

3. Nevertheless, Ortega and Defendants (collectively referred to as the "Parties"), as a result of settlement discussions, have resolved their differences and have agreed that this action should be settled by entry of this Consent Decree (the "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 in the Complaint filed in this case.

STIPULATIONS

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

5. Venue is proper in this district for purposes of this Decree and any proceedings related only to this Decree. Defendants agree that all statutory conditions precedent to the institution of this lawsuit have been fulfilled.

FINDINGS

6. Having examined the terms and provisions of the 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. The terms and provisions of this Decree are fair, reasonable, and just. The rights of the Parties are protected adequately by this Decree.
- c. 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. The entry of this Decree will further the objectives of USERRA and other applicable laws and will be in the best interests of the Parties.

NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED

AS FOLLOWS:

NON-ADMISSION

7. This Decree is being entered with the consent of the Parties and shall not constitute an adjudication or finding on the merits of the case or be construed as an admission by Defendants of any violations of USERRA, or any other law, rule, or regulation dealing with, or in connection with, equal employment opportunities.

COMPLIANCE WITH USERRA

8. Defendants shall comply with all of the provisions of USERRA and shall not take any action against any person, including but not limited to Ortega, that constitutes retaliation or interference with the exercise of such person's rights under USERRA, or because such person gave testimony or assistance or participated in any manner in any investigation or proceeding.

REMEDIAL REQUIREMENTS

9. Without admitting the allegations set forth in the Complaint, and in settlement of the claims raised in this case, Defendants shall pay Ortega a total monetary award of **Three Thousand Dollars (\$3,000)** in back pay of which **One Thousand Five Hundred Dollars (\$1,500.00)** shall be paid within thirty (30) days from the date of entry of this Decree and the remainder paid as follows: **One Thousand Five Hundred Dollars (\$1500.00)** paid in six monthly installments of **Two Hundred and Fifty Dollars (\$250.00)** each, with the first of the six payments due thirty (30) days after the initial payment. Defendants shall issue Ortega an Internal Revenue Service Form 1099 for the amounts of the award paid during the relevant tax year that the payments were made.

Defendants shall pay the required amount to Ortega by mailing checks addressed as follows:

Jose A. Ortega
367 West 1225 North
Layton, Utah 84041

Defendants shall provide documentary evidence of having paid Ortega by sending, within ten (10) days of payment to Ortega, a photocopy of the check evidencing payment via electronic mail to Hilary Funk at Hilary.Funk@usdoj.gov or to the following address:

Hilary Funk
United States Department of Justice
950 Pennsylvania Avenue, NW
Civil Rights Division
Employment Litigation Section, PHB, Room 4015
Washington, DC 20530.

10. Defendants shall respond to any reference requests regarding Ortega's employment by providing only Ortega's position and dates of employment.

11. For and in consideration of the relief being provided to him as described in paragraphs 9 and 10 of this Decree, Ortega releases and discharges Defendants from the claims identified in the Complaint filed in this case and the complaint Ortega filed with the Department of Labor, complaint number UT-2008-09-10-G. This release and discharge of claims is subject only to Defendants' compliance with the terms of this Decree.

MISCELLANEOUS

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

13. This Decree constitutes the entry of final judgment within the meaning of Rule 54 of the Federal Rules of Civil Procedure on all claims asserted in this action, but shall not be construed as a judgment against Defendants. The Court retains jurisdiction over this action, however, for the purpose of entering appropriate orders enforcing this Decree.

14. The terms of this Decree shall be binding upon the present and future directors, employees, agents, administrators, successors, representatives, and assigns of Defendants and upon the heirs, successors, and assigns of Ortega.

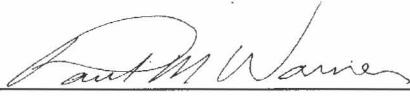
15. This Decree constitutes the entire agreement and commitments of the Parties. Any modifications to this Decree must be mutually agreed upon and memorialized in writing signed by all Parties.


EFFECTIVE DATE

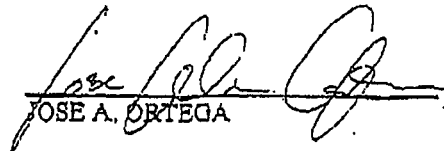
16. The effective date of this Decree shall be the date upon which it is entered by the Court.

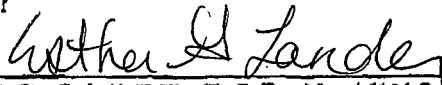
17. This Decree shall expire, and this action shall be dismissed with prejudice, without further order of this Court, twelve (12) months after entry of this Decree. Ortega may move, for good cause, to extend the Decree. The Decree will not be extended, however, unless the Court grants Ortega's motion.


APPROVED and ORDERED this 17th day of _____, 2010.

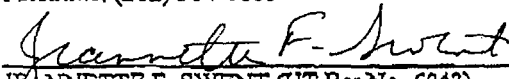

UNITED STATES DISTRICT JUDGE


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

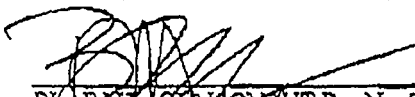

JOSE A. ORTEGA

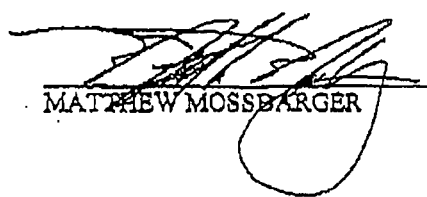

ESTHER G. LANDER (D.C. Bar No. 461316)
Deputy Chief


HILARY J. FUNK (VA Bar No. 46872)
Senior Trial Attorney
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


JEANNETTE F. SWENT (UT Bar No. 6043)
Assistant United States Attorney
U.S. Attorney's Office, District of Utah
185 South State Street, Suite 300
Salt Lake City, Utah 84111
Telephone: (801) 524-5682
Facsimile: (801) 325-3269
Email: Jeannette.Swent@usdoj.gov

On behalf of Plaintiff Jose A. Ortega


BRYAN W. JOHNSON (UT Bar No. 7400)
Johnson Law Firm
2036 Lincoln Avenue, Suite 102
Ogden, Utah 84401
Telephone: (801) 725-4999
Facsimile: (801) 392-9651


MATTHEW MOSSBARGER

On behalf of Defendants Synapse Data and Telecom, Inc. and Matthew Mossbarger