi

United States District Judge

For Plaintiff-Intervenor United States of America:

THOMAS E. PEREZ
Assistant Attorney General
Civil Rights Division
Delora L. Kennebrew
DELORA L. KENNEBREW
(GA Bar No. 414320)
Chief
Employment Litigation Section
Esther G. Lander
ESTHER G. LANDER
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Barbara A. Schwabauer
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BARBARA A. SCHWABAUER
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For Defendants:

Michael Todd
MICHAEL TODD
Assistant Summit County
Prosecutor
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Akron, Ohio 44308
(330) 643-2800 (telephone)
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Trial Attorneys
barbara.schwabauer@usdoj.gov
shayna.bloom@usdoj.gov
U.S. Department of Justice
Civil Rights Division
Employment Litigation Section
950 Pennsylvania Avenue, NW
Patrick Henry Building, Rm 4017
Washington, DC 20530
(202) 305-5034 (telephone)
(202) 514-1005 (facsimile)

STEVEN M. DETTELBACH
United States Attorney
Northern District of Ohio

A handwritten signature in black ink, appearing to read "Michelle L. Heyer", is written over a horizontal line that has been struck through the typed name of Michelle L. Heyer.

~~MICHELLE L. HEYER~~
(OH Bar No. 0065723)
Assistant United States Attorney
HEATHER TONSING
VOLOSIN
(OH Bar No. 0069606)
Assistant United States Attorney
801 West Superior Avenue
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michelle.heyser@usdoj.gov

Attachment A

NOTICE OF FAIRNESS HEARING AND NEW STAFFING PLAN

On _____, 2013, the United States, twenty-one female deputies at the Summit County Jail (“private Plaintiffs,” who are separately represented by counsel) and Summit County, Ohio executed a settlement of a lawsuit filed by the private Plaintiffs and in which the United States intervened as a Plaintiff. In their Complaints, private Plaintiffs and the United States (referred to together as “Plaintiffs”) allege that Summit County used an assignment policy for deputy sheriffs that discriminated against women because of their sex, in violation of Section 703(a) of Title VII, 42 U.S.C. § 2000e, et seq. Specifically, the Plaintiffs allege that Summit County discriminated against women when it announced that women could bid only on positions in Female Security, Female Intake and Female Float. The Plaintiffs also allege that the Jail could not lawfully take gender into consideration when making assignments involving the supervision of male inmates because the functions of those jobs can be performed regardless of whether the person holding those jobs is a man or a woman.

Summit County denies that it has violated Title VII. However, in the interest of resolving this matter and to promote the purposes of Title VII, the private Plaintiffs, the United States and the County have voluntarily entered into a Consent Decree (“Decree”) settling the lawsuit. The Decree has been entered by the Court as a Court Order.

Under the terms of the Decree, Summit County has undertaken a comprehensive staffing analysis and proposed a new staffing plan, which is attached to this Notice. The Decree also requires the County to perform a new staffing analysis every 18-24 months during the five-year life of the Decree. The parties have requested that the Court hold a Fairness Hearing to determine whether the proposed staffing plan is fair, reasonable, equitable and otherwise consistent with federal law.

Although there are other terms in the Decree, the only subject of the Fairness Hearing is the proposed staffing plan. This Fairness Hearing will be held on _____ at _____ a.m./p.m., at the John F. Seiberling Federal Building and United States Courthouse, 2 South Main Street, Akron, Ohio 44308. **You have the right to attend this Fairness Hearing.**

In addition, you have the right to submit a written objection to any aspect of the staffing plan, or the entire plan, if you believe is 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 staffing plan in the future.**

Attachment B

INSTRUCTIONS FOR OBJECTING TO THE STAFFING PLAN

1. If you believe the proposed staffing plan is unfair, unreasonable or unlawful, you may object to its 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 the proposed staffing plan 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 staffing plan.
2. **All objections must be returned by _____.** 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:

Summit County Settlement Team
Employment Litigation Section
U.S. Department of Justice
Civil Rights Division
950 Pennsylvania Avenue, NW
Washington, DC 20530
5. The court will hold the Fairness Hearing on _____ at _____ a.m./p.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 (202) 514-3831. If you do call this number, please leave your name, telephone number and a time when you can be reached. Your call will be returned as soon as possible.

Attachment C

OBJECTION FORM

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

<p>JACQUETTA HAWKINS, et al.,</p> <p style="text-align: center;">Plaintiffs,</p> <p>and</p> <p>UNITED STATES OF AMERICA,</p> <p style="text-align: center;">Plaintiff-Intervenor,</p> <p>v.</p> <p>SUMMIT COUNTY, OHIO, et al.,</p> <p style="text-align: center;">Defendants.</p>
--

CASE NO. 5:11CV2753

JUDGE SARA LIOI

MAGISTRATE JUDGE
KATHLEEN B. BURKE

OBJECTION TO THE ENTRY OF THE PROPOSED STAFFING PLAN

I am objecting to the proposed staffing plan in this case.

Name: _____ Attorney's name (if any): _____

Address: _____ Attorney's address: _____

Telephone: _____ Attorney's Telephone: _____

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 _____.**

Attachment D

NOTICE LETTER

[Date]

[Name of similarly situated female deputy sheriff]

[address]

[address]

[address]

Re: ***Hawkins, et al., & United States of America v. Summit County, Ohio, et al.***

Dear Ms. [last name]:

On _____, 2013, the United States District Court for the Northern District of Ohio entered a Consent Decree which had been executed by the United States, twenty-one female deputies at the Summit County Jail (“private Plaintiffs,” who are separately represented by counsel) and Summit County, Ohio. The Decree settled a lawsuit filed by the private Plaintiffs and in which the United States intervened as a Plaintiff. In their Complaints, private Plaintiffs and the United States (referred to together as “Plaintiffs”) allege that Summit County used an assignment policy for deputy sheriffs that discriminated against women because of their sex, in violation of Section 703(a) of Title VII, 42 U.S.C. § 2000e, et seq. Specifically, the Plaintiffs allege that Summit County discriminated against women when it announced that women could bid only on positions in Female Security, Female Intake and Female Float. The Plaintiffs also allege that the Jail could not lawfully take gender into consideration when making assignments involving the supervision of male inmates because the functions of those jobs can be performed regardless of whether the person holding those jobs is a man or a woman.

Under the terms of the Consent Decree, you are being offered certain monetary relief as settlement for any claim of sex discrimination in employment against Summit County you might have arising out of the job assignment system in place at the Summit County Jail between January and July 2012. Under the Decree, the County will also be required to perform a staffing analysis and develop a new staffing plan for deputy sheriffs. The United States, as well as the attorneys who represent the named Plaintiffs in the case, will have the right to review the plan before it goes into effect. The County will have other obligations under the settlement as well, all of which are described in the enclosed copy of the Consent Decree.

You are being offered \$_____ [specify whether it is back pay or compensatory damages] in full and final settlement of any claims of sex-based discrimination you may have arising out of the job assignment system used at the jail between January 2012 and July 2012. This relief is being offered to you on the following condition: if you accept the relief, the County will require you to release it from all claims of sex-based employment discrimination you may have against it arising out of the job assignment system used at Summit County Jail from January 2012 to July 2012. If you decline the relief, the County will nevertheless have satisfied its

obligation to the United States pursuant to the Consent Decree in the above-captioned case and the United States will not seek additional relief for you.

In order to obtain the offered relief, or any part of it, you must complete and return the enclosed Release form within thirty (30) days of receiving this letter. If you accept the offered relief, the County or its representative will send you the appropriate monetary award on _____.

The County or its representative will also send you appropriate IRS forms with respect to the monetary award no later than January 31, 2014.

IF YOU FAIL TO SUBMIT THE RELEASE FORM, AS DIRECTED IN THIS LETTER, WITHIN _____ DAYS FROM YOUR RECEIPT OF THIS LETTER, YOU WILL FORFEIT YOUR RIGHTS TO ANY MONETARY RELIEF UNDER THE CONSENT DECREE.

If you have any questions concerning this settlement, you may contact an attorney of your choosing and at your own expense if you wish. If you are not represented by counsel and do not wish to have counsel, you may contact Barbara Schwabauer and Shayna Bloom, attorneys for the United States of America, at (202) _____ with any questions.

Attachment E

RELEASE

Hawkins, et al. & United States of America v. Summit County, Ohio, et al.

For and in consideration of the acceptance of the monetary award of _____ in compensatory damages [and _____ in back pay], or any part of it, offered to me by Summit County, Ohio pursuant to the provisions of the Consent Decree entered by the Honorable Sara Lioi, United States District Judge, on _____, 2012 in *Hawkins, et al. & United States of America v. Summit County, Ohio, et al.*, No. 5:11CV-02753, [name], hereby release and forever discharge Summit County, Ohio, its current and future officials, employees and agents, of and from all legal and equitable claims of sex-based employment discrimination arising out of that action and which accrued prior to [date of entry of Consent Decree by the Court]. [As part of my release of claims, I also hereby withdraw Grievance(s) ____, filed with Defendant and the Fraternal Order of Police, Ohio Labor Council, Inc., Lodge #139, related to the implementation of the staffing policy that went into place on January 2, 2012.]

I understand that the relief granted to me in consideration for this Release does not constitute an admission by Summit County, Ohio of the validity of any claim raised by me or by the United States.

This Release constitutes the entire agreement between Summit County, Ohio and me, without exception or exclusion.

I acknowledge that a copy of the Consent Decree in this action has been made available to me.

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

Date: _____

[Name]